

## **AINSURE MASTER TERMS AND CONDITIONS**

This AINSURE MASTER TERMS AND CONDITIONS is a master agreement and consists of the general terms and conditions set forth herein, and the terms set forth on the Ordering Form (defined below, and collectively, the "Agreement"). Unless expressly set forth in an Order Form, the terms and conditions set forth in this AINSURE MASTER TERMS AND CONDITIONS shall control in the event of a conflict between the terms and conditions herein, and any Order Form.

The Agreement is effective as of the date agreed to of when you click 'Accept' during your account creation ("Effective Date"), by and between Ainsure LLC ("Ainsure"), and you (the "Customer"). IF YOU ARE AN INDIVIDUAL AND ACCESSING THESE SOFTWARE SERVICES ON BEHALF OF AN ORGANIZATION THAT HAS BEEN APPROVED BY AINSURE, THEN "CUSTOMER" SHALL ALSO MEAN TO INCLUDE THE ORGANIZATION. For clarity, Customer may include any Customer affiliates, partners, or franchisees, as indicated on the applicable Order Form. From time to time in the Agreement, Customer and Ainsure shall be referred to collectively as, the "Parties" and each individually as, a "Party."

YOU (A) ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THESE TERMS OF USE; (B) REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, POWER, AND AUTHORITY TO ENTER INTO THESE TERMS OF USE AND, IF ENTERING INTO THESE TERMS OF USE FOR A CUSTOMER, THAT YOU HAVE THE LEGAL AUTHORITY TO BIND THAT MEMBER; AND (C) ACCEPT THESE TERMS OF USE AND AGREE THAT YOU ARE LEGALLY BOUND BY ITS TERMS.

**IF YOU DO NOT MEET THESE REQUIREMENTS OR IF YOU DO NOT AGREE TO ABIDE BY THESE OR ANY FUTURE TERMS OF USE, YOU MAY NOT ACCESS OR USE THE SOFTWARE SERVICE. YOU MAY DECLINE TO ACCEPT, AND DO NOT CONCLUDE THESE TERMS AND CONDITIONS, AND DO NOT USE VIEW, DOWNLOAD, OR OTHERWISE USE OR ACCESS (OR CONTINUE TO USE OR ACCESS) THE SOFTWARE SERVICE.**

There shall be no force or effect to any different terms of any related purchase order or similar form even if signed by the parties after the date hereof.

**SECTION 1. Definitions.** Terms defined in this Section 1 and parenthetically defined elsewhere shall have the same meaning throughout the Agreement.

- a) "Benchmark Data" means: (a) statistical, system, usage, and configuration data regarding the Customer's compliance with the Agreement and Customer's usage of the Software Services, including, but not limited to, user engagement statistics or remote application performance measurement, and provided that: (i) does not specifically identify Customer or Customer's customers; and, (ii) does not consist of any of Customer's Confidential Information, provided, however, that Customer shall not consider statistical, aggregate data part of its Confidential Information; or (b) data derived from "Customer Content" and held in a statistical, anonymized, or aggregate form that will not contain Customer Content, or data attributable to Customer, its workforce personnel, or its end users.
- b) "Customer Content" means any materials, logos, videos, multimedia, reports, information, files, documents, data or other content that Customer, its employees, personnel, agents, or end users, share with Ainsure, or upload to the Software Services.

