

Software Subscription Agreement



Altruist Corp

This Software Subscription Agreement (this "Agreement") governs your and your Authorized Users' use of the Software and Services, which are made available to you ("you" or "Subscriber") by Altruist Corp ("Altruist"). If you are entering into this Agreement on behalf of a legal entity, you represent that you have the authority to bind such entity to this Agreement, in which case the term "you" refers to such entity. Altruist and Subscriber are each referred to herein as a "Party," and together are referred to herein as the "Parties." BY CLICKING THE "I AGREE", "I ACCEPT", "AGREE", "ACCEPT", "REGISTER", "GET STARTED", or "ACTIVATE YOUR ACCOUNT" BUTTON AND COMPLETING THE REGISTRATION PROCESS, YOU ACKNOWLEDGE THAT YOU HAVE REVIEWED AND ACCEPT THIS AGREEMENT. IF YOU DO NOT ACCEPT THIS AGREEMENT, OR DO NOT HAVE THE AUTHORITY TO BIND THE ENTITY TO THIS AGREEMENT, YOU OR YOUR AUTHORIZED USERS MAY NOT ACCESS OR USE THE SOFTWARE.

For good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties hereby agree as follows:

1. DEFINITIONS.

The definitions for some of the defined terms used in this Agreement are set forth below. The definitions for other defined terms are set forth elsewhere in this Agreement.

- 1.1. "Applicable Law" means any applicable federal, state, county, and local law, ordinance, regulation, rule, code, and order, including, without limitation, all Privacy Laws.
- 1.2. "Authorized Users" mean Subscriber's employees and Contractors whom Subscriber authorizes to access and use the Software; provided, however, that any Contractors' access to, and use of, the Software will be limited to their provision of services to Subscriber.
- 1.3. "Confidential Information" means each Party's business and technical information in any form, including without limitation, Intellectual Property, Subscriber Data, business and marketing plans, strategies, sales, product and financial data and projections, processes, techniques, trade secrets, know how, inventions, processes (business, technical, or other), designs, algorithms, source code, customer lists, and the terms of this Agreement. Confidential Information does not include information or data which is: (i) known to the Party receiving the Confidential Information (the "Receiving Party") prior to its receipt from the other Party (the "Disclosing Party") without a limitation or obligation of confidentiality under another agreement; (ii) independently developed by the Receiving Party without use of any Confidential Information; (iii) generally known to the public at the time of disclosure other than as a result of disclosure by the Receiving Party; or (iv) received from a third party with a legal or contractual right to disclose such information or data.
- 1.4. "Contractor" means any third party that is under contract to provide services to Subscriber.
- 1.5. "Documentation" means all documentation (whether in hard copy, electronic, or digital form), including all technical documentation, manuals, descriptions, instructions, drawings, file layouts, flow-charts, screen layouts, specifications, and other written materials designed to provide guidance and instruction regarding the operation, maintenance, and use of the Software.
- 1.6. "Intellectual Property Rights" mean all intellectual and industrial property rights, whether now existing or existing in the future, including without limitation, (i) all patent rights, including any rights in pending patent applications and any related rights; (ii) all copyrights and other related rights throughout the world in works of authorship, including all registrations and applications therefor; (iii) all trademarks, service marks, trade dress, or other proprietary trade designations, including all registrations and applications therefor; (iv) all rights throughout the world to proprietary know-how, trade secrets, and other Confidential Information, whether arising by law or pursuant to any contractual obligation of non-disclosure; and (v) all other rights covering industrial or intellectual property recognized in any jurisdiction.
- 1.7. "Malicious Code" means any computer virus, Trojan horse, worm, time bomb, or other similar code or hardware component designed to disable, damage, or disrupt the operation of, permit unauthorized access to, erase, destroy, or modify any software, hardware, network, or other technology.
- 1.8. "Nonpublic Personal Information" shall have the meaning set forth in the Gramm-Leach-Bliley Act of 1999 ("GLBA") or any successor federal statute to GLBA, and the rules and regulations promulgated thereunder.
- 1.9. "Personal Information" means any information that identifies, or is capable of identifying, an individual, including, without limitation (i) an individual's name, social security number, date of birth, or driver's license or other government-issued identification number; (ii) an individual's contact information, such as an address or telephone number; (iii) demographic information such as an individual's gender, race, and age; (iv) financial information, including Nonpublic Personal Information; and (v) information about an individual whose disclosure is protected or otherwise regulated by any Privacy Law.
- 1.10. "Privacy Laws" mean any applicable federal and state laws or regulations relating to the collection, use, and protection of Personal Information in the jurisdictions in which Subscriber does business, including, without limitation, Title V of GLBA or any successor

