

Insight68 Customer Terms of Service

Last Modified: **August 14, 2020**

Please Read These Customer Terms of Service Carefully.

Our Customer Terms of Service is a contract between you (the Customer) and us (Insight68) describing the services we will provide to you, how we will work together, and other aspects of our business relationship. It consists of the following documents:

Master Terms: These contain the core legal and commercial terms that apply to your subscription

Product Specific Terms: These include any additional terms that apply to your use of each of our product offerings, our consulting and other services and third-party services.

Data Processing Agreement: This explains how we process your data and includes the EU Standard Contractual Clauses.

Acceptable Use Policy: This is the definitive rulebook setting out what you can and can't do while using our products and services.

Product Privacy Policy: This policy describes how we collect, receive, use, store, share, transfer, and process your Personal Data in connection with your use of the Subscription Service. It also describes your choices regarding use, as well as your rights of access to and correction of your Personal Data.

Your Order Form: This is the Insight68-approved form created following your purchase of one of our products or services through our online payment process or via in-app purchase. It contains all of the details about your purchase, including your subscription term, products purchased and your fees.

These are legal documents so some of the language is necessarily "legalese", but we have tried to make them as readable as possible. These terms are so important that we cannot provide our products and services to you unless you agree to them. By using the Subscription Service or receiving the Consulting Services, you are agreeing to these terms.

We periodically update these terms. If you have an active Insight68 subscription, we will let you know when we do via an email or in-app notification.

Master Terms

Last modified April 7, 2020

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"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.

"Agreement" or "Customer Terms of Service" means these Master Terms and all materials referred or linked to in here.

"Billing Period" means the period for which you agree to prepay fees under an Order Form, which will be the same as or shorter than the Subscription Term as specified in the Order Form. For example, if you subscribe to the Subscription Service for a one (1) year Subscription Term, with a twelve (12) month upfront payment, the Billing Period will be twelve (12) months.

"Confidential Information" means all confidential information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential. Confidential Information shall include all information concerning: (a) Disclosing Party's customers and potential customers, past, present or proposed products, marketing plans, engineering and other designs, technical data, business plans, business opportunities, finances, research, development, and the terms and conditions of this Agreement. Confidential Information shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party. Subject to the foregoing exclusions, Customer Data shall be Confidential Information under this Agreement regardless of whether or not it is designated as confidential.

"Contact" means a single individual (other than a User) whose Contact Information is stored by you in the Subscription Service.

"Contact Information" means the name, email address, phone number, online user name(s), telephone number, and similar information submitted by visitors to your landing pages on the Subscription Service or uploaded by you to the Subscription Service.

"Consulting Services" means the professional services provided to you by us, which may include training services, installation, integration or other consulting services.

"Customer Data" means all information that you submit or collect via the Subscription Service. Customer Data does not include Insight68 Content.

"Customer Materials" means all materials that you provide or post, upload, input or submit for public display through the Subscription Service.

"DPA" means the Insight68 Data Processing Agreement.

"Free Services" means the Subscription Service or other products or features made available by us to you on an unpaid trial or free basis.

"Insight68 Content" means all information, data, text, messages, software, sound, music, video, photographs, graphics, images, and tags that we incorporate into the Subscription Service or Consulting Services (as defined in the Product Specific Terms).

"Order" or "Order Form" means the Insight68-approved form or online subscription process by which you agree to subscribe to the Subscription Service and purchase Consulting Services. Most Orders are completed manually or through our online payment process or via in-app purchase. The Order may be referred to as a "Statement of Work" if you are purchasing only Consulting Services.

"Personal Data" means any information relating to an identified or identifiable individual where such information is contained within Customer Data and is protected similarly as personal data or personally identifiable information under applicable Data Protection Law.

"Product Specific Terms" means the additional product-related terms that apply to your use of Insight68 products, our consulting services and Third-party Services. These terms form part of the Customer Terms of Service.

"Sensitive Information" means (a) credit or debit card numbers; personal financial account numbers or wire instructions; Social Security numbers or local equivalents; passport numbers; driver's license numbers or similar identifiers; passwords or log-in credentials; racial or ethnic origin; physical or mental health condition or information; or other employment or health information, including any information subject to the Health Insurance Portability and Accountability Act, the Payment Card Industry Data Security Standards, and other regulations, laws or industry standards designed to protect similar information; and (b) any information defined under European Data Protection Laws (as this term is defined in the DPA) as sensitive personal data (including special categories of personal data enumerated in European Union Regulation 2016/679, Article 9(1) or any successor legislation).

"Subscription Fee" means the amount you pay for the Subscription Service.

"Subscription Service" means all of our applications, tools and platforms that you have subscribed to by an Order Form or that we otherwise make available to you, and are developed, operated, and

maintained by us and any ancillary products and services, including website hosting, that we provide to you.

"Subscription Term" means the initial term of your subscription to the applicable Subscription Service, as specified on your Order Form(s), and each subsequent renewal term (if any). For Free Services, the Subscription Term will be the period during which you have an account to access the Free Services.

