Software-as-a-Service (SaaS) Agreement

This SaaS Agreement (with the schedules and addendum attached hereto, collectively referred to herein as this "Agreement"), effective as of the date of the last signature below (the "Effective Date"), is by and between APEX Analytix, LLC, a Delaware limited liability company having a principal place of business at 1501 Highwoods Boulevard, Suite 200, Greensboro, North Carolina 27410 ("APEX" or "Provider") and Ordering Activity under GSA Schedule contracts identified in the Order ("Client"). APEX and Client are "Parties" to this Agreement.

1. TERMINOLOGY AND USAGE RIGHTS.

1.1 Terminology. The following terms and definitions shall apply to this Agreement (including its Schedules, any SaaS Orders, and statements of work ("SOWs") issued hereunder):

a) "Affiliate" means any individual, or entity (e.g., corporation, partnership, limited liability company, joint venture, etc.) that, at the applicable time, directly or indirectly controls, is controlled by or is under common control with, a party, where "control" means, for a corporation, the ownership, directly or indirectly, of fifty percent (50%) or more of the voting power to elect directors thereof, or for any other entity, the power to direct the management of such entity.

b) "Authorized Users" means (i) the employees and agents of Client; and, (ii) subject to Section 3 (Third-Party Access), Client's Third-Party Providers (defined below) who are authorized by Client to use the Service and who are acting on Client's behalf for the internal operation of Client's business; and, (iii) if detailed in the applicable SaaS Order, Client Suppliers who Client authorizes to use the Service and who are conducting business with Client.

c) "Client Data" means information, data, and other content, in any form or medium, that is collected, downloaded, or otherwise received, directly or indirectly from the Client or an Authorized User by or through the Service.

d) "Client Supplier" means a seller of goods or services to the Client. If Services include the apexportal® ("apexportal"), a Client Supplier shall have accepted a supplier access agreement (acknowledged upon registration through the apexportal) the final form of which shall be provided by the Client as part of the implementation of the apexportal Service, to become an Authorized User of the Service.

e) "Documentation" means the electronic or printed, then-current, user manuals, operating manuals, and other materials that describe the functionality, components, technical requirements, and features, as generally made available to the Provider's customers, in association with various modules of the Service.

f) "Go-Live" means when the Service is moved from the user acceptance testing environment ("UAT") into production for access by the Client and its Authorized Users. The requirements for the Service to be moved from UAT into production shall be more particularly detailed in a SOW for the Service implementation and training services.

g) "Process" (or "Processes" or "Processing") means to perform any operation or set of operations upon Client Data, whether manually or by automatic means, including but not limited to collection, recording, sorting, structuring, accessing, storage, adaptation or alteration, retrieval, consultation, use, transfer, or dissemination.

h) "Professional Service(s)" means any integration, consulting, training, configuration, administration, or similar services provided by Provider to Client as specifically detailed in a SOW.

i) "SaaS" means the online, web-based software applications provided by Provider that are described in the applicable SaaS Order and any Documentation, including upgrades and updates generally made commercially available by Provider to its customers.

j) "Service(s)" means any one or more of the following: the SaaS, SaaS Support Services, Implementation Services, and Training (each as defined in this Agreement) and set out in an Order or SOW.

k) "System" means a Party's information technology infrastructure, including but not limited to computer hardware, software, databases, database management, peripherals, device drivers, third-party operating systems, cabling, cabling services, Internet access, telecommunications equipment, and other electronic systems and networks.

l) "Third-Party Data," "Third-Party Database(s)," or "Third-Party Services" (collectively referred to as Third-Party Data) means data or databases provided through the apexanalytix Portal (also referred to as apexportal®), smartvm®, or other Service, which may include or reflect data or databases acquired by the Provider from third-party licensors, providers, government agencies, foreign country commissions, and global cooperatives.

m) "Third-Party Software" or "Third-Party Materials" includes products, services, software, technology, and/or materials that are provided or supported by third parties and which may be used with or integrated with the Service (e.g., a client's enterprise resource planning ("ERP") software application or a web browser used to access the Service).

n) "UAT" means user acceptance testing environment.

o) "Usage Metric" means the quantity or other limits on the use of an applicable Service specified in the applicable SaaS Order, which may be based on the number of Authorized Users, the quantity of data processed and/or stored through the Service, the number of requests permitted to the Service programming interface, or other limits as specified in the applicable SaaS Order.

p) "Validation" means the results from a call to the Provider's Service Software initiated by the input of Client Data, verification of specific attributes (included with the particular module of Service), and Processing through the SaaS. Not all attributes may be validated with each call to the Service.

1.2 SaaS Order. From time to time during the Term (defined below) of this Agreement, Provider and Client may agree upon Service(s) (or modules of Service(s)) ordered by Client to be provided to Client by Provider hereunder. Each order for SaaS shall be detailed on an applicable sequentially numbered "SaaS Order" and each order for Implementation and Training Services or other Professional Services shall be detailed in a SOW. Each SaaS Order must be executed by both Parties to be valid and will include a description of the SaaS, the applicable SaaS term, Usage Metric(s), and the SaaS Fees (defined below) payable by the Client. In addition, a SaaS Order may detail any additional terms and conditions agreed upon by the Parties governing the use of specific SaaS modules. Each SaaS Order is subject to and incorporates by reference the terms of this Agreement.

1.3 Affiliates. Each of the Client's Affiliates has the right to purchase Service(s) from Provider according to the terms of this Agreement by executing a SaaS Order and/or SOW hereunder. For each SaaS Order or SOW executed by an Affiliate of Client, all references to "Client" in this Agreement shall mean and refer to such Affiliate of Client; notwithstanding, Client shall be responsible for the obligations of its Affiliates unless otherwise expressly agreed.

1.4 Grant of Access and Use. Provider shall make the SaaS available to Client for the term and subject to the applicable Usage Metric(s) detailed in the applicable SaaS Order, to remotely access and use the SaaS solely to process Client Data for Client's internal business purposes and in accordance with, and subject to, the terms of this Agreement, any associated Documentation that may be provided for the SaaS, and all applicable laws.

1.5 Monitoring Use. The Provider will remotely monitor the use of the SaaS to ensure it is accessed and used in accordance with the applicable Usage Metrics detailed in the applicable SaaS Order. If Client and its Authorized Users access and use the SaaS above the applicable Usage Metrics specified in the applicable SaaS Order, during any year of the SaaS term, Provider will invoice Client for additional fees for such excess use on an annual true-up basis, and Client shall pay any such invoice per the payment terms detailed in Section 6 (Pricing and Payment).

1.6 Security. The Provider uses commercially reasonable security technologies (such as encryption, password protection, and firewall protection) to provide the Services. The Provider has implemented and will maintain appropriate technical and organizational measures, including information security policies and safeguards, to preserve the security, integrity, and confidentiality of Client Data and Personal Data (defined below) and to protect against unauthorized or unlawful disclosure or corruption of or access to Personal Data. The Provider has implemented and will maintain during the Term, industry-standard virus detection software to scan the SaaS to ensure that it does not contain any malicious program, routine, device, code, or instructions intended to damage, delete, disable, deactivate, interfere, or otherwise harm the SaaS or Provider's System used to provide the SaaS or Client Data. Notwithstanding the foregoing, the Client acknowledges and understands that the SaaS may contain code that enables the Provider to suspend, disable or deactivate the SaaS as more particularly detailed in Section 14 (Service Suspension Rights).

1.7 Use of Client Data. The Provider will not (i) modify or access Client Data except as necessary to provide the Services, maintain or resolve technical problems with the Services, or as otherwise requested by Client, or (ii) disclose Client Data except per the terms in Section 8 (Confidentiality) applicable to Client's Confidential Information (defined below). Notwithstanding the foregoing, Client agrees that Provider may collect, analyze, use, and disclose Client Data uploaded to the SaaS by Client and its Authorized Users with data uploaded to the SaaS by Provider's other customers and use such data to create and provide analysis, reports, derivative statistics, marketing and other products and services based on the foregoing, provided that all data collected, used, and disclosed will be in the aggregated and de-identified form only. Client further acknowledges that Client Data that is also public information (an exception to Confidential Information) or has been gathered, derived, or previously developed by Provider independent of the Services provided hereunder may be used by Provider for its business purposes and used in derivative works so long as Client is not identified as the source of such Client Data.

1.8 Third-Party Data.

a) The Service may contain links to external websites, APIs, or other means of accessing Third-Party Data. The Provider is not responsible for and expressly disclaims any liability or obligation for any Third-Party Data, information, content, availability, or performance. All Third-Party Data is provided "as is" without warranty. Further, Provider does not represent or warrant in any manner that the Third-Party Data is accurate, current, or complete, that it complies with applicable laws, rules, and/or regulations, or that the Third-Party Data is suitable for Client's purposes.

b) The Client and its Authorized Users are prohibited from reselling or distributing any Third-Party Data, results, or Validations from any Third-Party Data or Databases or using or transferring them in any manner that violates applicable laws.

c) When attempting to validate specific attributes of Client's Suppliers, or when checking United States taxpayer identification numbers ("TINs") against the IRS TIN check site or other Third-Party Databases that the Service may use include, without limitation: US TIN / SSN validation database(s), EU TIN validation database(s), EU VAT validation database(s), US and international address validation database(s), SWIFT validation database(s), IBAN validation database(s) for countries supporting IBAN, ABA routing number validation databases for US banks, and OFAC/Prohibited List validation database(s), subject to applicable law, and if required, the Client shall name the Provider as an authorized agent in connection with the use of any applicable Third-Party Database or service accessible through the Service.

d) The pricing for included annual Validations and incremental Validations may change if the Provider's cost for accessing the relevant Third-Party Database changes. Should the Provider's cost for any such Third-Party Data increase during the Term by more than CPI, the Provider shall provide written notice to Client regarding the cost increase. If Client elects to continue to use such Third-Party Data, Client shall pay Provider such increased prices for the remainder of the Term. If Client and Provider cannot reach an agreement for the increased cost per Validation, then Provider has the right to discontinue providing Validations from the Third-Party Data source from which the parties could not agree on pricing without such being deemed a default or breach of warranty under the Agreement. Any Validations for existing Client Suppliers shall be subject to the same pricing and limitations detailed herein.

e) In addition, it is possible that the Provider may lose access to certain Third-Party Data, including governments, as they may become unavailable at some point during the Term. The Provider will notify the Client if any Third-Party Data source becomes unavailable during the Term for which no substitute is available.