federal statute to GLBA, and the rules and regulations promulgated thereunder.

- 1.11. "Processing" means any operation or set of operations which is performed upon Personal Information, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, accessing, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure, or destruction.
- 1.12. "Services" mean Altruist's provision of access to, and usage of, the Software as set forth herein and all related hosting, maintenance, and support services made available by Altruist.
- 1.13. "Software" means: (i) the software made available by Altruist; and (ii) any Updates and Upgrades that Altruist makes available to Subscriber hereunder.
- 1.14. "Subscriber Data" means any and all data provided by Subscriber or a Contractor to Altruist or to which Altruist otherwise has access from Authorized Users' usage of the Software.
- 1.15. "Subscriber Personal Information" means the Personal Information of, or with respect to, Subscriber and its current, former, and prospective employees, agents, representatives, clients, customers, and service providers (other than Altruist).
- 1.16. "Subscription Fees" mean the fees due to Altruist for the Services set forth on the Altruist website or provided to you by Altruist via email (the "Fees Page"), as amended from time to time in Altruist's sole discretion. Altruist shall provide Subscriber at least sixty (60) days' notice prior to any increases in Subscriber Fees taking effect.
- 1.17. "Updates" mean any corrections, fixes, patches, workarounds, and minor modifications to the Software denominated by version changes to the right of the decimal point (e.g., v3.0 to v3.1). All version numbers shall be reasonably determined by Altruist in accordance with normal industry practice.
- 1.18. "Upgrades" mean the addition of new features and functionality to the Software that Altruist provides to its customers generally, denominated by version changes to the left of the decimal point (e.g., v3.0 to v4.0). All version numbers shall be reasonably determined by Altruist in accordance with normal industry practice.

2. SUBSCRIPTION TERMS.

- 2.1. Subscription. Subject to the terms and conditions of this Agreement, Altruist hereby grants Subscriber during the Term (as defined below) a limited, non-exclusive, non-transferable (except as permitted under Section 12.3 below) right and license to authorize its Authorized Users to access and use the Software as made available by Altruist on its website, in object code only, solely for Subscriber's internal business purposes. Subscriber is responsible for the acts and omissions of its Authorized Users and any other person who accesses and uses the Software using any of Subscriber's or its Authorized Users' access credentials.
- 2.2. Access to Documentation. Altruist shall provide Subscriber via the Software access to the Documentation, as may be updated from time to time in order to reflect any Updates or Upgrades. Subscriber may print copies of, use, and permit its Authorized Users to use, the Documentation solely in connection with the use of the Software.
- 2.3. Restrictions on Use. Subscriber shall not (and shall not authorize or knowingly permit any third party to): (i) reverse engineer, decompile, disassemble, or otherwise attempt to discern the source code, algorithms, file formats, or interface protocols of the Software or of any files contained therein; (ii) copy, modify, adapt, or translate the Software or otherwise make any use, resell, distribute, or sublicense the Software, other than in accordance with this Agreement; (iii) make the Software available on a "service bureau" basis; (iv) remove or modify any proprietary markings or restrictive legends placed on the Software or the Documentation; (v) use the Software in violation of any Applicable Law; or (vi) introduce into the Software any Malicious Code.
- 2.4. Title. As between Altruist and Subscriber: (i) Altruist retains all right, title, and interest, including, without limitation, all Intellectual Property Rights, in and to Software, the Documentation, and any other materials provided by Altruist hereunder, and Subscriber shall have no rights with respect to the same other than those license rights expressly granted under this Agreement; and (ii) Subscriber retains all right, title, and interest, including, without limitation, all Intellectual Property Rights, in and to the Subscriber Data, and Altruist shall have no rights with respect to the same other than those license rights expressly granted under this Agreement.
- 2.5. Modifications; No Contingency for Future Commitments. Altruist may, in its sole discretion, modify the Software from time to time by adding, deleting, or modifying features to improve the user experience; provided, however, that during the Term, such additions, deletions, or modifications to features: (i) will not materially decrease the overall functionality of the Software; and (ii) will be described by Altruist through updates to the Documentation. Unless otherwise expressly agreed by the Parties in writing, Subscriber agrees that payment of the Fees under this Agreement is not contingent on the delivery of any future Software functionalities or features or any other future commitments, except as expressly set forth in this Agreement.