"Third-Party Products" means non-embedded products and professional services that are provided by third parties which interoperate with or are used in connection with the Subscription Service.

"Third-Party Sites" means third-party websites.

"Total Committed Subscription Value" means the aggregate amount of Subscription Fees paid or payable to us during your then-current Subscription Term(s) for all of your Insight68 accounts, but this amount excludes fees for renewals, Consulting Services and applicable taxes.

"Users" means your employees, representatives, consultants, contractors or agents who are authorized to use the Subscription Service for your benefit and have unique user identifications and passwords for the Subscription Service.

"Insight68", "we", "us" or "our" means the applicable contracting entity as specified in the 'Contracting Entity and Applicable Law' section.

"You", "your" or "Customer" means the person or entity using the Subscription Service or receiving the Consulting Services and identified in the applicable account record, billing statement, online subscription process, or Order Form as the customer.

2. Use of Services

2.1 Access.

During the Subscription Term, we will provide you access to use the Subscription Service as described in this Agreement and the applicable Order. We may also provide you access to use our Free Services at any time by activating them in your Insight68 account. We might provide some or all elements of the Subscription Service through third party service providers. Your Affiliates may access and use the Subscription Service or receive the Consulting Services purchased under this Order; provided that, all such access, use and receipt by your Affiliates is subject to and in compliance with the Agreement and you shall at all times remain liable for your Affiliates' compliance with the Agreement.

2.2 Additional Features.

You may subscribe to additional features of the Subscription Service by placing an additional Order or activating the additional features from within your Insight68 account (if this option is made available by us.). This Agreement will apply to all additional Order(s) and all additional features that you activate from within your Insight68 account.

2.3 Service Uptime Commitment.

For details of Insight68's Service Uptime Commitment, please see the Product Specific Terms.

2.4 Limits.

The limits that apply to you will be specified in your Order Form, this Agreement or in our Product and Services Catalog, and for our Free Subscriptions, these limits may also be designated only from within the product itself. For further information on the limits that apply to your subscription, please refer to the Product Specific Terms.

You must be 18 years of age (or 20 years of age, if you are subject to the laws of Japan) or older to use the Subscription Service.

2.5 Downgrades.

Depending on your Insight68 product, you may be entitled to downgrade your subscription. For further information on the downgrade terms that apply to your subscription, please refer to the Product Specific Terms.

2.6 Modifications.

We modify the Subscription Service from time to time, including by adding or deleting features and functions, in an effort to improve your experience. For further information on our modification rights that apply to your subscription, please refer to the Product Specific Terms.

2.7 Customer Support.

For information on the customer support terms that apply to your subscription, please refer to the Product Specific Terms.

2.8 Acceptable Use.

You will comply with our Acceptable Use Policy.

2.9 Prohibited and Unauthorized Use.

You will not

- (i) use or launch any automated system, including, "robots," "spiders," or "offline readers," that sends more request messages to our servers in a given period of time than a human can reasonably produce in the same period by using a conventional browser;
- (ii) use the Subscription Service in any manner that damages, disables, overburdens, or impairs any of our websites or interferes with any other party's use of the Subscription Service;
- (iii) attempt to gain unauthorized access to the Subscription Service;
- (iv) access the Subscription Service other than through our interface; or
- (v) use the Subscription Service for any purpose or in any manner that is unlawful or prohibited by this Agreement.

You may not use the Subscription Service if you are legally prohibited from receiving or using the Subscription Service under the laws of the country in which you are resident or from which you access or use the Subscription Service.

The Subscription Service is designed to comply with industry-specific regulations such as the Health Insurance Portability and Accountability Act (HIPAA), FDA 21 CFR Part 11, and the Federal Information Security Management Act (FISMA). so you may not use the Subscription Service where your communications would be subject to such laws.

You will notify us right away of any unauthorized use of your Users' identifications and passwords or your account.

2.10 No Sensitive Information.

YOU ACKNOWLEDGE THAT THE SUBSCRIPTION SERVICES HAVE NOT BEEN DESIGNED TO PROCESS OR MANAGE SENSITIVE INFORMATION AND ACCORDINGLY YOU AGREE NOT TO USE THE SUBSCRIPTION SERVICE TO COLLECT, MANAGE OR PROCESS SENSITIVE INFORMATION. WE WILL NOT HAVE AND WE SPECIFICALLY DISCLAIM ANY LIABILITY THAT MAY RESULT FROM YOUR USE OF THE SUBSCRIPTION SERVICE TO COLLECT, PROCESS OR MANAGE SENSITIVE INFORMATION.

2.11 Customer Responsibilities.

To realize the full value of the Subscription Service and Consulting Services, your participation and effort may be required.

2.12 Free Trial.

If you register for a free trial, we will make the applicable Subscription Service available to you on a trial basis free of charge until the earlier of (a) the end of the free trial period (if not terminated earlier) or (b) the start date of your paid subscription. Unless you purchase a subscription to the applicable Subscription Service before the end of the free trial, all of your data in the Subscription Service may be permanently deleted at the end of the trial, and we will not recover it. If we include additional terms and conditions on the trial registration web page, those will apply as well.