2. RESTRICTIONS ON USE. When using the Service, the Client shall not, and shall ensure that Authorized Users shall not:

2.1 Transmit any content, data, or information that is unlawful, abusive, malicious, harassing, or violates privacy rights;

2.2 Knowingly violate any of Provider's intellectual property or other proprietary rights related to the Service, or infringe the intellectual property rights of any other entity or person;

2.3 Interfere with or disrupt the software or Systems used to host the Service by or on behalf of the Provider, or other equipment and networks connected to the Service;

2.4 Use the Services to create, use, send, store, or run viruses or other harmful computer code, files, scripts, agents, or other programs, or circumvent or disclose the user authentication or security of the Service or any host, network, or related account;

2.5 Reverse-engineer, disassemble, decode, decompile, adapt, or otherwise derive or gain access to the source code or other trade secrets of the Service or any software or other technology used to provide the Service;

2.6 Copy, modify, or create derivative works of or to the Service, or access the Service to build a competitive product or service, or copy its features or user interface;

2.7 Except as otherwise permitted under this Agreement (including, without limitation, as may be specified in a SaaS Order), give, sell, resell, rent, lease, timeshare, sublicense, disclose, publish, assign, market, transfer or distribute any portion of the Service, including any Validations from the Service to any third party, including, but not limited to, Client's Affiliates or any Third-Party Providers or independent contractors;

2.8 Remove, alter, or conceal any copyright notices, proprietary notices, trademarks, or other notices or marks that may appear on the Service or Documentation or any reports generated by the Service, including any attribution that third-party owners or licensors may require;

2.9 Except with Provider's prior written consent, permit access to the Service by any Third-Party Providers (defined below) who is a direct competitor of Provider;

2.10 Make any use of the Service in any manner that violates any applicable law; or

2.11 Modify, alter, or translate any portion of the Service without the Provider's prior written consent; *provided, however*, utilization by Client of any configuration function contained in the Service shall not constitute a modification of the Service.

3. THIRD-PARTY ACCESS. The Client may enter an arrangement with a third party whereby such a third party will perform services for and on behalf of the Client ("Third-Party Providers"). Third-Party Providers and their personnel (collectively referred to as the "Third-Party Providers") using the Service will be deemed Authorized Users for purposes of this Agreement. The Client may grant Third-Party Providers the right to use and access the Service, subject to Section 2.9 above and *provided that* the Third-Party Providers use the Service (i) *only* for the benefit of Client and no other party including Third-Party Providers or any of its other customers or clients, and (ii) per the terms of this Agreement. The Client shall be responsible for all claims and liabilities resulting from access to and use of the Service, and for any breach of this Agreement by its Third-Party Providers.

4. IMPLEMENTATION, TRAINING, SUPPORT, AND ADDITIONAL SERVICES.

4.1 Client may purchase implementation services ("Implementation Services") and training services ("Training") from Provider or a System Implementer (defined below), as specified in a SOW. The Provider shall provide any Implementation Services and Training to the Client per the terms of Schedule B attached hereto. The Client may also purchase Implementation Services and Training from a third-party system implementer ("System Implementer") subject to a separate agreement between the Client and the System Implementer. The Provider shall reasonably cooperate with the Client and System Implementer (engaged by the Client). The Client acknowledges that the Provider shall have no liability for the acts or omissions of the System Implementer. Such System Implementer shall be subject to the Third-Party Access provisions detailed in Section 3 (Third-Party Access).

4.2 Throughout the term identified in the applicable SaaS Order, the Provider shall provide the support services for the SaaS described in Schedule A (SaaS Support Services Terms) attached hereto ("SaaS Support Services").

4.3 If the Client desires the Provider to provide Professional Services, the terms of the attached Professional Services Addendum detailed in Schedule C shall apply.

4.3 If the Client desires the Provider to provide Professional Services, the terms of the existing agreement between the parties for professional services shall apply.[endif]

5. CLIENT RESPONSIBILITIES.

5.1 Authorized User Credentials. Authorized User access credentials issued to access and use the Service cannot be shared or used by more than one (1) individual at a time; *provided, however*, such a user's access rights may be transferred from one individual to another if the original user is removed, no longer requires, or is no longer permitted access to or use of the Service. The Client shall take all reasonable precautions to prevent unauthorized persons from obtaining access to or use of the Service and shall notify the Provider promptly of any such unauthorized access or use of which the Client becomes aware.

5.2 Client System. The Client shall be responsible for the following: (i) procuring, maintaining, and supporting all Client Systems, and other products and services that may be required to access and use the Service; (ii) the compatibility of Client's System and other Third-Party Software used with or integrated with the Service; (iii) its Authorized Users' compliance with the terms of this Agreement; (iv) the results obtained by Client and its Authorized Users from use and operation of the Service; (v) providing and maintaining back-up and disaster recovery procedures and facilities in connection with Client's System; (vi) the accuracy, quality, integrity, and legality of all Client Data; and (vii) all data entry and loading that is not included with the Implementation Services. The Provider makes no representations, warranties, or assurances regarding the compatibility of the Client's System or Third-Party Software with the Service.

5.3 Client Data. The Client warrants that any Client Data transmitted to or through the Service does not and will not: (i) infringe or contain any content that infringes, misappropriates, or violates any copyrights, patents, trade secrets, privacy rights, or other third-party intellectual property rights or proprietary rights; (ii) violate any applicable law, rule or regulation; or (iii) contain any virus or harmful component; and, (iv) to the extent any Client Data is considered "Personal Data" as defined in Article 4 of the General Data Protection Regulation (Regulation (EU) 2016/679) ("GDPR"), the UK General Data Protection Regulation ("UK GDPR"), or other similar national, federal, state, provincial, local or other laws applicable to the processing of Personal Data hereunder (collectively "Applicable Data Protection Laws"), Client is the "Controller" of such Personal Data and has obtained all necessary consent and/or authorization from the "Data Subject" (also a Client Supplier and/or Authorized User) to process their Personal Data, and Client shall engage and direct Provider as a "Processor" of such Personal Data pursuant to detailed instructions and in compliance with the requirements of the Applicable Data Protection Laws.

5.4 License to Client Data. Client hereby grants to Provider a non-exclusive, non-transferable license to use, upload, display, copy, and store Client Data for (i) delivering the Service according to this Agreement during the Term, (ii) fulfilling any post-termination obligations under this Agreement, and (iii) verifying Client's compliance with Section 2 (Restrictions on Use).

5.5 Third-Party Software and Materials. The Client acknowledges that to provide specific implementation and/or customization services (detailed in a SaaS Order), the Client may need to obtain additional Third-Party Software. The Client agrees that the rights and license for any Third-Party Software shall be under the terms detailed in the pertinent purchase, license, or services agreements between the Client and the vendors of such Third-Party Software ("Third-Party Software Providers"). The Client shall secure the access rights, permission, subscription, grant, or license for the Provider as necessary to perform the Service. Any amount payable to Third-Party Software Providers under such agreements is the Client's responsibility and should be paid directly by the Client to such Third-Party Software Providers. The Provider provides no express or implied warranty for any Third-Party Software.

5.6 Supplier Access Agreement. The Client will provide the terms and conditions to be displayed on the apexportal that must be agreed to by each Client Supplier before accessing, using, and becoming an Authorized User of the apexportal ("Supplier Access Agreement"). The Client will determine the terms of the Supplier Access Agreement, which will be implemented as part of the Implementation Services, provided the Supplier Access Agreement contains terms that are substantially similar to the following:

a) Client Supplier shall not, and shall ensure that its users do not: (a) copy, translate, disassemble, decompile, reverse-engineer or otherwise modify any part of the apexportal; (b) transmit any content, data or information that is unlawful, abusive, harassing, tortious, defamatory, vulgar, libelous, invasive of another's privacy right or right of publicity, or racially or ethnically objectionable; (c) infringe, violate or otherwise misappropriate the intellectual property, privacy, publicity, or any other proprietary rights of any entity or person; (d) interfere with or disrupt the software and systems used to host, or connected with, the apexportal; (e) use the apexportal in the operation of a service bureau, outsourcing or time-sharing service; (f) circumvent or disclose the user authentication or security of the apexportal or any host, network, or account related thereto; (g) access the apexportal for the purpose of developing, or assisting in the developing of a competitive product or service, or for copying its features or user interface; or (h) make any use of the apexportal that violates any applicable local, state, national, international or foreign law or regulation;

b) Client has contracted with APEX Analytix, LLC to process the information provided through the apexportal on Client Supplier's behalf, and as such, APEX Analytix, LLC is an intended third-party beneficiary of the Supplier Access Agreement; and

c) Client Supplier represents and warrants that it shall make commercially reasonable efforts to ensure that the information provided via the apexportal shall be free of any virus, Trojan Horse, cancelbot, time bombs, or other devices intended to disable or to erase, damage or corrupt software, hardware, or data. CLIENT SUPPLIER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS OTHERWISE PROVIDED IN THE SUPPLIER ACCESS AGREEMENT, THE APEXPORTAL AND THE MATERIALS THEREIN ARE PROVIDED "AS IS" AND "AS AVAILABLE," AND WITHOUT WARRANTY OF ANY KIND, AND ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, REGARDING ANY MATTER, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, SUITABILITY, FITNESS FOR A PARTICULAR USE OR PURPOSE, OR NON-INFRINGEMENT ARE DISCLAIMED. WITHOUT LIMITING THE FOREGOING, THE CLIENT DOES NOT WARRANT THE LOSS OF DATA OR THAT ACCESS TO THE APEXPORTAL WILL BE UNINTERRUPTED, FREE FROM ERRORS OR DEFECTS, PROVIDED WITHOUT DELAY, OR THAT ERRORS OR DEFECTS ARE CAPABLE OF BEING CORRECTED.

6. PRICING AND PAYMENT.

6.1 SaaS Fees. Except as expressly detailed in the applicable SaaS Order, the Client shall pay all fees per the following: (a) SaaS Fees are invoiced annually up front, (b) the first invoice will coincide with the SaaS Order Effective Date, (c) payment will be due within thirty (30) days from the date of the invoice, and (d) all amounts will be denominated in US Dollars.

6.2 SaaS Support Services Fees. Except as detailed in Schedule A or as specified in the applicable SaaS Order. SaaS Support Services shall be provided throughout the Term of the applicable SaaS Order at no additional charge.

6.3 Professional Service Fees. Fees for any Implementation Services, Training, or Professional Services (collectively called "Professional Service Fees") shall be specified in the applicable SOW.

6.4 Offsets; Late Charges; Suspension. The Client shall have no right to withhold or reduce fees under this Agreement or set off any amount against any fees owed for alleged defects in the Service, without the Provider's prior written consent. All late payments shall bear interest at the interest rate established by the Secretary of the Treasury as provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid..

6.5 Purchase Orders. If Client issues a purchase order, it shall be for the full amount detailed in the applicable SaaS Order or SOW. Provider hereby rejects any additional or conflicting terms appearing in a purchase order or any other ordering materials submitted by Client. Upon request, Provider shall reference the purchase order number on its invoices, *provided* that Client acknowledges that it is Client's responsibility to provide the corresponding purchase order information (including a purchase order number) to Provider upon signing any SaaS Order or SOW. The Client agrees that a failure to provide the corresponding purchase order shall not relieve the Client of its obligations to provide payment to the Provider.

6.6 Tax Responsibility. Provider shall state separately on invoices taxes excluded from the fees, and the Client agrees either to pay the amount of the taxes (based on the current value of the equipment) or provide evidence necessary to sustain an exemption, in accordance with 552.212-4(k).