3. SUPPORT AND MAINTENANCE.

During the Term, Altruist, or Altruist's contractors, shall host, maintain, service, and support the Software, such that the Software is available for use by Subscriber and its Authorized Users. Altruist and/or Altruist's contractors shall periodically monitor the Software to optimize its performance, and shall use commercially reasonable efforts to minimize any downtime, other than for scheduled maintenance or downtime caused by Force Majeure Events (as defined below). Altruist will notify Subscriber of any unavailability or other issue with the Software of which Altruist has knowledge. Subscriber shall be responsible for obtaining Internet connections and other third-party hardware, software, and services necessary to access the Software. Altruist shall provide online, telephone, and/

or e-mail support to Subscriber at times published on the Altruist website or provided to you via email relating to any failure of the Software to operate substantially in accordance with the Documentation.

4. FINANCIAL TERMS.

- 4.1. Subscription Fees. In exchange for the rights provided to Subscriber herein, Subscriber shall pay Altruist the Subscription Fees.
- 4.2. Taxes.
- (a) All amounts payable under this Agreement are exclusive of sales and use taxes, value added taxes, and all other taxes and duties (except for any taxes on Altruist's net income, which shall be paid by Altruist), the costs of which such taxes and duties shall be invoiced by Altruist and paid by Subscriber in accordance with Section 4.3.
 - (b) If the Subscriber is required by or under any laws or regulations to make any withholding or deduction, Altruist agrees to take commercially reasonable steps to avoid the withholding or deduction, provide exemption certificates if applicable, and otherwise act to mitigate the withholding or deduction. If any withholding or deduction is required notwithstanding such efforts, Subscriber shall gross up its payment to Altruist as is necessary to ensure that Altruist receives the full amount payable under this Agreement as if no such withholding or deduction had been made, subject to the tax savings provision of this Section.
- 4.3. Payments. Subscriber shall pay all Subscription Fees in accordance with the terms and conditions located on the Altruist website, as may be amended from time to time in Altruist's sole discretion. Except as otherwise expressly provided in this Agreement, Subscriber shall not be entitled by reason of any set-off, counter-claim, or other similar deduction to withhold payment of any amount due to Altruist.