2.13 Legacy Products.

If you have a legacy Insight68 product, some of the features and limits that apply to that product may be different than those that appear in these Master Terms, Product Specific Terms and/or the Product and Services Catalog. If you have legacy Insight68 products, we may choose to move you to our then-current products at any time. If you determine that you are using a legacy product and would like to upgrade to a current-version, you must execute a new Order.

3. Fees

3.1 Subscription Fees.

The Subscription Fee will remain fixed during the initial term of your subscription unless otherwise set out in the Product Specific Terms. For example, we may increase your Fees if you you: (i) exceed your limits, including user limit or disk space Limit, (ii) upgrade products or base packages, (iii) subscribe to additional features or products or (iv) unless otherwise agreed to in the Order. You can find all the information about how your fees may be otherwise adjusted in Product Specific Terms.

3.2 Fee Adjustments at Renewal.

Upon renewal, we may increase your fees up to our then-current list price set out in our Product and Services Catalog. If this increase applies to you, we will notify you at least thirty (30) days in advance of your renewal and the increased fees will apply at the start of the next renewal term. If you do not agree to this increase, either party can choose to terminate your subscription at the end of your then-current term by giving the notice required in the 'Notice of Non-Renewal' section below. If your Order has a Fee Adjustment clause then that clause will supersede this section.

3.3 Payment by credit card.

If you are paying by credit card, you authorize us to charge your credit card or bank account for all fees payable during the Subscription Term. You further authorize us to use a third party to process payments, and consent to the disclosure of your payment information to such third party.

3.4 Payment against invoice.

If you are paying by invoice, we will invoice you no more than forty-five (45) days before the beginning of the Subscription Term and each subsequent Billing Period, and other times during the Subscription Term when fees are payable. All amounts invoiced are due and payable within thirty(30) days from the date of the invoice, unless otherwise specified in the Order Form.

3.5 Payment Information.

You will keep your contact information, billing information and credit card information (where applicable) up to date. Changes may be made on your Billing Page within your Insight68 account. All payment obligations are non-cancelable and all amounts paid are non-refundable, except as specifically provided for in this Agreement. All fees are due and payable in advance throughout the Subscription Term. If you are a Insight68 Solutions Partner that purchases on behalf of a client, you agree to be responsible for the Order Form and to guarantee payment of all fees.

3.6 Sales Tax.

All fees are exclusive of taxes, which we will charge as applicable. You agree to pay any taxes applicable to your use of the Subscription Service and performance of Consulting Services. You shall have no liability for any taxes based upon our gross revenues or net income. If you are located in the European Union, all fees are exclusive of any VAT and you represent that you are registered for VAT purposes in your member state. At our request, you will provide us with the VAT registration number under which you are registered in your member state. If you do not provide us with a VAT registration number prior to your transaction being processed, we will not issue refunds or credits for any VAT that was charged. If you are subject to GST, all fees are exclusive of GST.

3.7 Withholding Tax.

If you are required to deduct or withhold any tax, you may deduct this amount from the applicable Subscription Fee due to the extent it is due and payable as assessed taxes required under laws that apply to you (the "Deduction Amount").

You will not be required to repay the Deduction Amount to us, provided that you present us with a valid tax receipt verifying payment of the Deduction Amount to the relevant tax authority within ninety (90) days from the date of the invoice. If you do not provide this tax receipt within the specified time period, then all fees, inclusive of the Deduction Amount, will be immediately due and payable, and failure to pay these fees may result in your account being suspended or terminated for non-payment.

4. Term & Termination

4.1 Term and Renewal.

Your initial subscription period will be specified in your Order, and, unless otherwise specified in your Order, your subscription will automatically renew for the shorter of the subscription period, or one year.

4.2 Notice of Non-Renewal.

Unless otherwise specified in your Order, to prevent renewal of your subscription, you or we must give written notice of non-renewal. The deadline for sending this notice varies depending on the Insight68 product and edition you have subscribed to. For more information on non-renewal notice periods, please see the Product Specific Terms.

If you decide not to renew, you may send this non-renewal notice to us by indicating that you do not want to renew by turning auto-renew off by accessing the billing details information in your Insight68 account, or by sending an email.

4.3 Early Cancellation.

You may choose to cancel your subscription early at your convenience provided that, we will not provide any refunds of prepaid fees or unused Subscription Fees, and you will promptly pay all unpaid fees due through the end of the Subscription Term. See the 'Notice of Non-Renewal' section for information on how to cancel your subscription.

4.4 Termination for Cause.

Either party may terminate this Agreement for cause, as to any or all Subscription Services: (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, or (ii) immediately, if 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.

We may also terminate this Agreement for cause on thirty (30) days' notice 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.

This Agreement may not otherwise be terminated prior to the end of the Subscription Term.

4.5 Suspension

4.5.1 Suspension for Prohibited Acts

We may suspend any User's access to any or all Subscription Services without notice for:

- (i) use of the Subscription Service in a way that violates applicable local, state, federal, or foreign laws or regulations or the terms of this Agreement,
- (ii) repeated instances of posting or uploading material that infringes or is alleged to infringe on the copyright or trademark rights of any person or entity.

