

## Master Services Agreement

**THIS MASTER SERVICES AGREEMENT** is entered into as of \_\_\_\_\_ (“**Effective Date**”) between \_\_\_\_\_, a company having its principal place of business at \_\_\_\_\_ (“**Customer**”), and Dig Insights Inc., a service provider having its principal place of business at 5700-100 King Street West, Toronto, ON M5X 1C7, Canada. (“**Service Provider**”).

### RECITALS:

**A.** Service Provider possesses the requisite technical skill and expertise to perform the Services and deliver the Products and Deliverables as described in a Schedule or Ordering Document attached hereto from time to time.

**B.** From time to time, Customer desires to retain Service Provider as an independent contractor on a per project basis to perform the Services and deliver the Products and Deliverables as described in a Schedule or Ordering Document.

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by the Parties), the Parties hereto hereby covenant and agree as follows:

### 1 INTERPRETATION

(a) **Definitions:** In this Agreement and the schedules annexed hereto, the following terms shall have the respective meanings indicated below:

(i) “**Agreement**” means this master services agreement, together with all of its Schedules, Ordering Documents, and any other document signed by the parties and submitted pursuant to the Agreement.

(ii) “**Applicable Laws**” means any and all (i) laws, statutes, rules, regulations, by-laws, codes, treaties, constitutions and ordinances, including Privacy Legislation (“**Laws**”); (ii) order, directive, judgment, decree, award or writ of any court (including a court of equity), arbitrator or arbitration panel, or any Governmental Authority or other body exercising adjudicative, regulatory, judicial or quasi-judicial powers, including any stock exchange (“**Orders**”); and (iii) policies, guidelines, standards, requirements, notices and protocols of any Governmental Authority (“**Policies**”), which are applicable to or govern Customer, Service Provider or the transactions contemplated by this Agreement.

(iii) “**Applicable Specifications**” means the Documentation, and any other specifications, requirements, and standards, to which the Products, Services or Deliverables (including customizations) are to comply, as agreed upon by the parties.

(iv) “**Agreement Term**” has the meaning ascribed to it in para. 12(a).

(v) “**Background Intellectual Property**” means any pre-existing Intellectual Property owned by Service Provider.

(vi) “**Business Day**” means any calendar day except for Saturday or Sunday or any statutory holiday observed in the Province of Ontario.

(vii) “**Change**” has the meaning ascribed to it in para. 5(d).

(viii) “**Change Agreement**” has the meaning ascribed to it in Service Provider’s standard Change Request procedures provided to Customer from time to time.

(ix) “**Change Request**” has the meaning ascribed to it in Service Provider’s standard Change Request procedures provided to Customer from time to time.

(x) “**Change Request Procedure**” means the procedure to effect a Change as set out in para. 5(d) and Service Provider’s standard Change Request procedures provided to Customer from time to time.

(xi) “**Claim**” has the meaning ascribed to it in para. 9(a).

(xii) “**Confidential Information**” means this Agreement; the Deliverables; and any information and data included therein or derived therefrom and the form, format, mode or method of compilation, selection, configuration, presentation or expression of the software; and all ideas, designs, business models, databases, drawings, documents, diagrams, formulas, test data, marketing, financial or personnel data, sales information, customer or supplier information, including information provided by such customers or suppliers, or any other information already furnished and to be furnished or made available by Customer to Service Provider, whether in oral, written, graphic or electronic form including any such information exchanged during informational sessions designated as confidential, including, without limitation, information concerning a Customer’s actual and potential customers and other Intellectual Property Rights of Customer, provided, however, that Confidential Information shall not include any data or information:

(A) that, at the time of disclosure, is in or, after disclosure, becomes part of the public domain, through no act or failure on the part of Service Provider, whether through breach of this Agreement or otherwise;

(B) that, prior to disclosure by Customer, was already in the possession of Service Provider, as evidenced by written records kept by Service Provider in the ordinary course of its business, or as evidenced by proof of actual prior use by Service Provider;

(C) independently developed by Service Provider, by Persons having no direct or indirect access to the Customer’s Confidential Information, provided that Service Provider provides clear and convincing evidence of such independent development;

(D) which, subsequent to disclosure, is obtained from a third Person who (I) is lawfully in possession of the such information; (II) is not in violation of any contractual, legal, or fiduciary obligation to Customer with respect to such information; and (III) does not prohibit Service Provider from disclosing such information to others; or

(E) is further disclosed with the prior written consent of Customer, but only to the extent of such consent.