5. TERM AND TERMINATION.

- 5.1. Term. The term of this Agreement begins on the Effective Date and will continue until terminated in accordance with Section 5.2 below (the "Term").
- 5.2. Termination.
- (a) Either Party may terminate this Agreement by giving thirty (30) days prior, written notice to the other Party. Altruist may provide trial periods which carry no obligation to provide advance notice to terminate. The details of these trial periods will be provided by Altruist on the Altruist website or via email to you. Altruist may provide early termination of this Agreement requiring no advance notice to terminate. The details of these early termination provisions will be provided by Altruist on the Altruist website or via email to you. Altruist may offer to maintain information you provided in the event you wish to continue this Agreement. The details of these re-subscription programs will be provided by Altruist on the Altruist website or via email to you.
 - (b) This Agreement is terminable immediately without notice by a Party if the other Party: (i) voluntarily institutes insolvency, receivership, or bankruptcy proceedings; (ii) is involuntarily made subject to any bankruptcy or insolvency proceeding and such proceeding is not dismissed within ninety (90) days of the filing of such proceeding; (iii) makes an assignment for the benefit of creditors; or (iv) undergoes any dissolution or cessation of business.
 - (c) Altruist may terminate this Agreement upon written notice to Subscriber under the limited circumstances set forth in Section 8.3 and Section 11.3 below.
- 5.3. Effect of Termination or Expiration. In the event of any termination or expiration of this Agreement: (i) Subscriber shall pay Altruist for all amounts payable hereunder as of the effective date of termination or expiration; (ii) all rights and licenses granted hereunder to Subscriber shall immediately cease, and Subscriber and its Authorized Users shall immediately cease all access to and usage of the Software and the Documentation; and (iii) each Receiving Party shall either return to the Disclosing Party, or, at the Disclosing Party's direction, destroy and provide the Disclosing Party with written certification of the destruction of, all documents, computer files, and other materials containing any Confidential Information of the Disclosing Party that are in the Receiving Party's possession, custody, or control; provided, however, that each Receiving Party may keep a copy of such Confidential Information for legal and/or regulatory purposes and/or as part of any electronic archival back-up system.
- 5.4. Survival. The following provisions shall survive any termination or expiration of this Agreement: Section 1 ("Definitions"), Section 2.4 ("Title"), Section 4 ("Financial Terms") until all monies due have been paid in full, Section 5.3 ("Effect of Termination or Expiration"), Section 6 ("Confidentiality and Data"), Section 7.3 ("Disclaimer"), Section 8 ("Indemnification"), Section 9 ("Limitation of Liability"), Section 12 ("General Provisions"), and this Section 5.4 ("Survival").

6. CONFIDENTIALITY AND DATA.

- 6.1. Use and Disclosure of Confidential Information. The Receiving Party shall, with respect to any Confidential Information of the Disclosing Party: (i) use such Confidential Information only in connection with the Receiving Party's performance of its obligations and exercise of its rights under this Agreement; (ii) subject to Section 6.3 below, restrict disclosure of such Confidential Information within the Receiving Party's organization to only those employees and consultants of the Receiving Party who have a need to know such Confidential Information in connection with the Receiving Party's performance of its obligations and exercise of its rights under this Agreement; and (iii) except as expressly contemplated under the preceding clause (ii), not disclose such Confidential Information to any third party unless authorized in writing by the Disclosing Party to do so.

- 6.2. **Protection of Confidential Information.** The Receiving Party shall protect the confidentiality of any Confidential Information disclosed by the Disclosing Party using at least the degree of care that it uses to protect its own confidential information (but no less than a reasonable degree of care).
- 6.3. **Compliance by Personnel.** The Receiving Party shall, prior to providing any employee or consultant access to any Confidential Information of the Disclosing Party, inform such employee or consultant of the confidential nature of such Confidential Information and require such employee or consultant to comply with the Receiving Party's obligations hereunder with respect to such Confidential Information. The Receiving Party shall be responsible to the Disclosing Party for any violation of this Section 6 by any such employee or consultant.
- 6.4. **Required Disclosures.** In the event the Receiving Party becomes or may become legally compelled to disclose any Confidential Information (whether by deposition, interrogatory, request for documents, subpoena, civil investigative demand or other process or otherwise), the Receiving Party shall provide to the Disclosing Party prompt prior written notice of such requirement so that the Disclosing Party may seek a protective order or other appropriate remedy and/or waive compliance with the terms of this Section. In the event that such protective order or other remedy is not obtained, or that the Disclosing Party waives compliance with the provisions hereof, the Receiving Party shall furnish only that portion of the Confidential Information which it is advised by counsel is legally required to be disclosed, and shall use commercially reasonable efforts to insure that confidential treatment shall be afforded such disclosed portion of the Confidential Information.
- 6.5. **Use of Subscriber Data.** Notwithstanding anything to the contrary contained in this Agreement, Altruist may: (i) during the Term, use the Subscriber Data to perform and administer its obligations hereunder and operate, maintain, and improve the Services; and (ii) during the Term, use Subscriber Data with third-parties as directed by Subscriber, and (iii) both during and after the Term, anonymize any and all such data, merge such anonymized data with other data, and use such anonymized data for its reporting, planning, development, and other purposes.
- 6.6. **Irreparable Injury.** Each Party acknowledges that the other Party may be irreparably harmed by any breach of this Section, and agrees that such other Party may seek an injunction and/or any other equitable relief necessary to prevent or cure any actual or threatened breach thereof, without the necessity of posting a bond or other security. The preceding sentence shall in no way limit any other legal or equitable remedy, including monetary damages, the non-breaching Party would otherwise have.