We may, without notice, review and delete any Customer Data or Customer Materials that we determine in good faith violate these terms or the AUP, provided that, we have no duty (unless applicable laws or regulations provide otherwise) to prescreen, control, monitor or edit your Customer Data or Customer Materials.

4.5.2 Suspension for Non-Payment

We will provide you with notice of non-payment of any amount due. Unless the full amount has been paid, we may suspend your access to any or all of the Subscription Services ten (10) days after such notice. We will not suspend the Subscription Service while you are disputing the applicable charges reasonably and in good faith and are cooperating diligently to resolve the dispute. If a Subscription Service is suspended for non-payment, we may charge a re-activation fee to reinstate the Subscription Service.

4.5.3 Suspension for Present Harm

If your website, or use of, the Subscription Service:

- (i) is being subjected to denial of service attacks or other disruptive activity,
- (ii) is being used to engage in denial of service attacks or other disruptive activity,
- (iii) is creating a security vulnerability for the Subscription Service or others,
- (iv) is consuming excessive bandwidth, or
- (v) is causing harm to us or others, then we may, with electronic or telephonic notice to you, suspend all or any access to the Subscription Service.

We will try to limit the suspension to the affected portion of the Subscription Service and promptly resolve the issues causing the suspension of the Subscription Service. Nothing in this clause limits our right to terminate for cause as outlined above, 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.

4.5.4 Suspension and Termination of Free Services

We may suspend, limit, or terminate the Free Services for any reason at any time without notice. We may terminate your subscription to the Free Services due to your inactivity.

4.6 Effect of Termination or Expiration.

If your paid subscription is terminated or expires, we will continue to make available to you our Free Services provided however, this may not be the case if your Agreement was terminated for cause.

You will continue to be subject to this Agreement for as long as you have access to a Insight68 account.

Upon termination or expiration of this Agreement, you will stop all use of the Subscription Service and Insight68 Content. If you terminate this Agreement for cause, we will promptly refund any prepaid but unused fees covering use of the Subscription Service after termination. If we terminate this Agreement for cause, you will promptly pay all unpaid fees due through the end of the Subscription Term. Fees are otherwise non-refundable.

5. Customer Data

5.1 Customer's Proprietary Rights.

You own and retain all rights to the Customer Materials and Customer Data. This Agreement does not grant us any ownership rights to Customer Materials or Customer Data. You grant permission to us and our licensors to use the Customer Materials and Customer Data only as necessary to provide the Subscription Service and Consulting Services to you and as otherwise permitted by this Agreement. If you are using the Subscription Service or receiving Consulting Services on behalf of another party, then you represent and warrant that you have all sufficient and necessary rights and permissions to do so.

5.2 Limits on Insight68.

We will not use, or allow anyone else to use, Customer Data to contact any individual or company except as you direct or otherwise permit. We will use Customer Data only in order to provide the Subscription Service and Consulting Services to you and only as permitted by applicable law and this Agreement.

5.3 Data Practices and Machine Learning.

We may monitor use of the Subscription Service by all of our customers and use the information gathered in an aggregate and anonymized manner. We may use Customer Data in an anonymized manner for machine learning. For more information on these practices please see the 'Data Practices and Machine Learning' section of our Product Specific Terms.

5.4 Protection of Customer Data.

The terms of the DPA are hereby incorporated by reference and shall apply to the extent any Customer Data includes Personal Data. The DPA sets out how we will process Personal Data on your behalf in connection with the Subscription Services provided to you under this Agreement. We will maintain commercially appropriate administrative, physical, and technical safeguards to protect Personal Data as described in the DPA.

5.5 Customer Data Transfers.

We may transfer Customer Data (including Personal Data) to the United States in connection with the Subscription Service. To the extent we process 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) our EU-U.S. and/or Swiss-U.S. Privacy

Shield and/or the Standard Contractual Clauses shall apply as set out in our DPA. For more information on EU-U.S. and Swiss-U.S. Privacy Shield Frameworks, see our Privacy Policy.

5.6 Retention, Deletion and Retrieval of Customer Data.

For information on our procedures regarding the retention and deletion of Customer Data, please see the 'Insight68 Obligations' section of our DPA. You can learn more about your right to retrieve Customer Data from your Insight68 account in the 'Retrieval of Customer Data' sections throughout our Product Specific Terms.

6. Intellectual Property

6.1 This is an Agreement for access to and use of the Subscription Service, and you are not granted a license to any software by this Agreement. The Subscription Service and Consulting Services are protected by intellectual property laws, they belong to and are the property of us or our licensors (if any), and we retain all ownership rights to them. You agree not to copy, rent, lease, sell, distribute, or create derivative works based on the Insight68 Content, the Subscription Service, or the Consulting Services in whole or in part, by any means, except as expressly authorized in writing by us. You may not use any of Insight68 trademarks without our prior written permission.