(xiii) “**Deliverables**” means the work product Service Provider is to supply to Customer as contemplated by this Agreement and set out and described in a Service Engagement Form; this may include the performance of a task, provision of advice and counsel, assistance or access to a resource (such as access to an information database), computer support, consulting services, maintenance, installation, acquisition, help desk support, training, coding, research and development, any added resource support required by Customer, the development and/or delivery of any software, report and/or Documentation.

(xiv) “**Documentation**” means, in respect of a Deliverable, documents, reports, system and user manuals and guides with respect to the operation, use, maintenance, functions and

performance of the Deliverable, and detailed design, functional, operational and technical documentation including system flow charts, program flow charts, file layouts, report layouts, screen layouts, working papers, all designs such as those contained in any word processing documents or databases and bitmaps of user interface designs and any other notes and memoranda in electronic or written format, which were made or obtained in relation to the design and development of such Deliverable.

(xv) “**Effective Date**” means the date first written above.

(xvi) “**Executive Sponsor**” has the meaning ascribed to it in para. 5(a).

(xvii) “**Fees**” has the meaning ascribed to it in para. 7(a).

(xix) “**Governmental Authority**” means any domestic, foreign or supranational government, whether federal, provincial, state, territorial or municipal, and any governmental agency, ministry, department, tribunal, commission, bureau, board or other instrumentality, including international institutions exercising or purporting to exercise legislative, judicial, regulatory or administrative functions of, or pertaining to, government.

(xx) “**Intellectual Property**” means any property, tangible or intangible, that may be subject to Intellectual Property Rights, including without limitation, ideas, formulae, algorithms, concepts, techniques, processes, procedures, approaches, methodologies, plans, systems, research, information, documentation, data, data compilations, specifications, requirements, designs, diagrams, programs, inventions, technologies, software, tools, products knowledge, know-how, including without limitation, trade secrets and other materials or things.

(xxi) “**Intellectual Property Rights**” means (A) any and all proprietary rights anywhere in the world provided under (I) patent law; (II) copyright law, including Moral Rights; (III) trademark law; (IV) design patent or industrial design law; (V) semiconductor chip or mask work law; (VI) trade secret law; (VII) privacy law; or (VIII) any other statutory provision or common law principle applicable to this Agreement which may provide a right in either (I) Intellectual Property; or (II) the expression or use of Intellectual Property; and (III) any and all applications, registrations, licences, sub-licences, franchises, agreements or any other evidence of a right in any of the foregoing.

(xxii) “**Ordering Document**” means any Order Form, Service Engagement Form, PO, or any other document submitted for the purpose of ordering Products or Services under the Agreement.

(xxiii) “**Party**” means either Customer or Service Provider.

(xxiv) “**Parties**” means both Customer and Service Provider.

(xxv) “**Person**” means any individual, estate, sole proprietorship, firm, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, limited liability company, corporation, body corporate, trustee, trust, Governmental Authority or other entity or organization, and includes any successor to any of the foregoing.

(xxvi) “**Personal Information**” means any information, including any information identifiable to an individual, that is protected under applicable Privacy Legislation.

(xxvii) “**Privacy Legislation**” means the *Personal Information and Protection of Electronic Documents Act* (Canada), S.C. 2000, c. 5, the *Personal Health Information Protection Act, 2004* (Ontario), S.O. 2004, c. 3, and any other Canadian federal or provincial, or other Governmental Authority personal information protection legislation, as from time to time enacted or amended.

(xxviii) **“Products”** means all products that Service Provider provides under the Agreement and may include software, applications, data or data feeds, content, hardware, network equipment, computer equipment or peripheral devices, any related Documentation, and any other product offered by Service Provider, as more specifically defined in the applicable Schedule or Ordering Document.

(xxix) **“Project Manager”** has the meaning ascribed to it in para. 5(b).

(xxx) **“Services”** means the services to be performed by Service Provider as set out and described in a Service Engagement Form and shall include all tasks, duties, functions and responsibilities that are inherent, necessary or customarily provided in relation to the services set out in the Service Engagement Form, even though they may not be fully described in the description therein.

(xxxi) **“Source Code”** means the human-readable form of a computer instruction, including, but not limited to, related system documentation, all comments and any procedural code.

(xxxii) **“Statement of Work” or “SoW”** means a statement of work mutually agreed to and signed by the Parties from time to time per project, which describe the Services and the details and the specifications of the Deliverables to be provided by Service Provider, the form of which is attached hereto as Schedule “1”.