7. REPRESENTATIONS AND WARRANTIES; DISCLAIMER.

- 7.1. **Mutual Representations and Warranties.** Each Party represents and warrants that: (i) this Agreement constitutes its valid and binding obligation and is enforceable against it in accordance with the terms of this Agreement; and (ii) the execution and delivery of this Agreement by it and the performance of its obligations and exercise of its rights hereunder: (a) will not conflict with or violate any Applicable Law; or (b) are not in violation or breach of, and will not conflict with or constitute a default under, any contract, agreement, or commitment binding upon it, including, without limitation, any non-disclosure, confidentiality, non-competition, or other similar agreement. Additionally, Altruist represents and warrants that to Altruist's knowledge, after reasonable inquiry consistent with standard industry practices, the Software, as provided to Subscriber, does not contain any Malicious Code.
- 7.2. **Disclaimer.** EXCEPT AS EXPRESSLY SET FORTH IN SECTION 7.1 THE SERVICES, THE SOFTWARE, THEIR COMPONENTS, ANY UPDATES, ANY UPGRADES, THE DOCUMENTATION, AND ANY OTHER MATERIALS PROVIDED HEREUNDER, ARE PROVIDED "AS IS" AND "AS AVAILABLE," AND NEITHER PARTY MAKES ANY WARRANTIES IN CONNECTION WITH THIS AGREEMENT AND HEREBY DISCLAIMS ANY AND ALL IMPLIED OR STATUTORY WARRANTIES, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, ERROR-FREE OR UNINTERRUPTED OPERATION, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. To the extent that a Party may not as a matter of Applicable Law disclaim any warranty, the scope and duration of such warranty shall be the minimum permitted under such law.

8. INDEMNIFICATION.

- 8.1. **Indemnification by Altruist.** Subject to Section 8.2, Altruist shall defend, indemnify, and hold harmless Subscriber and its officers, directors, managers, and employees from any and all liabilities, losses, fines, penalties, costs, and expenses, including reasonable attorneys' fees (collectively, "Losses") incurred by them in connection with any third-party claim, action, or proceeding (each, a "Claim") alleging that the use of the Software in accordance with this Agreement infringes, violates, or misappropriates any third-party copyrights, patents, or trademarks registered in the United States.
- 8.2. **Exceptions to Altruist Indemnification Obligations.** Altruist shall not be obligated to indemnify, defend, or hold harmless the parties set forth in Section 8.1 to the extent that the Claim arises from: (i) use of the Software in combination with modules, apparatus, hardware, software, or services not provided by Altruist; (ii) use of the Software that violates this Agreement or any Applicable Law; or (iii) the alteration or modification of the Software by anyone other than Altruist.
- 8.3. **Infringement Claims.** In the event that Altruist reasonably determines that the Software is likely to be the subject of a Claim of infringement, violation, or misappropriation of third-party rights, Altruist shall have the right (but not the obligation), at its own expense and option, to: (i) procure for Subscriber the right to continue to use the Software as set forth hereunder; (ii) replace the infringing components of the Software with other components with the same or similar functionality; or (iii) suitably modify the Software so that it is non-infringing. If none of the foregoing options is available to Altruist on commercially reasonable terms, Altruist may terminate this Agreement and promptly provide Subscriber with a pro-rata refund of any pre-paid, but unused, Subscription Fees, without further liability to Subscriber. This Section 8.3, together with the indemnity provided under Section 8.1, states Subscriber's sole and exclusive remedy, and Altruist's sole and exclusive liability, regarding infringement, violation, or

misappropriation of any Intellectual Property Rights of a third party.