- c) “Confidential Information” means any nonpublic information (written, oral or electronic) disclosed by one Party to the other Party and shall be deemed to include the following information of the respective Parties, without limitation: (i) the terms and conditions of the Agreement; (ii) customer lists, the names of customer contacts, business plans, technical data, product ideas, personnel, contracts and financial information; (iii) patents, trade secrets, techniques, processes, know-how, business methodologies, schematics, employee suggestions, development tools and processes, computer printouts, computer programs, design drawings and manuals, and improvements; (iv) information about costs, profits, markets and sales; (v) plans for future development and new product concepts; (vi) all documents, books, papers, drawings, models sketches, and other data of any kind and description, including electronic data recorded or retrieved by any means, that have been or will be disclosed, as well as written or oral instructions or comments; or (vii) any data or information stored in the Software Services.
- d) “Order Form” means the order form set forth on an ordering webpage, that is presented to Customer, and accepted by Customer, and that is subject to, governed by, and incorporates by reference, this AINSURE MASTER TERMS AND CONDITIONS, and sets forth the Software Services Ainsure shall provide to Customer.
- e) “Professional Services” means any professional services provided by Ainsure to Customer, as mutually agreed to by the Parties, and that describes the professional services to be provided by Ainsure, which may include, but is not limited to, any implementation, data conversion, set-up, consulting, training, interface, and advisory services. Professional Services includes Support Services.
- f) “Software Services” means, Ainsure’s Collaborative Interaction Suite (CIS), and related software services or mobile apps, provided by Ainsure, running on one or more computer servers maintained by Ainsure or a third party on behalf of Ainsure, and made available to Customer over the Internet.
- g) “Statement of Work” means a document executed by an authorized representative of each party that sets forth the Professional Services and/or Support Services, if any at all.
- h) “Support Services” means the support and maintenance services, if any, that shall be provided by Ainsure to Customer as set forth in writing and agreed to by the Parties, which may include any troubleshooting, and help-desk services.
- i) “Third Party Product” means all materials, hardware or software owned by a third party.

## **SECTION 2. Software Services.**

- a) *License Grant.* Provided that Customer pays all the required fees under the Agreement and complies with all other terms of the Agreement, Ainsure hereby grants to Customer a non-exclusive, terminable, non-transferable right and license to access and use the Software Services pursuant to the Agreement, in and under Ainsure’s intellectual property rights. Customer shall not use or otherwise access the Software Services in a manner that exceeds Customer’s authorized use as set forth in the Agreement.
- b) *Restrictions.* Customer shall not use the Software Services beyond the scope of the rights granted

in the Agreement. Customer shall be solely liable for its users' and customers' access to the Software Services and any misuse of the Software Services by any of Customer's workforce personnel. Customer shall not directly or indirectly alter, modify, adapt, translate, copy, distribute, reverse engineer, decompile, disassemble, or create any derivative works of the Software Services. Customer shall not remove, modify or obscure any copyright, trademark or other proprietary rights notices that are contained in the Software Services.

### **SECTION 3. Customer's Obligations.**

- a) Customer shall be responsible for obtaining and purchasing all equipment, Internet access services, and Third Party Product(s), modifying its network, and doing all other things necessary in order to use the Software Services, and the Professional Services. Alnsure will make reasonable effort to identify and disclose additional costs as part of Order Form(s). Customer shall be solely responsible for undertaking all prerequisite activities Alnsure requires of Customer, and in accordance with the timelines for such activities, as set forth in an Order Form or applicable Statement of Work (the "Customer Prerequisites").
- b) Customer acknowledges and agrees that if any Customer Prerequisites is/are not completed, it may result in delays or cancellation of the Professional Services and/or the Software Services. Notwithstanding anything to the contrary, Alnsure shall not be responsible for any delays in the performance of the Professional Services caused by Customer or Customer's failure to achieve the Customer Prerequisites. Alnsure will have no obligation to provide Professional Services other than those specified in any Statement of Work.
- c) Alnsure shall authorize access to and assign unique passwords and user names to Customer's end users of the Software Services ("Customer Accounts"). Customer shall be responsible for any activity occurring through Customer's personnel's Customer Accounts, including unauthorized activity.
- d) Customer shall use commercially reasonable efforts to prevent unauthorized access to or use of the Software Services and shall promptly notify Alnsure in the event of Customer knows or would have been known after a reasonable inquiry, of any unauthorized access or use of the Software Services and any loss or theft or unauthorized use of any of the Customer Accounts.
- e) Customer shall comply with all applicable local, state, federal, and foreign laws, treaties, regulations, and industry standards (e.g. PCI-DSS) (collectively, "Applicable Laws"), applicable to Customer's use of the Software Services, and the Professional Services, including without limitation those related to privacy, electronic communications, and anti-spam legislation. Customer shall be solely responsible for understating and complying with applicable laws, regulations, industry standards, or any other requirements, including, but not limited to, those related to financial services, insurance and underwriting, privacy, security. Alnsure does not make any representations or warranties that the Software Services, or Customer's use thereof shall be in compliance with Applicable Laws.
- f) Customer will not, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Software Services or any software, documentation or data related to the Software Services; modify, translate, or create derivative works based on the Software

Services (except to the extent expressly permitted by Alnsure or authorized within the Software Services); use the Software Services for timesharing or service bureau purposes or otherwise for the benefit of a third; remove any proprietary notices or labels; or in any manner that violates Alnsure's intellectual property rights.