(b) **Headings:** The division of this Agreement into Articles and Paragraphs and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Paragraph or other portion hereof and include any agreement supplemental hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles and Paragraphs are to Articles and Paragraphs of this Agreement.

(c) **Currency:** Unless otherwise specified, all references to money amounts, including the symbol “\$”, are to Canadian currency.

(d) **Attachments and Schedules:** The following Attachments and Schedules are a part of and are integral to this Agreement:

Schedule “1”	-	Form of SoW
Schedule “2”	-	SaaS Subscription Schedule

(e) **Entire Agreement:** The Agreement constitutes the entire agreement between Service Provider and Customer relating to the subject matter hereof and supersedes all other prior or contemporaneous oral and written agreements and understandings. Service Provider and Customer will write and sign (by authorized representatives of both parties) any modification of the Agreement or waiver of any provision. Except as expressly provided in this Agreement, there are no representations, warranties, conditions, other agreements or acknowledgements, whether direct or collateral, express or implied, that form part of or affect this Agreement. The execution of this Agreement has not been induced by, nor do either of the Parties rely upon or regard as material, any representations, warranties, conditions, other agreements or acknowledgements not expressly made in this Agreement or in the agreements and other documents to be delivered pursuant hereto.

(f) **Governing Law:** This Agreement shall be governed by, and construed and enforced in accordance with, the laws in force in the Province of Ontario (excluding any conflict of laws rules or principles which might refer such construction to the laws of another jurisdiction). The Parties hereto agree to submit to the exclusive jurisdiction of the courts of the Province of Ontario and waive any objection relating to improper venue or *forum non conveniens* to the conduct of any proceeding in any such court.

(g) **Severability:** In the event that any provision (or any portion of a provision) of this Agreement or in a Schedule or Ordering Document shall for any reason be held by a court of competent jurisdiction to be invalid, illegal or unenforceable for any reason, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Agreement and/or Schedule or Ordering Document shall be construed as if such invalid, illegal or unenforceable provision (or portion of a provision) had never been contained herein in regards to that particular jurisdiction.

(h) **United Nations Convention:** The Parties hereby expressly exclude the application of the United Nations Convention on Contracts for the International Sale of Goods and any local implementing legislation related thereto.

## 2 SCOPE OF THE AGREEMENT

(a) **Agreement Framework:** This Master Services Agreement, together with all of its Schedules, Ordering Documents, and any other document signed by the parties and submitted pursuant to the Agreement constitutes the “**Agreement.**” A “**Schedule**” consists of additional terms specific to a certain category of Products or Services purchased under the Agreement. “**Ordering Documents**” may take the form of an Order Form, a Service Engagement Form, or a purchase order (“**PO**”). An “**Order Form**” consists of a description of pricing, quantities, license type, license term, Applicable Specifications, and other business information specific to a Product purchase under the Agreement. A “**Service Engagement Form**” is an SoW, specific to an order for Services under the Agreement. An “**SoW**” is an order for Services consisting of a description of work product, Applicable Specifications, and Services the Supplier will perform under the Agreement, including tasks, Deliverables, milestones, payments, ownership, project timeline, project managers, and other information. These documents may contain “Attachments” or “Exhibits” that contain additional information relevant to a particular Product, Service, or purchase.

(b) **Precedence:** The documents will have the following order of precedence, as applicable (from highest to lowest): (a) the Master Services Agreement; (b) the Schedules; (c) the Order Forms or Service Engagement Forms; and (d) the POs. Exceptions will apply only for the Ordering Document in which they are included and will not amend, cancel, or waive the provisions of the Agreement for any other Ordering Document. In the event of a conflict between the terms of the Agreement and any of Service Provider's acknowledgments, invoices, or other documents delivered, provided, or made available by Service Provider in connection with the Services or Products, including Service Provider or third party shrink wrap or click-through agreements, the terms of the Agreement will control. Notwithstanding the above, in the event of a specific conflict between a Schedule and the Master Services Agreement, the Schedule shall control solely with respect to the subject matter of that Schedule.

(c) **Electric Transmission:** The parties may send the Agreement and its Ordering Documents by electronic transmission, which will satisfy all legal formalities requiring that agreements be in writing. Neither party will contest the validity or enforceability of those electronic transmissions under the statute of frauds. Computer maintained records produced in hard copy form will constitute business records and will have the same validity as any other generally recognized business records.