- 8.4. **Indemnification by Subscriber.** Subscriber shall defend, indemnify, and hold harmless Altruist and its officers, directors, managers, and employees from any and all Losses incurred by them in connection with any Claim: (i) arising from Subscriber's negligence or willful misconduct; and/or (ii) arising from Subscriber's breach of this Agreement.
- 8.5. **Procedure for Handling Indemnification Claims.** In the event of any Claim for which indemnification is available, the indemnified Party shall give prompt written notice of any such Claim to the indemnifying Party; provided, however, that the failure of the Party seeking indemnification to give timely notice hereunder shall only limit the indemnifying Party's indemnification obligation to the extent such delay materially prejudices the defense of such Claim. The indemnifying Party shall have the right to control and direct the defense and settlement of each such Claim. The indemnified Party shall reasonably cooperate with the indemnifying Party (at the indemnifying Party's sole cost and expense) in connection with the foregoing. The indemnified Party may participate in the defense of the Claim with counsel of its own choosing, at its own cost and expense. The indemnifying Party shall not enter into any settlement or resolution of any Claim that would impose any requirement upon the indemnified Party, without the indemnified Party's prior written consent.

9. LIMITATION OF LIABILITY.

- 9.1. **Liability Exclusion.** SUBJECT TO SECTION 9.3, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY (NOR TO ANY PERSON CLAIMING RIGHTS DERIVED FROM SUCH OTHER PARTY'S RIGHTS) FOR CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, LOST REVENUES OR PROFITS, LOSS OF USE, OR LOSS OF GOODWILL OR REPUTATION) WITH RESPECT TO ANY CLAIMS BASED ON CONTRACT, TORT, OR OTHERWISE (INCLUDING NEGLIGENCE AND STRICT LIABILITY) ARISING OUT OF THIS AGREEMENT, REGARDLESS OF WHETHER THE PARTY LIABLE OR ALLEGEDLY LIABLE WAS ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY THEREOF.
- 9.2. **Limitation of Damages.** SUBJECT TO SECTION 9.3, EACH PARTY'S MAXIMUM LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE CAUSE OF ACTION (WHETHER IN CONTRACT, TORT, BREACH OF WARRANTY, OR OTHERWISE), WILL NOT EXCEED THE AGGREGATE AMOUNT OF THE SUBSCRIPTION FEES PAID TO ALTRUIST BY SUBSCRIBER DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE ON WHICH THE CLAIM ARISES.
- 9.3. **Exceptions.** NOTWITHSTANDING THE FOREGOING, THE EXCLUSIONS AND LIMITATIONS OF LIABILITY SET FORTH IN SECTION 9.1 AND SECTION 9.2 SHALL NOT APPLY TO: (i) A PARTY'S INDEMNIFICATION OBLIGATIONS; OR (ii) A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

10. AUTHORIZATIONS.

Subscriber shall ensure that all required authorizations of any custodian acting on behalf of Subscriber are provided in a timely manner in order for Altruist to have all access to Subscriber Data and Subscriber Personal Information necessary for Altruist to provide the Services.