6.2 We encourage all customers to comment on the Subscription Service or Consulting Services, provide suggestions for improving it, and vote on suggestions they like. You agree that all such comments and suggestions will be non-confidential and that we own all rights to use and incorporate them into the Subscription Service or Consulting Services, without payment or attribution to you.

7. Confidentiality

7.1 The Receiving Party shall:

- (i) protect the confidentiality of the Confidential Information of the Disclosing Party using the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind, but in no event less than reasonable care,
- (ii) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement,
- (iii) not disclose Confidential Information of the Disclosing Party to any third party (except those third party service providers used by us to provide some or all elements of the Subscription Service or Consulting Services and except for your Insight68 Solutions Partner bound by confidentiality obligations), and
- (iv) limit access to Confidential Information of the Disclosing Party to those of its and its affiliates' employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.

7.2 The Receiving Party may disclose Confidential Information of the Disclosing Party if required to do so under any federal, state, or local law, statute, rule or regulation, subpoena or legal process; provided, however, that (i) Receiving Party will provide Disclosing Party with prompt notice of any request that it disclose Confidential Information, sufficient to allow Disclosing Party to object to the request and/or seek an appropriate protective order or, if such notice is prohibited by law, Receiving

Party shall disclose the minimum amount of Confidential Information required to be disclosed under the applicable legal mandate; and (ii) in no event shall Receiving Party disclose Confidential Information to a party other than a government agency except under a valid order from a court having jurisdiction requiring the specific disclosure.

8. Publicity

You grant us the right to add your name and company logo to our customer list and website.

9. Indemnification

You will indemnify, defend and hold us and our Affiliates harmless, at your expense, against any third-party claim, suit, action, or proceeding (each, an "Action") brought against us (and our officers, directors, employees, agents, service providers, licensors, and affiliates) by a third party not affiliated with us or our Affiliates to the extent that such Action is based upon or arises out of

- (i) unauthorized or illegal use of the Subscription Service by you or your Affiliates,
- (ii) your or your Affiliates' noncompliance with or breach of this Agreement,
- (iii) your or your Affiliates' use of Third-Party Products, or
- (iv) the unauthorized use of the Subscription Service by any other person using your User information.

We will: notify you in writing within thirty (30) days of our becoming aware of any such claim; give you sole control of the defense or settlement of such a claim; and provide you (at your expense) with any and all information and assistance reasonably requested by you to handle the defense or settlement of the claim. You shall not accept any settlement that

- (i) imposes an obligation on us;
- (ii) requires us to make an admission; or
- (iii) liability not covered by these indemnifications or places restrictions on us without our prior written consent.

10. Disclaimers; Limitation Of Liability

10.1 Disclaimer of Warranties.

WITHOUT LIMITING OUR OBLIGATIONS IN THE 'PROTECTION OF CUSTOMER DATA' SECTION OF THIS AGREEMENT, WE AND OUR AFFILIATES AND AGENTS MAKE NO REPRESENTATIONS OR WARRANTIES ABOUT THE SUITABILITY, RELIABILITY, AVAILABILITY, TIMELINESS, SECURITY OR ACCURACY OF THE SUBSCRIPTION SERVICE, DATA MADE AVAILABLE FROM THE SUBSCRIPTION SERVICE, INSIGHT68 CONTENT, OR THE CONSULTING SERVICES FOR ANY PURPOSE. APPLICATION PROGRAMMING INTERFACES (APIs) MAY NOT BE AVAILABLE AT ALL TIMES. TO THE EXTENT PERMITTED BY LAW, THE SUBSCRIPTION SERVICE, INSIGHT68 CONTENT AND CONSULTING SERVICES ARE PROVIDED "AS IS" WITHOUT WARRANTY OR CONDITION OF ANY KIND. WE DISCLAIM ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, WITH REGARD TO THE SUBSCRIPTION SERVICE AND THE CONSULTING SERVICES, INCLUDING ALL IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

10.2 No Indirect Damages.

TO THE EXTENT PERMITTED BY LAW, IN NO EVENT SHALL EITHER PARTY 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 THIS AGREEMENT, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY; PROVIDED THAT, THIS LIMITATION SHALL NOT APPLY TO YOU IF YOU ONLY USE THE FREE SERVICES.

10.3 Limitation of Liability.

EXCEPT FOR YOUR LIABILITY FOR PAYMENT OF FEES, YOUR LIABILITY ARISING FROM YOUR OBLIGATIONS UNDER THE 'INDEMNIFICATION' SECTION, AND YOUR LIABILITY FOR VIOLATION OF OUR INTELLECTUAL PROPERTY RIGHTS, IF, NOTWITHSTANDING THE OTHER TERMS OF THIS AGREEMENT, EITHER PARTY OR ITS AFFILIATES IS DETERMINED TO HAVE ANY LIABILITY TO THE OTHER PARTY, ITS AFFILIATES OR ANY THIRD PARTY, THE PARTIES AGREE THAT THE AGGREGATE LIABILITY OF A PARTY AND ITS AFFILIATES WILL BE LIMITED TO A SUM EQUAL TO THE TOTAL AMOUNTS PAID OR PAYABLE FOR THE SUBSCRIPTION SERVICE IN THE TWELVE MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO A CLAIM; PROVIDED HOWEVER, THIS LIMITATION SHALL NOT APPLY TO YOU IF YOU ONLY USE THE FREE SERVICES, AND IN THIS CASE, IF WE ARE DETERMINED TO HAVE ANY LIABILITY TO YOU OR ANY THIRD PARTY ARISING FROM YOUR USE OF THE FREE SERVICES, THEN OUR AGGREGATE LIABILITY WILL BE LIMITED TO ONE HUNDRED U.S. DOLLARS.