**SECTION 4. Professional Services.** All Professional Services rendered by Alnsure (if any) shall be governed by the terms and conditions of the Agreement and the applicable Statement of Work or Order Form.

- a) *Order Forms.* The performance of Professional Services by Alnsure will be in accordance with this Agreement and one or more Order Forms or Statements of Work. Each Order Form shall be accepted by authorized representatives of Alnsure and Customer, and shall identify the Professional Services to be provided by Alnsure to Customer under that Order Form, the Fees to be paid by Customer to Alnsure under that Order Form, and other terms and conditions applicable to the Professional Services under that Order Form, including, for example, any limitations or scheduled milestones. Any modification to this Agreement or an Order Form must be in writing and executed by an authorized representative of each Party.
- b) *Performance of Professional Services.* Professional Services may, at the discretion of Alnsure, be performed at: (i) Customer's offices, Alnsure's offices or elsewhere; and (ii) the times designated by Alnsure unless otherwise specified in an Order Form. Customer shall provide Alnsure with copies of all materials in Customer's possession that Alnsure may reasonably request to assist Alnsure in rendering Professional Services hereunder. In addition to all other remedies it has available to it at law or in equity, Alnsure may suspend the provision of Professional Services during any period when Customer has failed to timely pay Alnsure any amount due under the Agreement and such failure continues for a period of ten (10) or more days following Customer's receipt of notice or a reminder invoice from Alnsure concerning such nonpayment.
- c) *Support Services:* Customer shall be entitled to receive Support Services as set forth on the applicable Order Form. Customer shall have the right to contact the Alnsure's support organization in accordance with the procedures specified in the Order Form (or an applicable Statement of Work). Customer shall have the right, but shall not be obligated, to renew Support Services pursuant to an Order Form. In the event of any lapse in Support Services coverage, Alnsure shall allow Customer to renew Support Services without any additional charge other than the payment of the applicable fees mutually agreed upon by the parties for the renewal Support Services period.
- d) *Customer Delay and Changes.* Alnsure shall not be responsible for any delays in the performance of the Professional Services caused by Customer. For any Professional Services for which Customer's participation is contemplated, Customer and Alnsure shall agree upon the dates to perform such Professional Services. Alnsure will have no obligation to provide Professional Services other than those specified in any Statement of Work. Customer may request additional Professional Services by a separate Statement of Work describing the additional Professional Services to be provided. Unless the parties agree to other rates set forth in a mutually executed Statement of Work, Customer will pay for additional work and/or work that falls outside of the scope of a Statement of Work at an hourly rate of \$150/hour. Additional work shall not be performed without Customer's prior approval in writing.