(d) **Application:** If Service Provider accepts a PO from Customer for a Product or Service and Service Provider and Customer have not executed a separate written agreement with respect to that PO for that Product or Service, then the terms of the Agreement will apply to that PO. Service Provider acknowledges that the Agreement does not constitute a retainer nor will it require Customer to order any Services or Products.

(e) **Contracting.** Before Service Provider provides or Customer acquires Products or Services, the parties will execute: (a) a Master Service Agreement; (b) the Schedule or Schedules applicable to that Product or Service (e.g. a SaaS Schedule); and (c) an Order Form or Service Engagement Form describing the Products or Services; and Customer will issue the corresponding PO.

(f) **Affiliates.** As these terms pertain to a particular Ordering Document, "Customer" means the Customer affiliate that enters into the particular Ordering Document, and that Customer affiliate shall be the party responsible for all duties, obligations, and liabilities under the Agreement as it pertains to that Ordering Document. The parties agree that if a Customer affiliate desires to retain Service Provider under a separate agreement, Service Provider shall enter into a separate written agreement with that Customer affiliate, extending pricing and other terms at least as favorable as those contained in the Agreement to the other Customer affiliate.

(g) Except for (d) and (e), this paragraph will survive the expiration or termination of the Agreement.

### 3 RELATIONSHIP OF THE PARTIES

(a) **Status:** Service Provider is retained by Customer only for the purposes and to the extent set forth in this Agreement and the applicable Schedules or Ordering Documents. The relationship of Service Provider to Customer shall be that of independent contractor. Neither Service Provider, nor its officers, directors, agents, independent contractors, subcontractors or employees shall be (i) considered employees of Customer; or (ii) be entitled to participate in any pension, stock bonus, profit sharing or other benefits provided to employees of Customer. Service Provider is solely responsible for all obligations relating to its personnel and their compensation, including compliance with laws governing workers' compensation, withholding and payment of any and all taxes, disability insurance, employment insurance contributions, government pension plan contributions, any related employer assessment, contribution or obligation required by law, and the payment of all salary, vacation, pension and other employee benefits.

(b) **Non-Exclusive:** Nothing contained in this Agreement shall be construed to create an exclusive relationship between Customer and Service Provider. Service Provider retains the right to perform work for others during the term of this Agreement. Customer retains the right to cause work of the same or a different kind to be performed by its own personnel or other providers during the term of this Agreement.

### 4 SCOPE OF SERVICES

(a) **Appointment:** Subject to the provisions set forth below, Customer hereby appoints Service Provider, and Service Provider hereby accepts the appointment, as a non-exclusive independent contractor of Customer to perform the Services and deliver the Products and/or Deliverables as Customer may from time to time request, in its sole discretion, and as set out in a mutually agreeable Schedule or Ordering Document.

(b) **SoW and Performance of Services:** All services to be performed by Service Provider for Customer will be pursuant to an SoW. The SoW shall provide in detail a description and the Applicable Specifications of the required results of the Deliverables to be performed, the commencement date, the time schedule and anticipated duration for the project. Customer may



postpone the commencement date or extend the duration of any project upon prior written notice to Service Provider.

(c) **Included Services:** Even though they may not be fully described herein, Service Provider will provide all of the Services and supply all of the Products and/or Deliverables required by this Agreement and the applicable Schedule or Ordering Document. The Services as set out in the SoWs shall be deemed to include all services, tasks, duties, functions and responsibilities that are inherent, necessary or customarily provided as part of the Services even though they may not be fully described in such Service descriptions.

(d) **Skill:** Service Provider represents that it possesses sufficient technical experience, knowledge and training to perform the Services and/or complete and deliver the Deliverables described in the applicable SoW. Service Provider shall perform all services for Customer in a careful, professional and workmanlike manner. Service Provider shall develop the Deliverables in accordance with the description, and such that they meet or exceed the Applicable Specifications, for such Deliverables as set out in the applicable SoW, within the time schedule set forth in the applicable SoW.

(e) **Acceptance:** If acceptance criteria are not set out in the applicable SoW, acceptance of a Deliverable is subject to a reasonable inspection by Customer upon receipt of the Deliverable, notwithstanding any prior payment or inspection. If a Deliverable does not comply with the requirements of this Agreement, without limiting any other rights, Customer may require Service Provider, at Service Provider's risk and expense, to:

(i) promptly repair, replace or reperform the rejected Deliverable.

(f) **Knowledge Transfer:** Service Provider will transfer to Customer such knowledge, ideas, concepts, information, online demonstration, diagrams, documentation, and other materials required for Customer to understand and manage the Deliverables and/or Products delivered by the Service Provider.