10.4 Third Party Products.

WE AND OUR AFFILIATES DISCLAIM ALL LIABILITY WITH RESPECT TO THIRD-PARTY PRODUCTS THAT YOU USE. OUR LICENSORS SHALL HAVE NO LIABILITY OF ANY KIND UNDER THIS AGREEMENT.

10.5 Agreement to Liability Limit.

YOU UNDERSTAND AND AGREE THAT ABSENT YOUR AGREEMENT TO THIS LIMITATION OF LIABILITY, WE WOULD NOT PROVIDE THE SUBSCRIPTION SERVICE TO YOU.

10.6 Additional Coverage Terms.

If your Total Committed Subscription Value exceeds seventy-five thousand U.S. dollars (USD\$75,000), then the Insight68 Additional Coverage Terms available at Appendix 1 to these Master Terms will apply. If these terms apply to you, then they are incorporated into the Agreement and will control in the event of any conflict with these Customer Terms of Service.

11. Miscellaneous

11.1 Amendment;

No Waiver. We may update and change any part or all of these Customer Terms of Service, including the fees and charges associated with the use of the Subscription Service (but, your fees and charges won't change during the Subscription Term except as we explain in the 'Fees' section above.) If we update or change these Customer Terms of Service, the updated

Customer Terms of Service will be posted on our website and we will let you know via email or in-app notification.

The updated Customer Terms of Service will become effective and binding on the next

business day after it is posted. When we change these Customer Terms of Service, the "Last Modified" date above will be updated to reflect the date of the most recent version. We will provide an email notification when we update the Customer Terms of Service.

For the Product Specific Terms, if we make updates or changes, we will provide notice of those changes at our discretion. The updated Product Specific Terms pages will be effective upon posting. We encourage you to review these Customer Terms of Service periodically.

If you do not agree with a modification to the Customer Terms of Service, you must notify us in writing within thirty (30) days after receiving notice of modification. If you give us this notice, your subscription will continue to be governed by the terms and conditions of the Customer Terms of Service prior to modification for the remainder of your current term. Upon renewal, the Customer Terms of Service published by us on our website will apply.

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 Force Majeure.

Neither party will be responsible for failure or delay of performance if caused by: an act of war, hostility, or sabotage; act of God; electrical, internet, or telecommunication outage that is not caused by the obligated party; government restrictions; or other event outside the reasonable control of the obligated party. Each party will use reasonable efforts to mitigate the effect of a force majeure event.

11.3 Actions Permitted.

Except for actions for nonpayment or breach of a party's proprietary rights, no action, regardless of form, arising out of or relating to this Agreement may be brought by either party more than one (1) year after the cause of action has accrued.

11.4 Relationship of the Parties.

You and we agree that no joint venture, partnership, employment, or agency relationship exists between us.

11.5 Compliance with Laws.

We will comply with all U.S. state and federal laws (where applicable) in our provision of the Subscription Service, the Consulting Services and our processing of Customer Data. We reserve the right at all times to disclose any information as necessary to satisfy any law, regulation, legal process or governmental request.

You will comply with all laws in your use of the Subscription Service and Consulting Services, including any applicable export laws.

You will comply with the sanctions programs administered by the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury in your use and receipt of the Subscription Service and Consulting Services.

You will not directly or indirectly export, re-export, or transfer the Subscription Service or Consulting Services to prohibited countries or individuals or permit use of the Subscription Service or Consulting Services by prohibited countries or individuals.

11.6 Severability.

If any part of this Agreement or an Order Form is determined to be invalid or unenforceable by applicable law, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of this Agreement will continue in effect.

11.7 Notices.

To Insight68: Notice will be sent to the contact address and will be deemed delivered as of the date of actual receipt.

To you: your address as provided in our Insight68 Subscription account information for you. We may give electronic notices by general notice via the Subscription Service and may give electronic notices specific to you by email to your e-mail address (es) on record in our account information for you or through the notifications center of the Subscription Service. We may give notice to you by telephone calls to the telephone numbers on record in our account information for you. You must keep all of your account information current.