## **SECTION 5. Payment Terms.**

- a) *Fees.* Customer shall pay the fees as set forth on the Order Form, including any: (i) fees for the Professional Services (the “Professional Services Fees”); (ii) fees for the Software Services (the “Subscription Fees”); (iii) fees to receive Support Services (the “Support Services Fees”) (collectively, the “Fee(s)”). Notwithstanding the foregoing, the Parties may agree in writing to renew the Agreement for longer periods at other mutually agreed upon rates. Unless set forth on the applicable Order Form, Customer shall commence paying the Subscription and Support Services Fees for the Initial Term or each Renewal Term, and will pay all Professional Services Fees, within ten (10) days after the start of such term.
- b) *Payments for Professional Services.* Alnsure will invoice Customer for Professional Services on a time and materials basis. Customer shall pay undisputed invoices, or the undisputed portion of any disputed invoice, within thirty (30) days of the invoice date. In order to dispute an invoice or an amount on an invoice, Customer must provide written notice to Alnsure of such dispute prior to the applicable due date for the payment of such fee and such dispute must be reasonable and in good faith. On such invoices, Alnsure shall charge Customer for reasonable travel, lodging and meal expenses, and any other reasonable expenses incurred on behalf of Customer in rendering the Professional Services.
- c) *Taxes.* Customer shall pay all taxes (including without limitation sales, use, property, excise, value added, and gross receipts) levied on the Agreement, except taxes based on Alnsure’s income. Alnsure reserves the right to suspend Customer’s access and/or use of the Software Services and to cease providing Professional Services for any accounts for which any payment of fees is due and unpaid, provided, however, that Alnsure provides Customer a delinquency notice of such nonpayment and at least thirty (30) days have passed since the transmission of such delinquency notice without full payment of the unpaid fees by Customer. Customer also shall pay to Alnsure all reasonable expenses incurred by Alnsure in connection with exercising any of its rights under the Agreement or applicable law with respect to the collection of any payments due Alnsure (excluding with respect to amounts reasonably disputed by Customer in good faith), including reasonable attorneys’ fees, court costs, and collection agency fees.

## **SECTION 6. Intellectual Property Rights.**

- a) *Proprietary Rights.* Customer acknowledges and agrees that Alnsure retains sole and exclusive ownership of all right, title, and interest in and to: (i) any Professional Services; and (ii) the Software Services, including any update, modification, improvement, enhancement, or configuration made to the Software Services, regardless of who creates, suggests, and/or contributes to any such modification, improvement, enhancement, or configuration.
- b) *Deliverable Rights.* Each Deliverable, as it is developed, that is copyrightable shall be deemed “work made for hire,” (as such, term is defined under the United States copyright laws) and made in the course of the Professional Services rendered hereunder. If, for any reason, any of the foregoing may not be deemed a “work for hire” and for all other Deliverables (including all other intellectual property rights therein), Alnsure hereby irrevocably and unconditionally grants and assigns to Customer, in perpetuity, now and in the future, all rights, title and interest whatsoever throughout the world in and to all Deliverables and all intellectual property rights embodied

therein, practiced thereby or used therein. Subject to the foregoing, Alnsure shall have a nonexclusive, nontransferable license to use the Deliverable solely to support its business operations.

- c) *Customer Content.* Customer acknowledges and agrees that in connection with this Agreement, Alnsure may process and/or receive Customer Content. Customer shall own all title, intellectual property and contractual rights in and to, and to disclose the Customer Content. Notwithstanding the foregoing, when Customer, its employees, personnel, agents, or end users, upload, submit, or store Customer Content in connection with this Agreement, Customer grants Alnsure a worldwide license to use, host, store, reproduce, modify, and create derivative works from the Customer Content to perform its obligations under this Agreement. Alnsure is not responsible for any electronic communications and/or Customer Content which are delayed, lost, altered, intercepted or stored during the transmission of any data by means of third-party networks (other than third parties providing computing or storage services under the Agreement on behalf of Alnsure). Without limiting Customer's rights and remedies under the Agreement, Customer acknowledges that Customer Content and information regarding Customer's account will be processed by Alnsure and stored and processed using online hosting services selected by Alnsure. Customer represents and warrants that it has all necessary rights in, and obtained all necessary consents and permissions to, the Customer Content to grant Alnsure the rights granted under this Section 6(d) and to disclose such Customer Content to Alnsure. Notwithstanding anything to the contrary in the Agreement, Customer authorizes and agrees that Alnsure may collect Benchmark Data and such Benchmark Data shall be the property of Alnsure. Alnsure shall have the right to retain, use, distribute, sell, and otherwise exploit such Benchmark Data.
- d) *Feedback.* Alnsure encourages Customer to provide suggestions, proposals, ideas, recommendations or other feedback regarding improvements to Alnsure's services and related resources. Alnsure shall own all rights, title and interest, including all intellectual property rights, in and to any improvements to the Software Services or any new programs, upgrades, modifications or enhancements developed by Alnsure in connection with rendering the Software Services to Customer, even when refinements and improvements result from Customer's feedback or request. To the extent, if any, that ownership in such refinements and improvements does not automatically vest in Alnsure by virtue of the Agreement or otherwise, Customer grants to Alnsure a royalty-free, fully paid, sub-licensable, transferable, 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 Software Services) without restriction.