7. OWNERSHIP AND INTELLECTUAL PROPERTY.

7.1 Ownership of the Service. Provider and its suppliers and licensors own all right, title, and interest in and to copyrights, trademark rights, patent rights, database rights, and other intellectual property rights, in and to the Service and Documentation and all modifications, enhancements, improvements, and upgrades to, and derivative works of, and any knowledge or processes related thereto and provided hereunder. Unless otherwise specified in the applicable SaaS Order, SOW, or project plan, all deliverables provided by Provider in the performance of Professional Services, excluding Client Data and Client Confidential Information, are owned by Provider and constitute part of the Services under this Agreement. Except for the limited right to use the Services provided to Client under this Agreement, this Agreement does not transfer any proprietary right or interest in the Services from Provider to Client. The Provider, its suppliers, and licensors reserve all rights in the Service not expressly granted to the Client.

7.2 Client Data. Client Data processed using the Services is and will remain, as between Client and Provider, owned by Client.

7.3 Feedback. Provider encourages Client to provide suggestions, proposals, ideas, recommendations, or other feedback regarding improvements to Provider Services ("Feedback"). To the extent Client provides Feedback, Client grants to Provider a royalty-free, fully paid, sub-licensable, transferable (notwithstanding Section 16.8 (Assignment)), non-exclusive, irrevocable, perpetual, worldwide right and license to make, use, sell, offer for sale, import, and otherwise exploit Feedback (including by incorporation of such Feedback into the Services) without restriction; provided that such Feedback does not identify the Client, its Affiliates, or Authorized Users, without Client's prior written consent.

8. CONFIDENTIALITY.

8.1 During the Term of this Agreement and for a period of three (3) years thereafter, either Party (the "Disclosing Party") may disclose to the other Party (the "Receiving Party") confidential, proprietary, or trade secret information, including, without limitation, technical, business, or financial information (collectively, "Confidential Information"). The Receiving Party shall maintain, and require all its personnel to maintain, the Disclosing Party's Confidential Information with the strictest confidence. The Receiving Party shall limit the disclosure of the Disclosing Party's Confidential Information to only the personnel of the Receiving Party needing to know the Confidential Information of the Disclosing Party to exercise rights granted under this Agreement or to perform the Receiving Party's obligations under this Agreement. The Receiving Party shall not disclose the Disclosing Party's Confidential Information to any third party except with prior written consent of the Disclosing Party or as required by an appropriate judicial order or another legal process after providing the Disclosing Party with reasonable notice and opportunity to object. Without limiting the generality of the foregoing, the Client shall not permit the Service to be disclosed to or operated by anyone other than the Client's Authorized Users. The Receiving Party shall use the Confidential Information of the Disclosing Party solely for the purposes of exercising rights granted under this Agreement and performing its obligations under this Agreement.

8.2 Notwithstanding the foregoing, the confidentiality obligations of this Section will not apply to any information that (i) is publicly available without breach of this Section, (ii) is demonstrated to have been independently developed by the Receiving Party outside the scope of this Agreement and without reference to information received from the Disclosing Party pursuant to this Agreement, (iii) is rightfully obtained by the Receiving Party from third parties that are entitled to possess it without obligation to protect its confidentiality, (iv) was rightfully in the Receiving Party's possession or known to it before receipt of the Confidential Information from the Disclosing Party, or (v) is legally required to be disclosed by the Receiving Party. As to any disclosure that is legally required, the Receiving Party, to the extent permitted by the order requiring disclosure, shall provide notice to the Disclosing Party and provide reasonable cooperation to establish suitable arrangements to minimize the extent and scope of any such legally required disclosure. Provider recognizes that Federal agencies are subject to the Freedom of

Information Act, 5 U.S.C. 552, which may require that certain information be released, despite being characterized as “confidential” by the vendor.

8.3 Upon termination of this Agreement for any reason, or otherwise on demand, the Receiving Party shall destroy or return to the Disclosing Party’s Confidential Information and upon written request of the Disclosing Party certify the destruction of all copies, summaries, or analyses thereof; *provided, however*, that the extraction and return of any Client Data comprising Client’s Confidential Information shall be subject to the terms of Section 13.5 (Requirements Upon Termination). The provisions of this Section shall survive the expiration or termination of this Agreement for any reason and shall apply so long as the Receiving Party maintains any Confidential Information of the Disclosing Party.

8.4 The Parties acknowledge that breach or threatened breach of any obligation in the Agreement may cause substantial and immediate irreparable harm for which monetary damages would be an inadequate remedy. Accordingly, and except as provided below, a Party injured by such breach or threatened breach is entitled to seek injunctive or other equitable relief, without the requirement of posting bond, in addition to any other available remedy.

8.5 Provider shall have no liability for, and Client shall indemnify Provider against, any injury or loss arising or resulting from disclosure or loss of Client Data or Client Confidential Information that is caused by or related to unauthorized entry or access to Systems controlled by Client and its Authorized Users. In addition, the Provider shall not be responsible for any Systems other than those used to provide the Service as specified in the applicable SaaS Order.

9. LIMITED WARRANTY; EXCLUSIVE REMEDY.

9.1 Warranties. Provider warrants that during the applicable Term: (i) the SaaS will meet the Service Level Availability detailed in Schedule A; (ii) the Implementation Services, Training, and Professional Services will be provided in a professional and workmanlike manner consistent with industry standards; and (iii) the SaaS will substantially conform with the Documentation associated with the applicable Services.

9.2 Exclusions. The above warranties specifically exclude defects, non-conformities, or errors resulting from one or more of the following: (i) the SaaS not being used in accordance with this Agreement or the Documentation; (ii) any non-conformity caused by Client Data, Third-Party Software, or Third-Party Materials; (iii) accident, abuse, unauthorized repair, unauthorized modifications, unauthorized maintenance, or misapplication of the SaaS; or (iv) Client or an Authorized User’s System malfunctions.

9.3 Remedies. Client’s exclusive remedy and Provider’s sole liability for breach of the limited warranty in Section 9.1(i) shall be as detailed in Schedule A. Client’s exclusive remedy and Provider’s sole liability for breach of the limited warranties in Section 9.1(ii) and 9.1(iii) is the correction of the warranted nonconformity, or if Provider fails to correct the warranted non-conformity after using commercially reasonable efforts, Provider may terminate access to the nonconforming SaaS and refund the SaaS Fees paid in respect of such SaaS for the remainder of the applicable Term, starting with the date Client reported the nonconformity; or in the case of Implementation Services, Training, and Professional Services, refund any pre-paid Professional Service Fees starting with the date Client reported the nonconformity. To claim the benefit of this limited warranty, the Client must give Provider written notice of any breach of the limited warranty, describing any non-conformity in the SaaS with reasonable particularity, within thirty (30) days following the Client’s discovery with respect to the SaaS or within ninety (90) days of completion of the allegedly non-conforming service in the case of Implementation Services, Training, and Professional Services.

9.4 EXCEPT AS SET FORTH IN THIS SECTION, PROVIDER, ITS AFFILIATES, DISTRIBUTORS, SUPPLIERS, OR LICENSORS MAKE NO REPRESENTATIONS, WARRANTIES, OR GUARANTEES OF ANY KIND WHATSOEVER,

EITHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, ORAL OR WRITTEN, WITH RESPECT TO THE SAAS OR ANY PROFESSIONAL SERVICES COVERED BY OR FURNISHED PURSUANT TO THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OR CONDITION (I) OF MERCHANTABILITY, (II) OF FITNESS FOR A PARTICULAR PURPOSE, (III) ACCURACY, (IV) OF NONINFRINGEMENT, (V) OF RESULTS TO BE DERIVED FROM THE USE OR INTEGRATION WITH THE SERVICE PROVIDED UNDER THIS AGREEMENT, (VI) ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE, OR (VII) THAT USE OF THE SAAS SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT ALL ERRORS WILL BE CORRECTED. THE CLIENT ASSUMES SOLE RESPONSIBILITY AND LIABILITY FOR RESULTS OBTAINED FROM THE USE OF THE SERVICE AND FOR CONCLUSIONS DRAWN FROM SUCH USE. THE PROVIDER SHALL HAVE NO LIABILITY FOR ANY CLAIMS, LOSSES, OR DAMAGES ARISING FROM OR OUT OF THE CLIENT'S OR ANY AUTHORIZED USER'S USE OF ANY THIRD-PARTY MATERIALS THAT THE CLIENT MAY CHOOSE TO INTEGRATE WITH OR USE IN CONNECTION WITH THE SERVICES, EXCEPT TO THE EXTENT SUCH LIABILITY ARISES FROM THE PROVIDER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

10. LIMITATION OF LIABILITY.

10.1 EXCLUSION OF DAMAGES. TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL PROVIDER, ITS AFFILIATES, DISTRIBUTORS, SUPPLIERS OR LICENSORS, OR THEIR RESPECTIVE OFFICERS OR EMPLOYEES BE LIABLE FOR: (I) COSTS OF SUBSTITUTE GOODS OR SERVICES; OR (II) ANY CLAIM AGAINST CLIENT BY ANY THIRD PARTY, EXCEPT AS SPECIFIED IN SECTION 1111 (INFRINGEMENT INDEMNITY). TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL EITHER PARTY AND ITS AFFILIATES BE LIABLE FOR: (A) SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, WHETHER IN CONTRACT, TORT OR OTHERWISE AND EVEN IF THE PARTY KNEW OR SHOULD HAVE KNOWN ABOUT THE POSSIBILITY OF SUCH DAMAGES, AND REGARDLESS OF THE TYPE OF ACTION OR THEORY OF LIABILITY; OR (B) LOSS OF PROFITS, SALES OR BUSINESS, LOSS OF ANTICIPATED SAVINGS, LOSS OF USE OR CORRUPTION OF SOFTWARE, DATA OR INFORMATION (WHETHER DIRECT OR INDIRECT). THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM LICENSOR'S GROSS NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

10.2 LIMITATION OF LIABILITY. THE PROVIDER'S AGGREGATE LIABILITY TO THE CLIENT FOR ALL DAMAGES, LOSSES, COSTS, LIABILITIES, AND INJURIES, UNDER ANY CLAIM OR THEORY OF ACTION WHATSOEVER, SHALL NOT EXCEED THE SAAS FEES PAID BY THE CLIENT FOR THE SPECIFIC SERVICE DIRECTLY CAUSING THE LIABILITY DURING THE IMMEDIATELY PRECEDING TWELVE (12) MONTHS.

10.3 Independent Allocations of Risk. Each provision of this Agreement that provides for a limitation of liability, disclaimer of warranties, or exclusion of damages represents an agreed allocation of the risks of this Agreement between the Parties. This allocation is reflected in the pricing offered by the Provider to the Client and is an essential element of the basis of the bargain between the Parties. Each of these provisions is severable and independent of all other provisions of this Agreement, and each of these provisions will apply even if the warranties in this Agreement have failed in their essential purpose.

11. INFRINGEMENT INDEMNITY.

11.1 Provider agrees to indemnify, defend, and hold Client harmless from and against any and all third-party claims, damages, liabilities, costs, and expenses (including reasonable attorneys' fees) arising out of or related to Provider's uncured material breach of this Agreement, gross negligence, fraud or willful misconduct. This Section 11.1 does not apply to the extent a claim arises from materials or data furnished by Client or from Client's or its Authorized Users' use of the Service in violation of this Agreement or the Documentation. Where Client is an agency or instrumentality of the United States, this Section is subject to FAR 52.232-39 and, if applicable, GSAR 552.212-4(u); any obligation of the Government under this Section is limited to appropriations available for that purpose, and nothing herein obligates the Government in excess of or in advance of available appropriations.