11. PRIVACY AND SECURITY.

- 11.1. **Compliance with Privacy Laws.** As otherwise set forth herein, each Party shall comply with all Privacy Laws. Altruist shall not disclose any Subscriber Personal Information to any third-party or use any Subscriber Personal Information (i) without Subscriber's prior written approval; and (ii) only as permitted by Privacy Laws, and then only to the extent necessary to carry out its obligations under this Agreement. Subscriber hereby provides Altruist with its prior written approval to share any Subscriber Personal Information with any third-party that is necessary to offer Altruist software.
- 11.2. **Security Program.** In addition to its obligations elsewhere in this Agreement, Altruist shall implement and maintain commercially reasonable environmental, physical, technical, and administrative safeguards, including, without limitation, an information security program (the "Security Program") in accordance with the requirements set forth in this Agreement to prevent the destruction, loss, alteration, and unauthorized access to, or disclosure of, Subscriber Personal Information, including, but not limited to, encrypting such information using industry standard encryption technology. Such Security Program shall employ measures that are designed to: (i) ensure the security and confidentiality of Subscriber Personal Information; (ii) protect against any anticipated threats or hazards to the security, confidentiality, or integrity of Subscriber Personal Information; and (iii) protect against unauthorized access to or use of Subscriber Personal Information. Upon the request of Subscriber, Altruist shall promptly provide Subscriber with additional information regarding such security measures and reasonably cooperate with Subscriber and any governmental authority in the course of any investigation or claim relating to the unauthorized use, access, Processing, or transfer of Subscriber Personal Information, including providing Subscriber or a representative of such governmental authority reasonable access to the internal practices, reports, and other records related to Subscriber Personal Information and to Altruist's obligations hereunder. In the event Altruist intends to implement a material change to the Security Program (including pursuant to Subscriber's request), Altruist will notify Subscriber of such change.
- 11.3. **Security Breaches.** In the event Altruist or its agents discover or are notified of a breach or potential breach of security relating to the Subscriber Data, Altruist shall promptly, but in no event later than seventy-two (72) business hours: (i) notify Subscriber of such breach or potential breach, as required by Applicable Law or law enforcement; (ii) investigate and reasonably cooperate with Subscriber to remediate the effects of the breach or potential breach; and (iii) provide Subscriber with such information as Subscriber may reasonably request regarding such breach or potential breach, unless prohibited by Applicable Law or law enforcement. If Subscriber, in its reasonable discretion, determines that any security breach requires Altruist or Subscriber to notify any party of such security breach, Altruist will reasonably cooperate with Subscriber in providing such notifications. All requirements set forth in this Section apply to all sites used by Altruist to provide the Services to Subscriber under this Agreement and also include any relocation of any site, including, but limited to, the transportation and physical relocation of any data storage

equipment, software, data transmission devices, or systems and any third-party personnel involved in any aspect of such relocation. If the breach or potential breach is the result of Altruist's breach of this Agreement, all efforts in this Section shall be at Altruist's expense.

- 11.4. Independent Audits. Altruist may go through an annual independent compliance audit covering its Services. Each year during the Term, Altruist may make a summary of that report available to Subscriber.
- 11.5. Gramm-Leach-Bliley. Altruist shall perform the Services in a manner that is compliant with GLBA and other Privacy Laws. Accordingly, notwithstanding anything to the contrary contained in this Agreement and in addition to (and not in substitution for) Altruist's other obligations, Altruist shall:
- (a) not use any Nonpublic Personal Information, except to the extent necessary to carry out its obligations under this Agreement and for no other purpose;
 - (b) not disclose Nonpublic Personal Information to any third party, including, without limitation, any subcontractors, without an agreement in writing from such third party to use or disclose such Nonpublic Personal Information only to the extent necessary to carry out Altruist's obligations under this Agreement and for no other purposes, unless compelled by law enforcement; and
 - (c) maintain, and shall require all third parties to maintain, administrative, technical, and procedural safeguards designed to:
 - (i) ensure the security and confidentiality of Nonpublic Personal Information; (ii) protect against any anticipated threats or hazards to the security or integrity of Nonpublic Personal Information; and (iii) protect against unauthorized access to or use of Nonpublic Personal Information. Altruist will provide Subscriber with information regarding such security measures upon the reasonable request of Subscriber and promptly provide Subscriber with information regarding any failure of such security measures or any security breach related to Nonpublic Personal Information.