(g) **Service Provider Personnel:**

(i) **Key Personnel:** During the term of a Statement of Work, Service Provider shall not transfer or re-assign any Service Provider personnel identified in such Statement of Work as a "key personnel" or as filling a position identified in such Statement of Work as a "key position" (collectively "**Key Personnel**") without Customer's prior written consent, except where forced to do so in the case of sickness, resignation or other similar causes beyond Service Provider's reasonable control. If Customer consents to or requires the replacement of a Key Personnel, Service Provider shall ensure that such recommended replacement has sufficient skill and will provide Customer with the resume and qualifications for such replacement. Before assigning a replacement, Service Provider shall obtain Customer's written approval of such replacement, which approval may be withheld in Customer's sole discretion.

(ii) **Agreements with Personnel:** In addition to any written agreements expressly required herein, Service Provider shall obtain and maintain in effect written agreements with each of its personnel who participate in rendering Services hereunder. Such agreements shall contain terms sufficient for Service Provider to comply with all provisions of this Agreement and to support all grants and assignments of rights and ownership of the Deliverables and/or Products and the Intellectual Property Rights thereunder, including, but not limited to, a waiver of any and all moral rights under the Canadian *Copyright Act*, R.S.C. 1985, c. C-42, that such employee may have in any copyrightable material produced by such personnel. Upon request, Service Provider shall provide to Customer copies of the written agreements with its personnel required under this provision.

(h) **Procedures and Policies:** Service Provider shall observe all applicable procedures and policies of Customer currently in existence or as may be adopted or amended from time to time, including Customer's security policy relating to security of, access to, or use of, Customer's premises and property. Customer may change its policies and procedures in its sole discretion and will provide Service Provider with at least thirty (30) Calendar Days prior written notice of same. Service Provider agrees to comply with any such changes but, where appropriate, may seek additional fees pursuant to the Change Request Procedure. Service Provider shall not remove any property of Customer, including any proprietary or confidential information, from Customer's premises without the prior written consent of Customer.

(i) **IT Security Protocols:** If Service Provider or any of its personnel, including permitted subcontractors, requires access to Customer's computer systems or network, whether such access is remote or on premises, Service Provider shall require each of its personnel to abide by Customer's IT Security Protocols for the protection of Customer's systems. Service Provider will be responsible and liable for any actions by its personnel and any permitted subcontractors in accessing Customer's systems. In no event shall Service Provider or any of its personnel access, copy, download or otherwise distribute any data or information, including any Confidential Information or Personal Information, that may be on Customer's systems without Customer's express written consent and then only to the extent and scope of such consent and as necessary to perform the Services.

(j) **Compliance with Applicable Laws:** In the performance of the Services and development and delivery of the Products and/or Deliverables, Service Provider shall comply with all Applicable Laws of any Governmental Authority and/or collective bargaining agreements of any union having jurisdiction over Service Provider's performance of the Services and delivery of the Products and/or Deliverables and shall hold and fully comply with all required licences, permits, consents and approvals.

(k) **Subcontracting Service:** Service Provider may not subcontract the performance of any part of the Services or delivery of any Products and/or Deliverables or portion thereof to any Person without the prior written consent of Customer. To the extent that subcontractors will be providing services, Service Provider is responsible and liable to Customer for the acts and omissions of its subcontractors, in the same manner as if such acts or omissions were those of Service Provider and further provided that such approved subcontractors are subject to written agreements that give effect to the rights and obligations of Service Provider under this Agreement, including, without limitation, all provisions of this Agreement relating to confidentiality and assignment of rights and ownership of the Deliverables and all Intellectual Property Rights thereunder. Upon request, Service Provider shall provide to Customer copies of the written agreements with subcontractors required under this provision.

## 5 CONTRACT ADMINISTRATION

(a) **Executive Sponsor:** Each Party shall designate an executive sponsor ("**Executive Sponsor**") who shall act as that Party's relationship manager for the other Party and have the authority to make any major decisions in relation to this Agreement or in respect of a particular Service under an Ordering Document. As of the effective date, the Executive Sponsors are:

(i) in the case of Service Provider: \_\_\_\_\_; and

(ii) in the case of Customer: \_\_\_\_\_.

Either Party may change its Executive Sponsor at any time by providing the other Party notice of such change, pursuant to the notice provisions in para. 16(a).