11.2 In the event an action is brought against Client claiming that Client's authorized use of the Service infringes any United States patent, copyright, trade secret, or other intellectual property rights of a third party, Provider is not required to spend more than [infringementIndemnityCapAmount_3v26lJV] to indemnify Client, including attorney's fees, court costs, settlements, judgments, and reimbursement of costs awarded against Client, or settlements entered into by Provider on Client's behalf, in the action, subject to Section 11.3 below, but only if: (i) Client notifies Provider promptly and in writing upon learning that the claim has been or might be asserted; (ii) Provider is given sole control of any proceedings or negotiations in connection with the claim; (iii) Client takes no action that, in Provider's judgment, materially impairs Provider's defense of the claim; and (iv) Client cooperates and assists in the defense or settlement of the claim, as reasonably requested by Provider. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516.

11.3 In performing its indemnity obligations in Section 11.12 Provider may, at its option and expense, (i) procure for Client the right to continue to use the Service under this Agreement, or (ii) modify the Service so that it no longer infringes but remains functionally equivalent. If none of the foregoing is commercially practicable in Provider's reasonable opinion, Provider may terminate the applicable SaaS Order, and refund to Client pre-paid SaaS Fees, based on the number of months remaining in the Initial Term or Renewal Term (defined in the SaaS Order) of the applicable SaaS Order. The indemnity in this Section will not apply if and to the extent that the infringement claim results from (x) use of the Service in conjunction with any other software or service not provided by the Provider or not intended to be integrated or used with the Service as specifically detailed in the applicable SaaS Order, (y) any portion of the Service designed to Client's specifications, or (z) use of the Service by Client and its Authorized Users not in compliance with this Agreement or not in conformity with the Documentation.

11.4 NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, SECTION 11.1 ABOVE STATES THE ENTIRE LIABILITY AND OBLIGATION OF PROVIDER OR ANY DISTRIBUTOR, SUPPLIER, LICENSOR, OR AFFILIATE CONCERNING INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY TRADE SECRET, PATENT, COPYRIGHT, TRADEMARK, OR OTHER INTELLECTUAL PROPERTY RIGHT IN CONNECTION WITH THE SERVICE.

12. Reserved.

13. TERM AND TERMINATION.

13.1 <u>Term</u>. The Term of this Agreement shall begin on the Effective Date and, unless terminated earlier as detailed herein, shall continue until the termination or expiration, as the case may be, of each SaaS Order and any SOW hereunder (the "<u>Term</u>").

13.2 <u>Termination for Uncured Breach</u>. When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, Provider shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer

13.3 <u>Reserved</u>.

13.4 <u>Reserved</u>.

13.5 <u>Requirements Upon Termination</u>. Upon the effective date of termination of this Agreement and termination or expiration of any individual SaaS Order, the Client shall: (i) immediately cease all use of the applicable Service(s), (ii) return the Documentation and all copies thereof to Provider or certify their destruction, as instructed by Provider, (iii) notify all Authorized Users including any Third-Party Providers using the applicable Service(s) through Client to do the same, and (iv) pay to Provider any amounts that have accrued before, and remain unpaid as of the effective date of the expiration or termination.

13.6 Access to Client Data. The Client shall be able to access Client Data at any time during the Term unless earlier terminated pursuant to this Section. The Client may export and retrieve its Client Data during the Term, subject to technical limitations caused by factors such as: (i) the availability of self-service extraction tools compatible with the Service, (ii) the size of the Client's instance of the Service; and (iii) the frequency and/or timing of the export and retrieval. The Client may request the Provider to assist with extracting Client Data following the end of the Term, subject to the Provider's Professional Service Fees for such service. Unless otherwise specified in a SaaS Order, the Provider shall not have any obligation to retain any backups of Client Data for longer than three (3) months following the end of the Term.

14. SERVICE SUSPENSION RIGHTS. If Provider is either: (i) informed by government authorities of inappropriate or illegal use of the Services or Provider Systems; or, (ii) if Provider otherwise learns of such inappropriate or illegal use of the Services or has a good faith reason to believe such use may be occurring; or, (iii) if Provider can substantiate that the Client's continued use of the Services may reasonably result in harm to the Services including the security of the Provider Systems or other Provider clients or the rights of third parties, then upon written notice to Client (as permitted by applicable law), and without limiting any other rights or remedies Provider may have under this Agreement, Provider may temporarily modify or temporarily suspend the Services as necessary to comply with any applicable law and/or the Restrictions on Use detailed in this Agreement as reasonably determined by Provider, and Client acknowledges and understands that the Services may contain code that enables Provider to disable or deactivate the Services for such purpose. To the extent there is an investigation by the Provider or governmental authorities in association with any alleged inappropriate or illegal use of the Services, the Client will reasonably cooperate in any resulting investigation. If Client fails to cooperate with any investigation or determination, or reasonably fails to rectify, within a commercially reasonable timeframe, any illegal use of the Services prohibited by this Agreement, the Provider may immediately suspend or terminate Client's access to or use of any or all of the Services.

15. RESTRICTED RIGHTS. The Service is provided with RESTRICTED RIGHTS. Use, duplication, or disclosure by the government (including without limitation any of its agencies or instrumentalities) are subject to restrictions in subparagraph (b)(3) of the Rights in Technical Data and Computer Software clause of DFARS 252.227-7013 or subparagraphs (c) (1) and (2) of the Commercial Computer Software-Restricted Rights clause at 48 CFR 52.227-14, as amended and as applicable, and any successor regulations thereto as well as similar clauses in other federal regulations. The manufacturer is APEX Analytix, LLC, 1501 Highwoods Blvd., Suite 200, Greensboro, NC 27410. The Client shall not remove or deface any restricted rights notice or other legal notice appearing on or in the Service or any Documentation associated with the Service. To the extent applicable, the Client shall require its Authorized Users to acknowledge the provisions of this Section in writing (a click-through agreement shall suffice for the purposes of this provision).

16. GENERAL.

16.0 Governing Law; Jurisdiction. This Agreement shall be governed by the Federal laws of theUnited States, without reference to its conflict of laws rules and without regard to (a)reserved, (b) the United Nations 1980 Convention on Contracts for the International Sale of Goods, as amended, or (c) other international laws.

16.1 Entire Agreement. This Agreement, including all SaaS Orders, SOWs, addendum, schedules, exhibits, and any other documents referenced herein, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all other communications and agreements, whether oral or written, between the Parties regarding the subject matter hereof. Any terms in a Client purchase order that is in conflict with the terms of this Agreement, or any SOW are hereby rejected.

16.2 Force Majeure. In accordance with FAR Clause 52.212-4(f), Except for payment obligations, neither Party shall be liable to the other Party for any failure or delay in performance due to fire, flood, or other weather-related difficulties, an act of God, or government authority (e.g. order, regulation, rule, direction, curfew), acts, omissions or delays by Client, acts of war or terrorism, riot, embargo, fuel or energy shortage, wrecks or delay in transportation, inability to obtain necessary labor, materials or services from usual sources, delay or interruption in communications, utility curtailment, cable cut, failure caused by telecommunications or other Internet providers, power failures, plague, epidemic, pandemic or other health crisis, including quarantine or other personnel restrictions or any other cause beyond its reasonable control ("Force Majeure Events"). If there is a performance delay due to any such cause, the date of delivery or time for completion shall be extended by a period reasonably necessary to overcome the delay's effect.

16.3 Severability. If any provision of this Agreement is held invalid or unenforceable, it shall be omitted from this Agreement, and such invalidity or unenforceability shall not affect the remaining provisions, which shall continue in full force and effect.

16.4 Amendment. Any material changes to this Agreement, including changes affecting the scope or pricing, shall require the mutual written consent of both Parties. Such consent must be documented and signed by authorized representatives of both Parties to be valid. To avoid doubt, no terms of any purchase order or other ordering document submitted by the Client shall affect or modify the terms of this Agreement.

16.5 Notices. Any notice required or allowed by this Agreement shall be in writing and sent by certified mail, return receipt requested, or by nationally recognized overnight courier to the other Party at the contact address in the preamble of this Agreement or such other address of which a Party gives notice under this Agreement. All notices to the Provider shall include a copy via email to contractnotices@apexanalytix.com to be validly provided.

16.6 Counterparts; Electronic Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which constitute the same instrument. A scanned, facsimile, or electronic signature shall be deemed an original for this Agreement.

16.7 Assignment. Neither Party shall assign this Agreement, in whole or in part, by operation of law or otherwise, without the prior written consent of the other Party hereto; *provided, however*, that either Party may assign this Agreement in connection with a merger or sale of all or substantially all of its assets, equity, stock or ownership interest in accordance with the provisions set forth at FAR 42.1204.

16.8 Anti-Corruption and Compliance. In connection with the Services performed under this Agreement and Client's use of the Services, the Parties agree to comply with all applicable laws, industry standards, and anti-bribery and anti-corruption related laws, statutes, and regulations, both domestically and internationally.

16.9 Waiver. The waiver or failure of either Party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further right hereunder, and no waiver of any term or condition of this Agreement shall be valid or binding unless agreed to in writing by a duly authorized representative of the Party making such waiver.

16.10 Independent Parties. Client and Provider are acting hereunder as independent contractors, and neither shall have the authority to bind or represent the other Party. Neither Client nor Provider shall be deemed an agent, representative, joint venturer, or partner of the other Party.

16.11 Beneficial Parties. Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any person or entity other than Provider or Client and their respective successors and permitted assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third parties to either Client or Provider to this Agreement, nor shall any provision give any third parties any right of subrogation or action over, or against, either Client or Provider.

16.12 Order of Precedence. In the event of an inconsistency between this Agreement, a SaaS Order, a SOW, a Change Request (defined below), any pre-printed terms, or any of those, the following order of precedence shall govern and control: (i) the terms of any Change Request pertaining to a referenced SOW shall take precedence over any conflicting terms contained in that SOW; (ii) the terms of any SaaS Order or SOW shall take precedence over any conflicting terms in this Agreement but only for that particular SaaS Order or SOW; (iii) the body of this Agreement shall take precedence over any conflicting terms contained in any document attached hereto (e.g., schedule, exhibit) or incorporated herein by reference and any conflicting terms contained in any SaaS Order or SOW (unless (ii) above applies or such document specifically references a Section in this Agreement and expressly states an intention to modify that Section). The pre-printed terms appearing on either Party's ordering documents (including purchase orders and invoices) are hereby deemed null, void, and without effect.

IN WITNESS WHEREOF, Provider and CLIENT have executed this Agreement by their duly authorized representatives as of the Effective Date.

APEX Analytix, LLC		**[counterpartyName_3h4NN6m]**	
By:	____________________ (Signature)	By:	____________________ (Signature)
Name:	____________________ (Printed Name)	Name:	____________________ (Printed Name)
Title:	____________________	Title:	____________________
Date:	____________________	Date:	____________________

SCHEDULE A
SAAS SUPPORT SERVICES TERMS

1. General.

1.1 Provider will provide access to the SaaS on its infrastructure located in the United States.

1.2 The Client will provide the Provider with a primary contact to provide notifications for updates and maintenance notices.