12. GENERAL PROVISIONS.

- 12.1. Notices. All notices required under this Agreement (other than routine operational communications) must be in writing in one of the following forms. Notices shall be effective upon: (i) actual delivery to the other Party, if delivered in person, or by e-mail, or by national overnight courier; or (ii) five (5) business days after being mailed via U.S. postal service, postage prepaid.
- 12.2. Relationship of the Parties. Each Party is an independent contractor of the other Party. Nothing herein shall constitute a partnership between or joint venture by the Parties, or constitute either Party the agent of the other.
- 12.3. Assignment. Subscriber shall not assign or otherwise transfer any of its rights or obligations under this Agreement without the prior, written consent of Altruist. Altruist may assign or otherwise transfer this Agreement: (i) to any of its affiliates; or (ii) in connection with a change of control transaction (whether by merger, consolidation, sale of equity interests, sale of all or substantially all assets, or otherwise). Any assignment or other transfer in violation of this Section shall be null and void. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their permitted successors and assigns.
- 12.4. Publicity. Altruist may refer to Subscriber as a customer of Altruist for Altruist's marketing purposes and utilize Subscriber's name and logos solely in connection therewith.
- 12.5. Force Majeure. Neither Party shall be liable for any failure or delay in the performance of its obligations under this Agreement to the extent such failure or delay or both is caused, directly or indirectly, without fault by such Party, by any reason beyond its reasonable control, including but not limited to, fire, flood, earthquake, elements of nature or acts of God, acts of state, acts of war, terrorism, riots, civil disorders, rebellions, revolutions, quarantines, embargoes, and other similar governmental action (each a "Force Majeure Event").
- 12.6. Governing Law, Venue. The validity, interpretation, and performance of this Agreement shall be governed by the laws of the State of California without giving effect to the conflicts of laws provisions thereof. Any disputes, controversies, or claims in connection with or arising out of this Agreement shall proceed in a federal or state court located in Los Angeles, California. Each Party hereby irrevocably submits to the exclusive jurisdiction of such courts. Each Party irrevocably waives, to the fullest extent permitted by Applicable Law, any objection to the laying of venue in such courts of any legal action or proceeding arising out of or relating to this Agreement and any claim that any such action or proceeding has been brought in an inconvenient forum. Service of process shall be made in any manner allowed by Applicable Law.
- 12.7. Modification. Other than as set forth in Section 1.16, Altruist may at any time amend this Agreement by posting the amended version of the Agreement on the Altruist website, and the Subscriber agrees that its continued use of the Software or any other of Altruist's Services after such posting constitutes Subscriber's agreement to be bound by the Agreement as so amended, regardless of whether the Subscriber has actually reviewed the amendments. The Subscriber agrees to regularly consult the Altruist website for up-to-date information about Altruist's Services and Software and any amendments to this Agreement. No amendment to this Agreement shall be effective or binding on Altruist unless in writing signed by an authorized representative of Altruist.
- 12.8. No Waiver. The rights and remedies of the Parties to this Agreement are cumulative and not alternative. No waiver of any rights is to be charged against any Party unless such waiver is in writing signed by an authorized representative of the Party so charged. Neither the failure nor any delay by any Party in exercising any right, power, or privilege under this Agreement shall operate as a waiver of such right, power, or privilege, and no single or partial exercise of any such right, power, or privilege shall preclude any other or further exercise of such right, power, or privilege or the exercise of any other right, power, or privilege.
- 12.9. Severability. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect, and, if legally permitted, such offending provision will be replaced with an enforceable provision that as nearly as possible effects the Parties' intent.

- 12.10. Entire Agreement. This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof and supersede all prior agreements and commitments with respect thereto. There are no other oral or written understandings, terms, or conditions, and neither Party has relied upon any representation, express or implied, not contained in this Agreement.
- 12.11. E-Sign. Subscriber acknowledges and agrees that by clicking "I agree", "I accept", "Agree", "Accept", "Register", "Get Started", "Let's chat", "Active your account", or other similarly worded button, (i) this Agreement shall be deemed to have been duly and validly delivered and be valid and effective for all purposes; (ii) it consents and agrees that its electronic signature meets the requirements of an original signature as if actually signed by Subscriber in writing; (iii) it agrees that no certification authority or other third-party verification is necessary to the enforceability of its signature; (iv) it may not raise the use of an electronic signature as a defense to the enforcement of this Agreement or any amendment or other document executed in compliance with this section; and (v) it acknowledges that it has read this agreement, understands it, and agrees to be bound by its terms and conditions.