**SECTION 7. Warranties.** Alnsure represents, warrants and covenants that: (a) it has the full corporate right, power and authority to enter into the Agreement; (b) the execution of the Agreement by and the performance of its obligations and duties hereunder do not and will not violate any agreement to which it is a Party or by which it is bound; (c) it shall use commercially reasonable efforts to prevent unauthorized access to, and maintain and assure the strict confidentiality of, all Customer Content; (d) it shall provide the Professional Services in a good and workmanlike, professional manner. EXCEPT AS SPECIFICALLY SET FORTH IN THIS SECTION 7 AND IN ANY STATEMENT OF WORK, AINSURE DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS AND IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. CUSTOMER ACKNOWLEDGES AND AGREES THAT ALL AINSURE TECHNOLOGY AND RELATED SERVICES ARE PROVIDED

“AS IS” AND ON AN “AS AVAILABLE” BASIS. EXCEPT AS SPECIFICALLY SET FORTH IN THIS SECTION 7 AND IN ANY STATEMENT OF WORK, AINSURE MAKES NO REPRESENTATION, WARRANTY OR GUARANTEE THAT AINSURE SOFTWARE SERVICES OR PROFESSIONAL SERVICES WILL MEET CUSTOMER’S REQUIREMENTS OR EXPECTATIONS, THAT THE AINSURE SOFTWARE SERVICES OR PROFESSIONAL SERVICES WILL BE ACCURATE, COMPLETE, TIMELY, UNINTERRUPTED OR ERROR-FREE. AINSURE DOES NOT GUARANTEE THAT ANY SECURITY MEASURES WILL BE ERROR-FREE AND WILL NOT BE RESPONSIBLE OR LIABLE FOR UNAUTHORIZED ACCESS BEYOND ITS REASONABLE CONTROL. AINSURE WILL NOT BE RESPONSIBLE OR LIABLE IN ANY MANNER FOR ANY CUSTOMER’S PROPERTIES, THIRD-PARTY PRODUCTS NOT PROVIDED BY AINSURE UNDER THIS AGREEMENT, THIRD-PARTY CONTENT NOT PROVIDED BY AINSURE UNDER THIS AGREEMENT, OR NON-AINSURE SERVICES (INCLUDING FOR ANY DELAYS, INTERRUPTIONS, TRANSMISSION ERRORS, SECURITY FAILURES, AND OTHER PROBLEMS CAUSED BY THESE ITEMS), FOR REGULATED DATA RECEIVED FROM CUSTOMER IN BREACH OF THIS AGREEMENT, FOR THE COLLECTION, USE AND DISCLOSURE OF CUSTOMER DATA AUTHORIZED BY THIS AGREEMENT, OR FOR DECISIONS OR ACTIONS TAKEN (OR NOT TAKEN) BY CUSTOMER BASED UPON AINSURE SOFTWARE SERVICES OR PROFESSIONAL SERVICES OR AINSURE’S RELATED SERVICES. THE DISCLAIMERS IN THIS SECTION WILL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT. CUSTOMER MAY HAVE OTHER STATUTORY RIGHTS. HOWEVER, ANY STATUTORILY REQUIRED WARRANTIES UNDER APPLICABLE LAW, IF ANY, WILL BE LIMITED TO THE SHORTEST PERIOD AND MAXIMUM EXTENT PERMITTED BY LAW.

Alnsure will have no responsibility for the quality, completeness, proper licensure, or workmanship of any item or action furnished by Customer. Unless otherwise agreed in writing, Customer will be solely responsible for obtaining all necessary rights in Third Party Products delivered by Customer (but not by Alnsure). Further, Alnsure will have no responsibility for the adequacy or performance of: (i) any software, hardware, or other materials Alnsure did not provide under this Agreement, or (ii) any products or services provided by any third party except for any third-party software, hardware, or other materials Alnsure directly provides under this Agreement. AINSURE DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, INCLUDING ANY WARRANTIES OF TITLE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO ALL THIRD PARTY PRODUCTS. THE MANUFACTURERS OR DISTRIBUTORS OF THE THIRD PARTY PRODUCT(S) MAY PROVIDE WARRANTIES OF THEIR PRODUCTS THAT WILL EXTEND TO CUSTOMER, BUT IT IS CUSTOMER’S RESPONSIBILITY TO ACQUIRE AND IMPLEMENT SUCH WARRANTIES.