1.3 All data will be transmitted using one of the standard integration options provided by the Provider.

1.4 Client shall reimburse the Provider for out-of-pocket expenses, including travel, lodging, meals, telephone, and shipping, as may be necessary, relating to SaaS Support Services incurred at Client's request, at Client's facilities in accordance with FAR 31.205-46 and the Federal Travel Regulation (FTR). Client shall only be liable for such travel expenses as approved by Client and funded under the applicable ordering document.

2. Support and Maintenance.

2.1 Provider shall provide SaaS Support Services for the Service at the Client's request.

2.2 Client shall provide support to its Authorized Users and escalate technical problems with the SaaS through its Authorized Support Contacts (defined below) to the Provider.

2.3 All Provider SaaS Support Services will be provided in English only. Additional languages for SaaS Support Services are subject to additional fees and will be quoted on an as-needed basis.

2.4 The Provider makes available the most current searchable user guide for use by the Client and its Authorized Users for each of its standard SaaS software modules.

2.5 The Client's Authorized Support Contacts may submit support tickets through the APEX Support Portal. The Provider shall provide live technical support through telephone (US toll-free +1.877.506.2739, outside US +1.336.291.1070) and e-mail (support@apexanalytix.com) between the hours of 8 a.m. and 6 p.m. EST on business days, excluding weekends and United States holidays ("Standard Hours"), and on a 24-hour, 7-day-a-week basis for Level 1 and 2 incidents (defined below). Support outside of Standard Hours for Level 3 and 4 incidents is available at the Provider's then-standard professional service rates.

2.6 Support Procedures.

a) When the Client's Authorized Support Contact submits a support request, the Provider will confirm that the request has been received. Incidents that cannot be replicated or reproduced by the Provider cannot be addressed until a basis for the review is established. Once the basis for review is established, the support request shall be assigned a Priority Level (defined below) and deemed a submitted support request for purposes of the Response Levels detailed below.

b) The Provider shall have no obligation to provide support directly to anyone other than the Authorized Support Contacts (defined below).

c) All incidents reported to the Provider will be handled based on an assigned Priority Level (defined below). The Provider will investigate the Priority Level of all incidents upon submission and reserves the right to adjust the severity as initially submitted by the Client's Authorized Support Contact. All Priority Levels are applicable to Service in production use only (and do not apply to any Service in UAT or other environments, as such, Level 4 – Low priority shall apply to *all* non-production incidents).

d) Priority Levels are defined as follows:

Level 1 - Critical: This priority is assigned when all functionality in the SaaS is unavailable, causing a critical impact on the Client's business operations. No workaround is available. All Level 1 incidents require telephone notification to the Provider Support Services help desk to be resolved promptly.

Level 2 - High: This priority is assigned when the incident does not cause all functionality of the SaaS to be unavailable but instead causes a severe loss or degradation of the performance of a critical core function of the SaaS. All level 2 incidents require telephone notification to the Provider Support Services help desk to be resolved promptly.

Level 3 - Medium: This priority is assigned when the incident does not cause all functionality of the SaaS to be unavailable but causes a partial loss or degradation of performance of a function of the SaaS (or is a verified functional defect in the SaaS) with limited impact on the Client's operations. Resolution of the incident may require a temporary workaround to maintain the functionality until a more permanent solution is developed.

Level 4 - Low: This priority is assigned when the support request is not a Critical, High, or Medium level incident. Any non-production requests are by default Low priority. Level 4 incidents may include but are not limited to the following: (1) requests for information; (2) minor functional problems causing a minor impact on the performance of the SaaS; (3) cosmetic defects; (4) other minor failures of the SaaS to conform to its Documentation; and (5) general SaaS functionality questions.

e) Response Levels are as follows:

Priority Level	Response Level
Level 1 – Critical	Within 1 hour of case submission. Provider shall communicate hourly status reports.
Level 2 - High	Within 4 hours of case submission. Provider shall communicate hourly status reports.
Level 3 - Medium	Within 1 business day of case submission. Provider shall communicate daily status reports.
Level 4 - Low	Within 2 business days of case submission. Provider shall communicate daily status reports.

f) Production Changes: Requests for feature enhancements, improvements, or modifications of production functionality shall be considered "Production Changes". All Production Changes shall require a SOW for Professional Services. Production Changes are billable by the hour, depending on the level of effort required, with a one (1) hour minimum at the Provider's then-current Professional Services rates.

g) Resolution of Incidents. The Provider shall use commercially reasonable efforts to resolve incidents. Resolution of incidents may include temporary fixes and workarounds until a permanent solution is developed. Resolution of an incident may consist of one or more of the following: (1) information that corrects the error; (2) information that identifies the error as being resolved using a new or upcoming release of the application; (3) a workaround (based on the incident severity); (4) the error is caused by a known, unresolved issue or Service incompatibility issue; or (5) the incident has been identified as an issue with Third-Party Software or the Client's System.

3. Exclusions. SaaS Support Services do not include: (i) support for malfunctions of any Third-Party Software not supplied or maintained by the Provider; (ii) problems caused by negligent or improper use, accident, neglect, or misuse by Client, Authorized Users or third parties; (iii) operational errors which are the result of Client's System, third-party operating systems, device drivers, cabling, cabling services, peripherals and other products and services necessary to access and use the SaaS not provided by Provider, as well as any failure or fluctuations in electrical power; (iv) failure of Client to fulfill its obligations under its written agreements with Provider; (v) faults due to Client and its Authorized User's use of the Service in a manner inconsistent with the Documentation; (vi) any use by Client and its Authorized Users of a non-current release of the SaaS; (vii) incidents arising from a Force Majeure Event; (viii) resolution of Level 3 and 4 incidents outside of Standard Hours; or (ix) other non-Provider incidents which impair the functionality of the SaaS and which are the result of actions or negligence by Client, its Authorized Users, or any System Implementer. Correction of a problem or error traceable to the Client, an Authorized User, or any System Implementer will be billed at the Provider's then-standard Professional Services rates.

4. Client Duties.

4.1 Client shall provide Provider with, as requested, data dumps and sufficient support and test time on the Client's System to duplicate the problem, certify that the problem is due to and with the SaaS, and certify that the problem has been corrected. Under the Provider's supervision and direction, the Client shall provide reasonable assistance in taking those actions required to diagnose and remedy the cause of incidents reported to the Provider. Reasonable assistance may include but is not limited to access to personnel, resources, and access to the Client's System (but only to the extent necessary) to help resolve a reported incident.

4.2 Client agrees to maintain a reasonable degree of familiarity with and participate in Training in the use of the Service. Provider's support for Client shall be limited to contact with three (3) named Client employees who have completed administration training and who are at the level of a network administrator or database administrator or higher ("Authorized Support Contacts"). The Client will provide written notice of the names of such Authorized Support Contacts and will notify the Provider in writing should the Authorized Support Contacts change.

5. Data Backup and Retention. Data backup and retention will be provided in accordance with the following:

5.1 Full database backups are done weekly. Incremental backups are updated daily, and transaction log backups are completed every fifteen (15) minutes. Full backups are retained for six (6) months for production environments and three (3) months for non-production environments. All backups are cloned to a secondary data center.

5.2 The Provider will retain data for a period of two (2) years for apexportal Inquiry module data.

6. Term. The term of the Provider's obligation to deliver SaaS Support Services shall correspond to the Term as specified in the applicable SaaS Order.

7. SaaS Service Levels.

7.1 SaaS Availability. The SaaS will achieve the Availability detailed in Section 7.2 (Availability Calculation) below during each (calendar) month of the Term within the Provider's Direct Control (defined below). "Availability" (or "Available") means the average percentage of total time during which the SaaS is available to the Client during a calendar month, excluding (i) any maintenance windows (detailed below); (ii) delays due to Force Majeure Events; (iii) delays caused by Systems outside of the SaaS, including, but not limited to, Client's, Authorized Users' or a third-party's network, and Systems, or issues with Client Data; and (iv) inaccessibility, unavailability or functionality failures that the Client configured. Provider's "reasonable control" includes network services to the Internet provider circuit termination point on the router in Provider's data center (i.e., public Internet connectivity), and all software applications provided by Provider.

"Direct Control" means all of the following components: (A) network services to the Internet provider circuit termination point on the router in the Provider's data center (i.e., public Internet connectivity); and (B) all hardware and software applications (including the software capabilities provided pursuant to the SaaS) provided by Provider.

7.2 Availability Calculation. The Availability percentage shall be calculated as follows:

$$x = \frac{(n - y) * 100}{n}$$

Where "x" is the actual availability percentage of the SaaS in each calendar month, "n" is the total number of hours in each calendar month, and "y" is the total number of hours service is not Available in each calendar month. The calculation of "x" shall be prorated in any month in which the SaaS commences on any day other than the first day of the month. Availability for the SaaS shall be ninety-nine and one-half percent (99.5%).

7.3 SaaS Availability Credits. Should the SaaS fail to achieve the Availability over a calendar month, as verified by Provider, then the Client shall have the right to receive a credit equal to one percent (1%) of its SaaS Fees for the SaaS for that month, for each one percent (1%) (or portion thereof) by which Provider fails to achieve such level, up to a maximum of ten percent (10%) of the SaaS Fees for such month. Claims under this warranty must be made in good faith by submitting a support case within ten (10) business days after the end of the relevant month. SaaS Availability Credits shall be applied as a credit to the next invoice issued to Client unless such SaaS Availability Credits would be due at the end of the Term in which case the Client shall be provided a refund within [counterpartyPaymentTerms_PU2yLL7] of the termination date for the applicable SaaS. The Parties intend that the SaaS Availability Credits constitute compensation to the Client and not a penalty. The remedy in this Section is the sole, non-cumulative, and exclusive remedy for failure to achieve Availability over any given calendar month during the Term.

7.4 Maintenance Windows. The window during which scheduled maintenance or upgrades may be performed is from Friday at 10:00 p.m. to Monday at 6 a.m. (Eastern Time ("ET")) except for Emergency Outages (defined below) ("Scheduled Maintenance Window"). Outages, whether scheduled maintenance, upgrades, or Emergency Outages are not included in the Availability. To the extent that maintenance is required other than during the Scheduled Maintenance Window, the Provider will attempt to perform that maintenance from 10:00 p.m. to 6:00 a.m. ET. Except for critical security fixes to address worldwide cyberattacks or other malicious activity for which remedies just became available and which require remediation on an emergency basis ("Emergency Outages"), the Provider will provide thirty (30) days' notice via the SaaS or the Provider's website. The Provider may change its Scheduled Maintenance Windows upon reasonable prior written notice to the Client. If the Client requests the Provider to update or modify the SaaS or perform other maintenance functions, the Provider may establish additional maintenance windows, as necessary. During each scheduled maintenance, the Provider may take down the server(s) on which the SaaS runs so that the Provider can conduct routine maintenance checks.

7.5 Upgrades and Updates. All clients will be on the latest application release version. All releases are approved by the Provider's change management board only. Clients will be notified with pre-release notes at least two (2) weeks before a production major release and after the production major release with supporting Documentation.

