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Licensee acknowledges and understands that the disclaimers, exclusions and limitations of liability set forth in Sections 5 and 6 form an essential basis for Allure's agreement to enter into this Agreement and any Order.

**7. CONFIDENTIALITY.** Each party acknowledges that by reason of the relationship created between the parties by this Agreement, it may have access to certain non-public information of substantial value concerning the other party's business, operations, strategic plans, customers, suppliers, technology, competition and employees ("Confidential Information"), which value would be impaired if such Confidential Information were disclosed to third parties or used other than for purposes expressly authorized hereunder. Without limiting the foregoing, but for avoidance of doubt the terms of this Agreement, and any performance, warranty and like information relating to the Product (by whomsoever generated or communicated) will be considered the Confidential Information of Apparent. Accordingly, each party agrees (a) to maintain all Confidential Information received from the other, in whatever form disclosed, in strict confidence, (b) not to disclose or otherwise make available such Confidential Information to any third party without the prior written consent of the disclosing party, and (c) not to use the Confidential Information of the other party except as required in the performance of its obligations or the exercise of its rights hereunder. The foregoing obligations shall not apply to Confidential Information of a disclosing party that, as can be reasonably demonstrated with admissible evidence by the receiving party: (i) is or becomes a matter of public knowledge though no action or omission of the receiving party; (ii) was rightfully in the receiving party's possession without restrictions on use or disclosure prior to its disclosure by the disclosing party; (iii) is rightfully obtained by the receiving party without an obligation of confidentiality from a third party who has no obligation of confidentiality, direct or indirect, to the disclosing party; (iv) is independently developed by the receiving party without reference to the disclosing party's Confidential Information; or (v) is required to be disclosed by a court or other authorized tribunal, and then only to the extent of such requirement and only after given prompt notice of the requirement to the disclosing party. Upon the written request of the disclosing party (subject to each party's rights, during the term of this Agreement, to retain a copy of the other's Confidential Information solely for purposes of performing its obligations and exercising its rights hereunder) or upon any termination of this Agreement, the receiving party shall (a) immediately return to the disclosing party or destroy all copies and partial copies of the disclosing party's Confidential Information, whether maintained in tangible, electronic or other form (including permanently erasing any portions thereof from computers and systems) and (b) provide the disclosing party with written certification of its compliance with the terms of this section. Each party acknowledges that any breach of any of its obligations with respect to the other party's Confidential Information may cause or threaten irreparable harm to such party. Accordingly, each party agrees that in such event, the aggrieved party shall be entitled to seek equitable relief in any court of competent jurisdiction without the necessity of posting bond and in addition to such other remedies as may be available to the aggrieved party under law or in equity.

## **8. TERM AND TERMINATION.**

**8.1 Term.** The term of this Agreement will continue as long as an Order remains in effect, unless earlier terminated in accordance with this Section 8. A Subscription Term shall commence on the effective date of an Order, shall continue for the term specified in the Order, and shall automatically renew for successive one (1) year terms thereafter unless either party gives the other party written notice of its intent not to renew the Subscription Term at least thirty (30) days prior to the expiration of the then-current Subscription Term.

**8.2 Termination for Breach.** Either party may, at its option, terminate this Agreement or an Order in the event the other party materially breaches any of its duties, obligations or responsibilities under this Agreement or an Order and fails to cure such breach (or provide an acceptable plan for curing such breach) within thirty (30) days after receipt by the breaching party of written notice specifying the breach. In the event of a termination by Allure under this Section 8.2, Licensee remains responsible for payment of all fees due under any Order outstanding at the time of termination.

**8.3 Additional Rights to Suspend.** Allure reserves the right, in its sole discretion, to decline or otherwise suspend access to the Software to Licensee or any Authorized User, without notice, in the event Licensee or such Authorized User (i) is in violation of this Agreement; (ii) poses a threat to the security or operation of the Software and/or Allure's systems; or (iii) exposes Allure or any other licensee to potential damages.

**8.4 Effect of Termination.** Upon any termination of this Agreement pursuant to Section 8.2: (a) Licensee will immediately discontinue all use of, and delete all copies of, the Software, the Documentation, and any Allure Confidential Information; (b) Licensee will return, delete, purge or otherwise destroy any Allure Confidential Information and all copies of the Documentation then in Licensee's possession; and (c) Licensee will promptly pay to Allure all amounts due and payable hereunder. Allure shall have no obligation to maintain or provide any of Licensee's Data and shall upon termination, unless legally prohibited, delete all of Licensee's Data in Allure's systems or otherwise in Allure's possession or under control. Termination of this Agreement (or any Order) will not limit either party from pursuing other remedies available to it, including injunctive relief. Any provisions providing for limitations on liability, and those terms which by their nature were intended to survive any termination of this Agreement shall so survive.

**9. MISCELLANEOUS.** (a) This Agreement sets forth the entire agreement and understanding between the parties and, except as specifically provided herein, supersedes and merges all prior agreements between the parties with respect to the subject matter hereof. Neither of the parties will be bound by any other conditions, inducements or representations, whether included in any purchase order, invoice or otherwise, even if such document is accepted by a party. (b) Licensee and Allure act and will act at all times as independent contractors, and nothing contained in this Agreement will be construed or implied to create an agency, partnership or employer and employee relationship between them. 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(f) If any provision of this Agreement is invalid or unenforceable for any reason in any jurisdiction, such provision will be construed to have been adjusted to the minimum extent necessary to cure such invalidity or unenforceability. The invalidity or unenforceability of one or more of the provisions contained in this Agreement will not have the effect of rendering any such provision invalid or unenforceable in any other case, circumstance or jurisdiction, or of rendering any other provisions of this Agreement invalid or unenforceable whatsoever. (g) A waiver shall only be deemed to have been made if expressed in writing by the party granting such waiver and shall not be construed as a waiver of future performance of any such term. (h) Neither party will be liable for any failure or delay in its performance under this Agreement (or the performance of or access to the Software), other than payment obligations, due to causes that are beyond its reasonable control, including, but not limited to, an act of God, act of civil or military authority, fire, epidemic, flood, earthquake, riot, war, terrorism, sabotage, and governmental action; provided that the delayed party: (I) gives the other party written notice of such cause promptly; and (II) uses its reasonable efforts to correct such failure or delay. If a party is prevented or delayed from performing for more than ninety (90) days, the other party may terminate this Agreement upon thirty (30) days' written notice. (i) This Agreement will be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts, without regard to conflicts of law principles thereof or to the United Nations Convention on the International Sale of Goods. For purposes of all claims brought under this Agreement, each of the parties hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts located in Massachusetts. (j) This Agreement may be executed in any number of counterparts, each of which when so executed will be deemed to be an original and all of which when taken together will constitute one Agreement. (k) The headings in this Agreement are included merely for the purpose of convenience and will not affect the meaning or interpretation of this Agreement. (l) If Licensee is an agency of the United States Government, or the license granted hereunder is pursuant to a contract with either a defense or civilian agency of the United States Government, Licensee agrees that the Product is provided with the commercial license rights stated herein and as set forth in FAR 52.244.6 and DFAR 227.7202.4, as applicable, or in successor provisions, as well as the terms set forth in this Agreement. 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