#### **SECTION 8. Indemnification.**

- a) Customer shall indemnify and defend Alnsure, at Customer’s own expense, against any suit or proceeding brought against Alnsure by a third party arising from or related to:
  - i) Customer’s violation of any law; or
  - ii) An allegation that the Customer Content or Alnsure’s use thereof in accordance with the Agreement violates any law or regulation or infringes third party’s rights, including, but not limited to, intellectual property rights, confidentiality rights, or privacy rights.
- b) Alnsure shall indemnify and defend Customer, at Alnsure’s own expense, against any claim, suit or proceeding brought against Customer arising from or related to:
  - i) Alnsure’s violation of any law;
  - ii) An allegation that the Software Services, Deliverables or Professional Services provided by Alnsure under this Agreement violates any law or regulation or infringes third party intellectual property rights or privacy rights; or
  - iii) An allegation that if true, would constitute a breach of Alnsure’s representation, warranty, or covenant provided in Section 7. (each, a “Claim”)
- c) Alnsure’s indemnification obligations under Section 8(b) shall not apply to the extent such Claim

arises from: (i) Customer's or a third-party's modification of the Software Services or Deliverables without Alnsure's prior approval; (ii) Use of the Software Services and/or Deliverables not in accordance with Alnsure's directions; or (ii) Alnsure's adherence to Customer's instructions.

- d) To qualify for such defense and payment, Customer must: (a) give Alnsure prompt written notice of any such Claim; (b) allow Alnsure to solely control the defense and all related settlement negotiations for any such Claim; and (c) fully cooperate with Alnsure in such defense and settlement negotiations.

**SECTION 9. Limitation of Liability.** IN NO EVENT WILL EITHER PARTY BE LIABLE FOR: (I) INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, OR (II) LOSS OF USE, DATA, BUSINESS, REVENUES OR PROFITS (IN EACH CASE WHETHER DIRECT OR INDIRECT), EVEN IF SUCH PARTY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH DAMAGES ARE FORESEEABLE. EACH PARTY'S MAXIMUM AGGREGATE LIABILITY RELATED TO OR IN CONNECTION WITH THE AGREEMENT WHETHER UNDER ANY THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, WILL NOT EXCEED THE AGGREGATE AMOUNT OF FEES PAID BY THE CUSTOMER UNDER THE AGREEMENT IN THE TWELVE (12) MONTHS PRECEDING SUCH CLAIM.

**SECTION 10. Confidentiality.**

- a) *Non-Disclosure.* Each Party agrees not to use, disclose, sell, license, publish, reproduce or otherwise make available the Confidential Information of the other Party to any third party, and further agrees not to use the Confidential Information of the other Party except and only to the extent necessary to perform their respective obligations under the Agreement. Each Party agrees to secure and protect the other Party's Confidential Information in a manner consistent with the maintenance of such Party's own confidential and proprietary rights in the information (and in any event reasonable measures) and to take appropriate action by instruction or agreement with its employees, consultants, affiliates or other agents who are permitted access to the other Party's Confidential Information to satisfy its obligations under this Section.
- b) *Exclusions.* The obligation to treat information as Confidential Information shall not apply to information which: (a) is publicly available through no action of the receiving Party; (b) was rightfully in the receiving Party's possession on a non-confidential basis independent of its relationship with the disclosing Party prior to the first disclosure by the disclosing Party to the receiving Party as evidenced by the receiving Party's then-existing written records; (c) has been or is developed by or become known to the receiving Party without access to any of the disclosing Party's Confidential Information and outside the scope of any agreement with disclosing Party with the receiving Party having the burden of proof to demonstrate independent creation.