SCHEDULE B
IMPLEMENTATION SERVICES AND TRAINING TERMS

1. Implementation Services. The Provider may provide Implementation Services like SaaS configuration as appropriate for Client's use of such SaaS, as described in a SOW and this Schedule B. Upon completion of such Implementation Services, Client and Provider shall conduct tests to confirm that the SaaS as implemented for Client operates per the performance standards described in the Documentation. Provider shall not be responsible for any problem or error of the SaaS caused by interaction or interference from other hardware or software but will provide reasonable assistance to Client in identifying and resolving issues that prevent regular operation of the SaaS. The SaaS shall be deemed implemented upon successful completion of such tests, and the Implementation Services will have been completed.

2. Training. The Provider may provide the Client with training on the SaaS as described in the applicable SOW and this Schedule B.

3. Client Responsibility. The Client's project team leader shall be the Provider's primary daily contact concerning the details of the performance of this Agreement and shall be deemed authorized to act on behalf of the Client. The Client will reasonably make available appropriate members of its staff and furnish appropriate data to the Provider to facilitate the Provider's fulfillment of its obligations under this Agreement. The Parties agree that implementing the SaaS for the Client's use requires ongoing consultation, and the Parties will cooperate in good faith to facilitate that process.

4. Termination. Implementation Services may be terminated before they have been completed by those events, elections, or actions that cause termination of the Agreement or as otherwise specified in the applicable SOW.

5. Fees and Payment. The Client shall pay to the Provider or its authorized reseller as applicable the Professional Service fees for Implementation Services and Training specified in the applicable SOW, per the terms of such SOW and the general payment terms detailed in Section 6 (Pricing and Payment) of the Agreement.

6. System Implementer. If the Client prefers to work with a System Implementer, the Client shall contract directly with such party, and the provisions of this Schedule B shall not apply.

[IF:CONDITIONPROFESSIONALSERVICESADDENDUM=REQUIRED]SCHEDULE C
PROFESSIONAL SERVICES ADDENDUM

This Schedule C, Professional Services Addendum ("PS Addendum") is an addendum to, and is hereby incorporated into, the Software-as-a-Service (SaaS) Agreement between Provider and Client (the "Agreement"). In the event of a conflict or inconsistency between the terms of this PS Addendum and the Agreement, the terms of this PS Addendum will prevail as to Professional Services only.

1. Definitions. Capitalized terms used in this PS Addendum that are not otherwise defined in this PS Addendum have the meaning detailed in the Agreement.

2. Professional Services.

2.1 Professional Services. The Parties anticipate that the Client may desire to engage the Provider to perform certain Professional Services (outside of the SaaS Service). Subject to the terms and conditions detailed in this PS Addendum, Provider shall use commercially reasonable efforts to perform the Professional Services as detailed in a Statement of Work (as defined below) separately executed by the Parties (the "Professional Services"). Provider shall professionally perform the Professional Services following industry standards.

2.2 Issuance of Statement of Work. The Client may request that the Provider perform Professional Services by delivering a written request describing the proposed Professional Services. Provider shall prepare a draft Statement of Work following such request. Such SOW shall describe the Professional Services provided, any assumptions used to estimate the fees, costs, and expenses payable by Client to the Provider relating to the performance of Professional Services, the deliverables to be provided, as well as any other terms or provisions applicable to the Professional Services to be performed. Until mutual acceptance of the proposed SOW in writing, the Provider shall have no obligation to perform the proposed Professional Services. Each SOW is governed by the terms of the Agreement as modified by this PS Addendum, and regardless of whether it relates to the same subject matter as any previously executed Statement(s) of Work, shall become effective upon execution by authorized representatives of both Parties. In case of a conflict or inconsistency between this PS Addendum and the SOW, this PS Addendum shall control.

2.3 Modifications. The Client may request a modification to the Professional Services to be performed according to any SOW by written request to the Provider specifying the desired modifications (a "Change Request"). Provider shall, within a reasonable time following receipt of this Change Request, submit an estimate of the cost for such modifications and a revised estimate of the time for performance of Professional Services according to the SOW. If accepted in writing by the Client, such modifications in the SOW shall be performed under the terms of this PS Addendum. Modifications to a SOW shall become effective only when authorized representatives of both Parties execute a written Change Request.

3. Personnel.

3.1 Suitability. Provider shall assign employees and subcontractors with qualifications suitable for the work described in a SOW. The Provider may replace or change employees and subcontractors in its sole discretion with other suitably qualified employees or subcontractors.

3.2 Client Responsibilities. Client shall make available promptly at no charge to Provider all technical data, computer facilities, programs, files, documentation, test data, sample output, or other information and resources of Client reasonably required by Provider for the performance of Professional Services. The Client shall be responsible for and assumes the risk of any problems resulting from the content, accuracy, completeness, and consistency of all such data, materials, and information supplied by the Client. Client shall provide, at no charge to Provider, office space, services, and equipment as Provider reasonably requires in performing the Professional Services if such Professional Services are to be provided at Client's facilities.

4. Fees and Payments. In consideration of the Professional Services, Client shall pay Provider or its authorized reseller as applicable at Provider's then-standard Professional Service rates provided to Client, as well as, any other fees required by the SOW. Additionally, Client will reimburse Provider for (i) reasonable travel and living expenses incurred by Provider's employees and contractors for travel from Provider's offices relating to the performance of Professional Services at any location other than a Provider office or facility; (ii) international telephone charges (if applicable); and (iii) any other expenses for which reimbursement is contemplated in the applicable SOW each in accordance with FAR 31.205-46 and the Federal Travel Regulation (FTR). Client shall only be liable for such travel expenses as approved by Client and funded under the applicable ordering document. Except as provided above, each Party will be responsible for its own expenses incurred in rendering performance under this PS Addendum and each applicable SOW. Unless otherwise detailed in a SOW, the Provider will issue invoices to the Client monthly for amounts due under a SOW, and payment of such amounts shall be due within thirty (30) days of the invoice receipt date.

5. Proprietary Rights. Unless otherwise expressly agreed in a SOW, ownership of all work products, developments, inventions, technology, deliverables, or materials provided under this PS Addendum, and all intellectual property rights thereto, shall be solely owned by Provider, subject to the usage rights granted to Client under the relevant SOW.

6. LIMITATION OF WARRANTIES AND LIABILITY. PROVIDER MAKES NO REPRESENTATIONS OR WARRANTIES UNDER THIS ADDENDUM, AND CLIENT ACKNOWLEDGES THAT THIS ADDENDUM IS SUBJECT TO ALL DISCLAIMERS AND LIMITATIONS OR LIABILITY SET FORTH IN THE AGREEMENT.

7. Term; Termination. This PS Addendum shall commence on the Agreement Effective Date. It shall remain in effect until the earlier of (a) completion of all outstanding SOWs hereunder, or (b) any termination of the Agreement.When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, Provider shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer. In the event of any termination, the Parties agree to wind up their work in a commercially reasonable manner and to preserve and deliver items of value created before termination. Provider shall be paid for all work performed and expenses incurred through the termination date. Termination of a SOW under this Section shall have no effect on the Agreement, which shall continue in full force and effect according to its terms. The provisions of Sections 4 (Fees and Payments), 5 (Proprietary Rights), 6 (LIMITATION OF WARRANTIES AND LIABILITY), and 7 (Term; Termination) will survive any termination of this PS Addendum.

8. Termination for Convenience of the Implementation Services Associated with the SaaS Service. In the event of termination of Implementation Services by Client for convenience before Go-Live, whether such Implementation Services are provided by Provider or a System Implementer, it is acknowledged and agreed by Client that Provider shall have no further obligation for the following sections of the Agreement concerning the Service detailed in the SaaS Order: (a) Usage Rights and Terminology; (b) Limited Warranty; Exclusive Remedy; (c) Infringement Indemnity; and (d) any other performance obligations or provisions which by their nature cannot be complied with in the event of any failure to promote the Services into production.

apexanalytix SAAS ORDER

SERVICE DESCRIPTION, USAGE METRICS, TERM, AND PRICING

This SaaS Order (this "SaaS Order") to the Software-as-a-Service (SaaS) Agreement with an effective date of (the "Agreement") by and between APEX Analytix, LLC ("apexanalytix" or "Provider") and XXXXXXXX ("Client"), and is subject to and incorporates the terms of the Agreement by reference. The Agreement, this SaaS Order, and all addenda, exhibits, and attachments shall be referred to as the "Agreement." Capitalized terms are either set forth within this SaaS Order or shall have the meaning set forth in the Agreement. The effective date of this SaaS Order is the date of the last signature below ("SaaS Order Effective Date").

SaaS Service and Price. The Services provided to the Client under this SaaS Order include the following modules.

apexanalytix Portal:

Supplier Registration with SmartVM. This module is designed to onboard new suppliers and maintain accurate records of existing suppliers. This module creates a touchless supplier master by fully automating supplier onboarding and supplier master updates. Client Suppliers enter the required information online in a secure portal. The Portal automatically validates global postal addresses, TIN/VAT, and banking (ABA, SWIFT, IBAN, and IFSC). The module allows the client to set payment terms and methods during onboarding. Configurable options enable client-specific fields to be required or important documents to be uploaded before a PO or payment can be issued, including W-9/W-8, insurance certificates, diversity certifications, and more. SmartVM provides functionality for cleansing, validation, enrichment and continuous monitoring of active suppliers.

Risk with Discovery. This module allows clients to measure, monitor, and manage critical business partner relationships. Configurable questionnaires imported operational and Third-Party Data, and ratings help the client reduce risk. An automated communications engine, remediation tracking, reporting, recertification, and 360-degree scorecards are included. Discovery enables the client to discover new sources of supply among pre-registered, pre-validated potential suppliers. After an internal team member completes an Inherent Risk Questionnaire ("IRQ"), they can invite the supplier to pre-register online. The submitted information is automatically validated. If the supplier meets the established risk threshold, their profile is stored in a searchable database for further engagement now or in the future. Risk module also includes the following:

Cyber Vulnerability. This provides supplier vulnerability scores and reports.

Sustainability. This module provides supplier regulatory compliance and sustainability program management, scoring, and supplier questionnaires.

Supplier Invoice Inquiry. Provides suppliers and internal users with secure, online access to current invoice and payment information.

apexanalytix Solutions and Add-Ons

Bank Account Validation. This module includes bank account ownership validation in the United States ("US"), Czech Republic, India, Poland, Sweden, United Kingdom, France, Mexico, Bangladesh, Indonesia, Nepal, Nigeria, Pakistan, South Korea, Uganda, Vietnam, Brazil, Argentina, Belgium, Italy, Malaysia, Peru, Uruguay, Netherlands, South Africa, Turkey, Germany, Austria, Switzerland, Australia, as well as global bank account confidence scoring. apexanalytix integrates directly with banking consortia and governmental databases to positively confirm bank account ownership and provide real-time account ownership validations. Our customers usually perform this for both new suppliers and all current supplier bank changes. US bank account validation is provided by Early Warning Services, LLC, a fintech company owned by seven of the country's largest banks. apexanalytix is an authorized reseller of this US bank account validation service ("EWS Service"). The EWS Service is subject to the terms outlined in the attached EWS Services Addendum, which are incorporated herein by reference.