11.8 Entire Agreement.

This Agreement (including each Order), along with our Privacy Policy, Product Privacy Policy, and AUP, is the entire agreement between us for the Subscription Service and Consulting Services and supersedes all other proposals and agreements, whether electronic, oral or written, between us. We object to and reject any additional or different terms proposed by you, including those contained in your purchase order, acceptance or website. Our obligations are not contingent on the delivery of any future functionality or features of the Subscription Service or dependent on any oral or written public comments made by us regarding future functionality or features of the Subscription Service. We might make versions of this Agreement available in languages other than English. If we do, the English version of this Agreement will govern our relationship and the translated version is provided for convenience only and will not be interpreted to modify the English version of this Agreement.

11.9 Assignment.

You will not assign or transfer this Agreement without our prior written consent, except that you may assign this Agreement to a successor by reason of merger, reorganization, sale of all or substantially all of your assets, change of control or operation of law, provided such

successor is not a competitor of ours. We may assign this Agreement to any Insight68 affiliate or in the event of merger, reorganization, sale of all or substantially all of our assets, change of control or operation of law.

11.10 No Third Party Beneficiaries.

Nothing in this Agreement, express or implied, is intended to or shall confer upon any third party person or entity any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

11.11 Contract for Services.

This Agreement is a contract for the provision of services and not a contract for the sale of goods. The provisions of the Uniform Commercial Code (UCC), the Uniform Computer Information Transaction Act (UCITA), or any substantially similar legislation as may be enacted, shall not apply to this Agreement. If you are located outside of the territory of the United States, the parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not govern this Agreement or the rights and obligations of the parties under this Agreement.

11.12 Authority.

Each party represents and warrants to the other that it has full power and authority to enter into this Agreement and that it is binding upon such party and enforceable in accordance with its terms. Customer further warrants and represents that it has the authority to procure its Affiliates compliance with the terms of this Agreement.

11.13 Insurance.

During the term of this Agreement, we will, at our own cost and expense, obtain and maintain in full force and effect, with reputable insurers liability insurance with coverage and minimum limits of liability as follows: Commercial General Liability Insurance (Primary & Umbrella) or equivalent, with minimum limits of \$1,000,000 Each Occurrence and \$2,000,000 Aggregate.

11.14 U.S. Government Entities.

If you are a U.S. local, state or federal government entity, then the Insight68 Government Customer Additional Terms available at Appendix 2 to these Master Terms will apply to your Agreement. If these terms apply to you, then they are incorporated into the Agreement and will control in the event of any conflict with these Customer Terms of Service.

11.15 Survival.

The following sections shall survive the expiration or termination of this Agreement: 'Definitions', 'Fees', 'Prohibited and Unauthorized Use', 'Early Cancellation', 'Termination for Cause', 'Suspension for Prohibited Acts', 'Suspension for Non-Payment', 'Suspension for Present Harm', 'Suspension and Termination of Free Services', 'Effect of Termination or Expiration', 'Intellectual Property', 'Customer's Proprietary Rights', 'Confidentiality', 'Publicity', 'Indemnification', 'Disclaimers; Limitations of Liability', 'Miscellaneous' and 'Contracting Entity and Applicable Law'. Additionally, the 'Retrieval of Customer Data' sections and the

'Alpha/Beta Services' section of the Product Specific Terms page shall survive expiration or termination of this Agreement.

11.16 Precedence.

In the event of a conflict between the terms of the Customer Terms of Service and an Order, the terms of the Order shall control, but only as to that Order.

Appendix 1

Additional Coverage Terms

If your Total Committed Subscription Value exceeds seventy-five thousand U.S. dollars (USD\$75,000), then these Additional Coverage Terms apply. If, at any point during your Subscription Term, your Total Committed Subscription Value is below this amount, then these terms will not apply. These terms amend the Customer Terms of Service and will control in the event of a conflict with the Customer Terms of Service. We may update or change these terms in the same way as we can our Customer Terms of Service, as we describe in the 'Amendment; No Waiver' section of our Customer Terms of Service.

1. Insight68 Indemnification

We will indemnify, defend and hold you harmless, at our expense, against any Action (as defined in this section) brought against you (and its officers, directors, employees, agents, service providers, licensors, and affiliates) by a third party not affiliated with you to the extent that such Action is based upon or arises out of 1) an allegation that the Subscription Service infringes a valid patent in a member state of the Patent Cooperation Treaty, registered trademark, or copyright ("IP Indemnification"), or 2) our breach of our confidentiality obligations or our use of Customer Data in violation of this Agreement ("Confidentiality and Data Misuse Indemnification").

You will: notify us in writing within thirty (30) days of Customer becoming aware of any such claim; give us sole control of the defense or settlement of such a claim; and provide us (at our expense) with any and all information and assistance reasonably requested by us to handle the defense or settlement of the claim. We shall not accept any settlement that

- (i) imposes an obligation on you;
- (ii) requires you to make an admission; or
- (iii) imposes liability not covered by these indemnifications or places restrictions on you without your prior written consent.

We shall not have any obligation or liability under this subsection if the alleged claim is caused by or based on:

- (i) any combination of the Subscription Service with any hardware, software, equipment, or data not provided by us,
- (ii) modification of the Subscription Service by anyone other than us, or modification of the Subscription Service by us in accordance with specifications or instructions that Customer provided,

- (iii) Use of the Subscription Service in violation of or outside the scope of this Agreement,
- (iv) an allegation that the Subscription Service consists of a function, system or method traditionally utilized in marketing or sales software or services that is not commercially unique to the Subscription Service, and the commercially unique aspects of the Subscription Service are not identified in the allegation giving rise to the claim, or
- (v) user interface or related user design elements not provided by us.