**SECTION 11. Term and Termination.**

- a) *Term.* The initial term of the Agreement shall be for one (1) year unless otherwise set forth on the Order Form (the "Initial Term"). Thereafter, the term of the Agreement shall renew as set forth on the Order Form (each, a "Renewal Term", and collectively with the Initial Term, the "Term"), unless one Party provides written notice to the other Party at least ninety (90) days in advance of the end of the then-existing term that it does not wish to renew the Agreement.
- b) *Termination for Cause.* In the event that Customer or Alnsure breaches any material provision of the Agreement and fails to cure such breach within fifteen (15) days after written notice thereof



(which notice reasonably details the alleged breach), the non-breaching Party may terminate the Agreement immediately by written notice to the other Party. In the event that Customer or Alnsure (i) becomes insolvent; (ii) files a petition in bankruptcy for Chapter 7 relief, or has such a petition filed against it (and fails to lift any stay imposed thereby within sixty (60) days after such stay becomes effective); (iii) has a receiver appointed with respect to all or substantially all of its assets; (iv) makes an assignment for the benefit of creditors; or, (v) ceases to do business in the ordinary course, the other Party may terminate the Agreement immediately by notice in writing. All notices required by this Section shall be in accordance with the notice requirements.

- c) *Rights upon Termination.* Customer acknowledges that in the event of a termination or expiration of this Agreement for any reason (including any under Section 11(b)): (i) the rights granted by Alnsure to Customer will cease immediately; (ii) Alnsure does not retain and shall not be responsible for any damage to or loss of Customer Content or other data; (iii) Customer shall pay Alnsure for all Software Services (including any Professional Services) provided to Customer up to and including the date of termination; and (iv) Customer shall not be entitled to any refund of the Fees (or portions thereof) unless set forth on the applicable Order Form. Notwithstanding the foregoing, Alnsure shall retain all rights in connection with Benchmark Data.

## **SECTION 12. General.**

- a) *Law, Jurisdiction, and Venue.* The Agreement shall be governed and construed according to the laws of the State of Ohio. The Parties agree that the exclusive jurisdiction or any lawsuit related to or arising under the Agreement shall be in the courts for Pickaway County, Ohio.
- b) *Assignment.* Customer may not assign any of its rights or delegate any of its duties under the Agreement without the prior written consent of Alnsure. Any unauthorized assignment or delegation will be null and void.
- c) *Notices.* Any notice either Party desires to give the other Party hereunder shall be in writing. All notices shall be given by delivery to the Parties at their physical or email addresses set forth on the Order Form unless such addresses are changed by written notice.
- d) *Independent Parties.* The Agreement is by and between independent parties. Nothing in the Agreement shall be construed or interpreted to give rise to an agency, partnership, franchise, employment, or joint venture.
- e) *Subcontracting.* Notwithstanding anything to the contrary, Alnsure reserves the right to subcontract any or all of the services provided under this Agreement, provided that Alnsure remains fully responsible under this Agreement for the performance of any such subcontractor.
- f) *Force Majeure.* Neither Party shall be liable in damages or have the right to terminate the Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to, weather and other Acts of God, government restrictions, acts of terrorism, widespread Internet outage(s), wars, insurrections and/or any other cause beyond the control of the Party whose performance is affected, however, if the duration of the delay caused by such an event shall exceed fifteen (15) days, the Party who was to benefit from the performance of such act shall have the right to terminate the Agreement by giving written notice, according to the Agreement.

- g) *General.* The Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements with respect to such subject matter, whether express or implied, written or oral. The Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same agreement. The Agreement may not be modified except by written agreement of both Parties. The Agreement shall not be construed against any Party by reason of its preparation. If one or more of the provisions contained in the Agreement are found to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not be affected. In this event, the Parties may replace the unenforceable provision with a mutually agreeable enforceable provision that preserves the original intent and position of the Parties. Any other provisions that survive by their nature shall survive the expiration or termination of the Agreement for any reason. No term or provision of the Agreement shall be deemed waived, and no breach or default shall be deemed excused unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. No consent by any Party to, or waiver of, a breach or default by the other, whether express or implied, shall constitute a consent to, waiver of, or excuse for any different or subsequent breach or default.

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