Usage Metrics. The following Usage Metrics shall apply to the Service during the Term:

SaaS Server Location. The Provider will provide access to the Service on its database servers, which are located in the United States.

Storage. 500GB of storage for Client Data; additional storage is available at EUR 550.00 per month for each additional 500 GB.

Number of Supplier Records. SaaS Fees support up to 7,500 Supplier Records per year. "Supplier Records" are unique supplier entity records provided by the Client either (i) as header records consisting of one or more addresses or (ii) with a unique supplier identification number maintained within the Client's ERP. Additional Supplier Records are available at EUR 20 each per year during the Term.

Number of Supplier Records for Cyber Risk and Sustainability. SaaS Fees support up to 1,000 supplier records per year.

Annual Validations. SaaS Fees support 10,000 annual standard Validations. Additional Validations are available at a rate of EUR 0.25 each during the Term. A Validation includes verification of all attributes within a Client Supplier record. Verification of attributes is limited based on the list of Validations included with the Service. Not all attributes may be validated.

Bank Account Validations. SaaS Fees support 1,000 apexbankpro bank account ownership Validations per year.

Environments: One production environment, one UAT environment. Additional environments can be provided for an incremental setup and support fee.

Support Contacts. Three Authorized Support Contacts. Support services will be provided in English only.

Languages. English language is in scope. Additional languages are available for an initial implementation fee and an incremental monthly support fee. Additional languages may be added during the Term via a change request. Languages include translation for the standard modules, without customization. Any Client customizations may require additional translation services, which will be billed on a time-and-materials and/or expense basis as incurred.

The Client is not entitled to reduce its use of the applicable Usage Metric or claim a reduction in fees payable except following the end of the Initial Term or applicable Renewal Term.

Term. The SaaS Order's "Initial Term" begins on XXXXXXX and continues for one (1) year. Following the Initial Term, this SaaS Order may be renewed for successive renewal terms (each a "Renewal Term") by executing a written order for the Renewal Term. The Initial Term and all Renewal Terms are collectively the "Term" of this SaaS Order. This SaaS Order may not be terminated for convenience during the Initial Term or any Renewal Term once commenced. The term during which Provider will provide the Support Services described in the Agreement (the "Support Term") is coextensive with the Term.

Pricing and Payment.

SaaS Fees. Fees for the Service ("SaaS Fees") during the Initial Term of this SaaS Order, not including any ERP integration Service Fees, are as set out in the table below, payable annually up front commencing on XXXXXXX if the contract execution incentive is met. Otherwise, the SaaS Fees will be billed annually upfrontupon the Order Form Effective Date. If the Contract Execution incentive is met, the one(1) year initial term will begin on XXXXXXXX.

APEX Analytix SaaS Module	Monthly SaaS Year 1 EUR	Monthly SaaS Year 2 EUR	Monthly SaaS Year 3 EUR
apexportal - Risk	0	0	0
apexportal - Supplier Invoice Inquiry	0.00	0	0
SmartVM with apexportal	0	0	0
Subtoal Monthly SaaS Fees	0	0	0
apexportal - Supplier Registration	0	0	0
apexportal BankPro	0	0	0
Total Monthly SaaS Fees	0	0	0
Total Annual SaaS Fees	0	0	0

Upon each SaaS Order Renewal, the SaaS Fees shall be the then-current SaaS Fees increased by five percent (5%).

If applicable, SaaS Fees do not include any costs associated with Validations for any initial Client databases transferred into the Service. The Provider will perform such Validations of the initial Client database at an additional fee.

IN WITNESS WHEREOF, Provider and Client have executed this SaaS Order by their duly authorized representatives as of the date set forth in the first paragraph above.

APEX Analytix, LLC		**XXXXXXX**	
By:	______________________ (Signature)	By:	______________________ (Signature)
Name:	______________________ (Printed Name)	Name:	______________________ (Printed Name)
Title:	______________________	Title:	______________________
Date:	______________________	Date:	______________________

EWS ADDENDUM

This Early Warning Services Addendum ("**EWS Addendum**") modifies specific terms of the Software-as-a-Service Agreement between Provider and Client (as amended, the "**Master Agreement**") for EWS Services (as defined below). If this EWS Addendum conflicts with the Master Agreement, then this EWS Addendum shall control. Capitalized terms not defined in this EWS Addendum are defined in the Master Agreement, except that "**Agreement**" refers to the Master Agreement as modified by this EWS Addendum.

1. DEFINITIONS.

As used in this EWS Addendum:

"**Account**" means an 'account' as defined by the Board of Governors of the Federal Reserve System in Regulation CC, 12 C.F.R. § 229.2(a) and may also include: a savings account, a money market account, a credit account, or a brokerage account held by a consumer or a company at a Financial Services Organization or other business relationship existing or pending between a Financial Services Organization and a consumer or company.

"**Account Status Data**" means information related to an Account in the National Shared Database and transmitted as part of EWS Response Data (defined below).

"**Client ID**" means a unique identification number assigned by Provider to Client or, if Client has multiple divisions or Affiliates, to any such division or Affiliate using EWS Services.

"**EWS**" means Early Warning Services, LLC, a consumer reporting agency, and the administrator of the National Shared Database.

"EWS Inquiry" means a request for EWS Response Data initiated by the Client through the Provider.

"**EWS Response Data"** means information from the National Shared Database, which is transmitted by EWS, through one or more intermediaries, to the Provider in response to an EWS Inquiry.

"**EWS Services**" means the service provided by Provider to Client under which Provider allows Client to make certain EWS Inquiries and receive a Translated Decision based on EWS Response Data, all according to a Schedule and as described by (and subject to the limitations of) this EWS Addendum.

"**Excluded Segment"** means (i) Payday Lending and other usury and predatory lending practices, (ii) Marijuana-Related Businesses, (iii) Online Gambling, (iv) Open Virtual Currency Administrators and Exchangers, (v) (solely for the Account Ownership service option) Money Services Businesses, Telemarketing, or Mail Order/Telephone Order services, and (vi) such other businesses as EWS or any intermediary may notify Provider in writing to be ineligible.

"**Financial Services Organization**" or "**FSO**" means an entity that provides banking, insurance and/or investment products and services and is regulated by one or more of the following entities: the Office of the Comptroller of the Currency (OCC), Consumer Finance Protection Bureau (but excluding non-depository covered persons), the National Credit Union Association (NCUA), the Securities and Exchange Commission (SEC), Financial Industry Regulatory Authority (FINRA), Federal Reserve (Fed), Federal Deposit Insurance Corporation (FDIC), the Public Corporation for the Supervision and Insurance of Cooperatives in Puerto Rico (COSSEC), or a state banking department.

"**Intermediary**" means a bank or other Financial Service Organization routing EWS Inquiries and EWS Response Data to/from the Provider. The Intermediary for EWS Services hereunder is Wells Fargo Bank, N.A.

"Item" means either: (a) a physical check; (b) an image replacement document (IRD); (c) MICR line information; (d) an Automated Clearinghouse ("**ACH**") debit entry; or (e) an 'item' as defined by the Uniform Commercial Code.

"**Mail Order/Telephone Order**" means selling or accepting orders from consumers for the purchase of products, goods, or services that are offered via the mail or telephone, and fulfilled at a later date by mail, the internet, or in person, and that are commonly known for abusive or deceptive practices. By way of example, and not as an exhaustive list, Mail Order/Telephone Order includes the offering of discount fees, credit repair, government grants, and pyramid marketing. Mail Order/Telephone Order does not include established nationally and regionally known merchants reporting at least $10 million in annual revenue.

"**Marijuana-Related Business**" means any person (individual or entity) that engages or participates in growing, manufacturing, producing, distributing, or selling marijuana or marijuana products, whether medical, recreational, or otherwise.

"**Money Services Business**" means any individual or entity doing business, whether or not regularly or as an organized business concern, in one or more of the following capacities: (i) currency dealer or exchanger; (ii) check casher; (iii) issuer of traveler's checks, money orders or stored value; (iv) seller or redeemer of traveler's checks, money orders or stored value; (v) money transmitter; or (vi) the U.S. Postal Service. "Money Services Business" does not include a bank, as defined in 31 C.F.R. 1010.100, or any individual or entity registered with, and regulated or examined by the Securities and Exchange Commission or the Commodity Futures Trading Commission.

"National Shared Database" means a database of consumer and business Account data contributed by participating financial institutions and other organizations, which is managed by EWS.

"**Online Gambling**" means the wagering of money or something of value, via the internet, on an event with an uncertain outcome with the primary intent of winning additional money and/or goods.

“**Open Virtual Currency**” means a virtual currency system that is or purports to be interchangeable with fiat currency (i.e., money that derives its value from government regulation or law) and that may or purports that it may be accepted by any party willing to transact in such virtual currency. Examples include Bitcoin, Litecoin, and Ripple.

“**Open Virtual Currency Administrators and Exchangers**” is any person (individual or entity) who operates, administers, or exchanges an Open Virtual Currency.

“**Payday Lending**” means an individual or entity in the business of providing Payday Loans.

“**Payday Loans**” mean small (generally $500 or less), short-term (typically one to two weeks), unsecured loans that generally require granting the lender access to the consumer borrower’s checking account or require the consumer borrower to write a check for the full balance that the lender may deposit at such time as the loan is payable in full.

“**Personal Inquiry Data**” means the following information, to the extent contained in an EWS Inquiry: a person’s name, an Account address, an Account number, a routing, and transit number associated with an Account, a Social Security or taxpayer-identification number, a phone number, an email address, date of birth, or a driver’s license number and issuing state.

“**Schedule**” means a schedule to the Master Agreement providing EWS Services to the Client.

“**Telemarketing**” means a method of direct marketing in which a salesperson or recorded message solicits prospective customers to purchase products or services over the phone or in a face-to-face meeting or web conference appointment scheduled during a phone call. By way of example, and not as an exhaustive list, Telemarketing includes the offering of discount fees, credit repair, government grants, and pyramid marketing. Telemarketing does not include established nationally and regionally known merchants reporting at least $10 million in annual revenue.

“**Translated Decision**” means an automated decision or assessment made by the EWS Service based on EWS Response Data and, if applicable, decision parameters provided by the Client. A Translated Decision may include (but is not limited to) information regarding whether an offered bank Account exists.

2. EWS SERVICES.

2.1. EWS Services allow the Client to submit EWS Inquiries and receive Translated Decisions. The Client shall not have access to the EWS Response Data itself.

2.2. Depending on the EWS Inquiry submitted, a Translated Decision shall be based on:

a) information regarding the status of an Account (e.g., whether the Account is open, active, or closed; whether there have been returned transactions against the Account; whether fraud has been reported against the Account); or

b) information regarding the ownership of an Account and whether the individual presenting the Account is authorized to transact on the given Account.