Notwithstanding the foregoing, in the event of such a claim, or if we believe that such a claim is likely, we may, at our sole option and expense:

- (a) modify the Subscription Service or provide Customer with substitute Subscription Service that is non-infringing; or
- (b) obtain a license or permission for Customer to continue to use the Subscription Service, at no additional cost to Customer; or
- (c) if neither (a) nor (b) is, in our judgment, commercially practicable, terminate Customer's access to the Subscription Service (or to a portion of the Subscription Service as necessary to resolve the claimed infringement) and refund all or a proportionate amount of any fees that Customer has previously paid covering use of the Subscription Service after the effective date of such termination.

THIS SUBSECTION STATES OUR ENTIRE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM PROVIDED FOR UNDER THIS PARAGRAPH.

2. Performance Warranty

Notwithstanding anything contained in the 'Disclaimer of Warranties' section of the Insight68 Customer Terms of Service, we warrant that: (i) the Subscription Service and Consulting Services will be provided in a manner consistent with generally accepted industry standards, and (ii) we shall not knowingly introduce any viruses or other forms of malicious code into the Subscription Service.

3. Limitation of Liability

The 'Limitation of Liability' sub-section in the 'Disclaimers; Limitations of Liability' section of the Customer Terms of Service is revised to read as follows:

"EXCEPT FOR YOUR LIABILITY FOR PAYMENT OF FEES, YOUR LIABILITY ARISING FROM YOUR OBLIGATIONS UNDER THE 'INDEMNIFICATION' SECTION, OUR IP INDEMNIFICATION OBLIGATIONS UNDER THE 'INSIGHT68 INDEMNIFICATION' SECTION AND YOUR LIABILITY FOR VIOLATION OF OUR INTELLECTUAL PROPERTY RIGHTS, IF, NOTWITHSTANDING THE OTHER TERMS OF THIS AGREEMENT, EITHER PARTY OR ITS AFFILIATES IS DETERMINED TO HAVE ANY LIABILITY TO THE OTHER PARTY, ITS AFFILIATES OR ANY THIRD PARTY, THE PARTIES AGREE THAT THE AGGREGATE LIABILITY OF A PARTY AND ITS AFFILIATES WILL BE LIMITED TO A SUM EQUAL TO THE TOTAL AMOUNTS PAID OR PAYABLE FOR THE SUBSCRIPTION SERVICE IN THE TWELVE MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO A CLAIM".

Appendix 2

U.S. Government Customer Additional Terms

If you are a U.S. local, state or federal government entity that uses the Insight68 products or services (a “Government Customer”), then these Insight68 Government Customer Additional Terms apply. These terms amend the Customer Terms of Service and will control in the event of a conflict with the Customer Terms of Service. We may update or change these terms in the same way as we can our Customer Terms of Service as we describe in the ‘Amendment; No Waiver’ section of our Customer Terms of Service.

These terms apply to the extent required by applicable law.

1. Government Customer Purpose

Government Customer may only use the Subscription Service and Consulting Services for a governmental-related purpose. These terms will not apply in the event the Subscription Service and/or Consulting Services are used for any private, personal, or non-governmental-related purpose.

2. Indemnification

Government Customer's obligations in the ‘Indemnification’ section of the Customer Terms of Service will only apply to the extent permitted by applicable law.

3. Limitation of Liability

The 'Limitation of Liability' sub-section in the ‘Disclaimers; Limitations of Liability’ section of the Insight68 Customer Terms of Service applies to the extent permitted by applicable law. The following sentence is also added to the end of the 'Limitation of Liability' sub-section in the ‘Disclaimers; Limitations of Liability’ section of the Insight68 Customer Terms of Service, if applicable: “ALSO PROVIDED HOWEVER, THIS LIMITATION SHALL NOT APPLY TO EITHER PARTIES’ LIABILITY ARISING FROM ITS NEGLIGENCE THAT RESULTS IN BODILY INJURY, DEATH, OR DAMAGE TO TANGIBLE PROPERTY.”

4. Contracting Entity and Applicable Law

The ‘Contracting Entity and Applicable Law’ section of the Customer Terms of Service is revised to read as follows:

You are contracting with Insight68, Inc. and this Agreement is governed by the laws applicable to you as a Government Customer, or if no such laws are specified, then the laws of the State of California, U.S.A., without reference to conflicts of law principles. Government Customer agrees that we have standing and privity of contract to bring a claim directly against Government Customer in a court or body of competent jurisdiction.

Appendix 3

These documents are available on our website or may be obtained by request.

List of Legal Documents

1. Master Terms (Customer Terms of Service)

2. Data Processing Agreement
3. Product Privacy Policy
4. Product Specific Terms
5. Acceptable Use Policy