3. PERMITTED USES OF EWS SERVICES; RESTRICTIONS ON USE OF EWS SERVICES; REMEDIES.

3.1. The Client shall use the EWS Services only for one or more of the following purposes:

a) to validate the existence of an Account and associated data to determine whether to accept or decline an Item as payment for goods or services;

b) as a factor in verifying or authorizing an Account for payment;

c) to determine whether to allow the Account or application to be enrolled for use with future transactions by validating that the Account exists and/or is in good standing;

d) to determine whether to accept or decline an Item as payment for goods or services by validating that the consumer presenting such Item is an authorized account holder, user, or signatory of the Account on which the Item is drawn;

e) to determine whether to accept or decline an Item as payment for goods or services by validating that the business entity name associated with such Item is the business entity name of the Account on which such Item is drawn; or

f) to determine whether to allow the Account to be enrolled for use in connection with future transactions by validating that (a) the consumer is an authorized account holder, user, or signatory of the Account; or (b) the business entity name is associated with the Account.

3.2. Client may use EWS Services solely for its own benefit and not for the benefit of any third party. Client shall not resell, sublicense, or otherwise transfer or provide any part of the EWS Services and any Translated Decision to any third party except: (i) for a transfer to an Affiliate of Client on a need-to-know basis for the internal business of Client and subject to all applicable laws, (ii) to a customer of Client who is the end user of the Translated Decision subject to the requirements of Section 7 (Fair Credit Reporting) below.

3.3. The Client shall use the Translated Decisions in connection with its decision-making process, subject to the terms of this EWS Addendum. The Client understands and agrees that Translated Decisions are time-sensitive and shall only be used in connection with the specific EWS Inquiry for which it was requested.

3.4. Client shall not:

a) merge, aggregate, or compile Translated Decisions into any other database for use in connection with future inquiries or otherwise. Notwithstanding, the Client may retain all EWS Inquiries and Translated Decisions, including messages sent to its customers that utilize the Translated Decisions for Fair Credit Reporting Act and reporting purposes;

b) use the EWS Services in any of the Excluded Segments;

c) submit EWS Inquiries or otherwise use the EWS Services from outside of the United States (“**US**”), nor transfer any Translated Decisions to any country outside of the US, unless the Client meets all of the following: (1) the Client must be a US-based entity, and (2) if the Client stores response data it must be stored in the US, and (3) the inquiry to EWS must originate in the US or be made from behind US firewalls;

d) permit the use of its Client ID (used to submit EWS Inquiries) by any third party;

e) transfer any inquiry regarding “Sensitive Personal Data” of a “U.S. Person” or any Translated Decisions to a “Covered Person” or a “Country of Concern,” each as defined under 28 CFR Part 202, Preventing Access to U.S. Sensitive Personal Data and Government-Related Data by Countries of Concern or Covered Persons;

f) use the EWS Services if it is a governmental entity or a Financial Services Organization, except by separate agreement with Provider; or,

g) knowingly permit any of its directors, officers, employees, contractors, subcontractors, attorneys, auditors, or accountants to access the EWS Services if the person has been convicted of a felony, has been convicted of a crime in connection with a dishonest act, breach of trust or money laundering, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such an offense, as described in Section 19 of the Federal Deposit Insurance Act, 12 U.S.C. § 1829(a).

3.5. If Client breaches any of its obligations in this Section 3, then, in addition to any other remedies that may be available to Provider under the Agreement, Provider may, terminate, limit, or suspend Client’s ability to access and use the EWS Service in accordance with the Disputes Clause (Contract Disputes Act).

4. WARRANTIES ON EWS SERVICES.

4.1. Provider warrants as follows:

a) When the Client initiates an EWS Inquiry through the EWS Service, the EWS Inquiry transmitted by the Provider shall be formatted in the manner required by EWS and any Intermediaries through which such EWS Inquiry is passed to EWS.

b) When Provider receives EWS Response Data in response to Client’s EWS Inquiry, Provider shall (i) parse such EWS Response Data according to the specifications provided by EWS and any Intermediaries through which the EWS Response Data is passed to Provider and, presuming the EWS Response Data complied with such specifications, shall apply such EWS Response Data to the decision parameters provided by Client in order to render a Translated Decision.

If Provider breaches either of the foregoing warranties, then Client shall be entitled, as its sole remedy, to receive a refund from Provider of the cost to Client of making the relevant EWS Inquiry, less any fees imposed on Provider by EWS or any Intermediary for submitting such EWS Inquiry or receiving such EWS Response Data.

4.2. NOTWITHSTANDING ANYTHING IN THE MASTER AGREEMENT, PROVIDER MAKES NO WARRANTY REGARDING (I) THE AVAILABILITY OF EWS OR OF ANY INTERMEDIARY USED TO PASS EWS INQUIRIES AND EWS RESPONSE DATA TO/FROM EWS OR THE NATIONAL SHARED DATABASE, (II) THE ACCURACY OF ANY DATA STORED IN THE NATIONAL SHARED DATABASE OR PROVIDED BY EWS, OR (III) THE ACCURACY OF ANY TRANSLATED DECISION BASED ON ANY SUCH DATA. TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, PROVIDER DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND INFRINGEMENT FOR THE EWS SERVICES AND ANY WARRANTIES THAT THE EWS SERVICES WILL BE UNINTERRUPTED, TIMELY, OR ERROR-FREE.

5. ACCURACY OF DATA.

The Client acknowledges that information in the National Shared Database is not updated in real-time and is based on information reported as of the close of business from the prior business day, and that Translated Decisions based on such information are not guarantees of Account or payment status. In particular, if a deposit Account is closed earlier on the same day that an Account Status Inquiry is made to EWS for such Account, then such closure would not be reflected in the EWS Response Data or the Translated Decision. Further, information regarding Account ownership is based only on contributions submitted to the National Shared Database, which may be out-of-date.

6. DOWNTIME.

The availability of EWS Services shall be subject to the availability of EWS and of the computer systems of Intermediaries used to transmit EWS Inquiries and EWS Response Data to/from EWS. Provider shall make reasonable commercial efforts to notify Client upon learning of any interruptions in service planned by EWS or an Intermediary.

7. FAIR CREDIT REPORTING ACT.

7.1. Translated Decisions may constitute “consumer reports” as defined in the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., as amended (“**FCRA**”). Client hereby appoints Provider and its Intermediaries as its agent for the limited purposes of (a) transmitting EWS Inquiries to EWS on behalf of Client, and (b) receiving EWS Response Data from EWS in response to such EWS Inquiries. The Client certifies that it will use the EWS Service only when the Client intends to use the consumer report following the FCRA and all state law counterparts and for the following purposes and for no other purpose: when the Client has a legitimate business need for the information either in connection with a business transaction that the consumer initiates or to review an Account to determine whether the consumer continues to meet the terms of the Account.

7.2. Client acknowledges its obligation to comply with the FCRA arising from its use of Translated Decisions.

7.3. Provider may, in its discretion, retain any EWS Inquiry, EWS Response Data, and any related Translated Decision for FCRA and reporting purposes and, notwithstanding the provisions of Confidentiality of the Master Agreement, shall not be required to delete any information so retained.

8. DISCLOSURE OF CLIENT IDENTITY.

Client hereby authorizes Provider to disclose the following information to EWS and any Intermediary for purposes of providing the EWS Service: Client’s identity, address, merchant identification numbers, customer type (i.e., point-of-sale, payment acceptance, check casher), and information about Client’s use of the EWS Services, including (but not limited to) the date that Client began to use the EWS Services and the volume of Client’s usage. The Client authorizes EWS to use such information for (a) preparing statistical reports and conducting data analytics, parsing routines, data modeling, and other analyses to test and evaluate EWS’ services; (b) developing and providing new services or enhancements to existing services; and (c) developing and providing services to third parties engaged in the business of offering identity theft protection services to consumers, provided that no personally identifiable information shall be returned to any such third parties. The reports and results of the analyses described in clause (a) may be provided to other inquirers and contributors of EWS, provided that such reports and analyses do not identify specific Inquiry data or Translated Decisions. The Client agrees that EWS may pass on such information to financial institutions contributing data to the National Shared Database.

9. REGULATORY ACTION.

If Provider receives notice from any source that (i) Client, (ii) any individual or entity with a controlling interest in Client, (iii) any member of Client's board of directors or other governing body, or (iv) any officer or manager of Client or any other employee of Client who has access to Translated Decisions or who has decision-making authority on how the EWS Service is used, is the subject of an investigation or other action by any federal, state or local governmental, administrative or regulatory body, then Provider shall have the right (x) to notify EWS and any Intermediary of such investigation or other action and to provide any information regarding such investigation or other action as Provider has in its possession and (y) to cease providing the EWS Service to Client.

10. VETTING.

The Client acknowledges that the Provider must vet its clients according to standards provided by EWS and/or an Intermediary as a condition of its ability to access the National Shared Database. The Client agrees that the Provider may keep information gained during such vetting for so long as the Provider may be required to maintain it to comply with its obligations to EWS and/or any Intermediary. The Client further agrees that the Provider may provide any such information to EWS and to any Intermediary to allow EWS or such Intermediary to verify and audit the Provider's compliance with such requirements.

11. INDEMNIFICATION.

Client shall indemnify and hold harmless Provider from and against all suits, investigations, actions, or Claims brought against Provider, its Affiliates, officers, directors, employees, agents, contractors, and subcontractors by EWS, an Intermediary, any governmental entity, or any third party (including, without limitation, any damages, losses, fees expenses and Provider's reasonable attorney fees in defending such action and any amount which Provider is required to pay due to Provider's obligations to indemnify or defend either EWS or an Intermediary) arising from any one or more of the following: (a) Client's breach of this EWS Addendum, (b) arising from Client's failure to use Translated Decisions under the FCRA, or (c) arising from Client transferring Sensitive Personal Data of a U.S. Person to any Covered Person or Country of Concern..

12. DISCLAIMER, WAIVER, AND RELEASE OF WELLS FARGO BANK N.A.

The Client acknowledges and agrees that Wells Fargo Bank N.A. ("**Wells Fargo**") is an intended third-party beneficiary of this Agreement and, as an Intermediary providing the EWS Service, Wells Fargo disclaims all liability for the Service as provided by the Provider to the Client hereunder. Client hereby waives and releases all actual or potential claims, actions, suits or proceedings (each a "Claim" regardless of the nature or basis of such Claim or whether such Claim is based in contract, tort or other theory or basis) it then or hereinafter may have against Wells Fargo in connection with the EWS Service or any other Service provided by Provider to Client under the Agreement. Client further agrees it will not assert, prosecute, or maintain any Claim against Wells Fargo related to the EWS Service, any other Service provided by Provider to Client under the Agreement, or any application or use of the foregoing.

13. TERMINATION; SURVIVAL.

In addition to any termination rights that Provider may have under the Master Agreement, Provider may terminate this EWS Addendum and Client's use of the EWS Servicesin accordance with the Disputes Act (Contract Disputes Act). In such an event, Client shall be entitled to a prorated refund of any Service Fees previously paid by Client for the terminated EWS Services as its sole remedy. The provisions of Sections 4.2, 5, 7, 8, 10, 11, and 14 of this EWS Addendum shall survive termination of the EWS Services, this EWS Addendum, and/or the Master Agreement for any reason.

14. CERTAIN MODIFICATIONS TO MASTER AGREEMENT.

The provisions regarding Infringement Indemnity in the Master Agreement do not apply to the Client's use of EWS Services, as these are provided by a third party (EWS). Provider's rights to suspend or terminate Client's use of EWS Services as described by this EWS Addendum are in addition to, and not in replacement of, any other rights that Provider may have to suspend or terminate such use.