(b) **Project Managers:** Each Party shall appoint a project manager (“**Project Manager**”) who shall administer that Party's activities in connection with each Schedule and/or Ordering Document, and under this Agreement as it relates to a Schedule and/or Ordering Document, and shall serve as a single point of communication between the Parties in respect of the activities of the Parties pursuant to each Schedule and/or Schedule or Ordering Document and this Agreement. Each Project Manager shall have sufficient authority and technical qualifications to carry out their duties.

(c) **Meetings:** The Ordering Document shall stipulate the type and frequency of meetings to be held in relation to the performance of the Services and delivery of the Deliverables. Such meetings may be in person, by telephone or videoconference.

(d) **Change Request Procedure:** Either Party may request additions, deletions or amendments in respect of the development of the Deliverables or the provision of the Services (“**Change**”) by following Service Provider's standard Change Request procedures provided to Customer from time to time. Service Provider shall have no obligation to perform, and Customer shall have no obligation to pay for, services related to any proposed Change unless both Parties have agreed to the Changes in writing in accordance with Service Provider's standard Change Request procedures. In no event shall the Services or the Deliverables be deemed altered, amended, enhanced, or otherwise modified except in accordance with Service Provider's standard Change Request procedures. Upon agreement of the Parties to the Change, the Parties shall enter into a Change Agreement, which shall form a part of and amend the applicable Statement of Work. Service Provider shall keep all records related to all Changes, Change Requests, Change Proposals and Change Agreements in accordance with Service Provider's standard Change Request procedures.

## 6 BACKGROUND INTELLECTUAL PROPERTY AND OWNERSHIP OF DELIVERABLES

(a) **Background Intellectual Property:** Service Provider may not use or incorporate in as part of the Deliverables any Background Intellectual Property unless:

- (i) Service Provider has clearly defined and described the Background Intellectual Property;
- (ii) the use and incorporation of the Background Intellectual Property will result in a more efficient and cost effective development of the overall project and will satisfy some or all of the requirements and contain functionality to satisfy some or all of the Applicable Specifications; and
- (iii) Customer has agreed, in writing, to the use and incorporation of the Background Intellectual Property in and to the Deliverables.

If Customer did not agree to the use and inclusion of any Background Intellectual Property, then Service Provider shall ensure that the Deliverables are and shall be deemed to be original works. To the extent that Customer agreed to the inclusion of any Background Intellectual Property as part of the Deliverables, Service Provider hereby grants to Customer a fully paid-up, royalty free, irrevocable and non-cancellable, non-exclusive, assignable and transferable right to Use the Background Intellectual Property without restriction, except that any such Use must be in conjunction with the Deliverables in which the Background Intellectual Property is incorporated and not as a separate item. For the purpose of the foregoing, “**Use**” means one or more of the following rights to: use, modify, adapt, translate; create changes, alterations, modifications, improvements, adoptions, enhancements and derivative works based upon or derived from the Background Intellectual Property; reproduce, copy, display, perform or communicate in any manner; and license or sublicense.

(b) **Intellectual Property Rights:** Service Provider acknowledges and agrees that all worldwide right, title and interest, including, without limitation, all Intellectual Property Rights in and to any and

all Deliverables developed by Service Provider under an SoW, shall be the sole property of Customer. To the extent that Service Provider may, under applicable law, be entitled to claim any ownership interest in any Deliverable, and to give effect to the foregoing sentence, Service Provider hereby agrees to assign, and does hereby assign, to Customer all Intellectual Property Rights in and to all Deliverables upon their creation.

(c) **Moral Rights:** Prior to beginning any work under an SoW, Service Provider shall, in writing, and in a form satisfactory to Customer, acting reasonably, expressly and irrevocably, confirm that it has obtained from each and every individual working for Service Provider a waiver of any and all moral rights arising under the *Copyright Act* (Canada) as amended (or any successor legislation) or at common law, that such individual, as author of the Deliverable, has with respect to any copyrighted or copyrightable portion thereof prepared by such individual under an SoW, including, without limitation, the right to attribution of authorship, the right to restrain any distortion, mutilation or other modification of the Deliverable, and the right to prohibit any use thereof in association with a product, service, cause or institution that might be prejudicial to such individual's honour or reputation.

(d) **Further Assurance:** During and after the term of this Agreement, Service Provider shall from time to time, as and when requested by Customer and at Customer's expense, (i) execute all papers and documents and perform all other acts necessary or appropriate, in the discretion of Customer, to evidence or further document Customer's ownership of the Deliverables and/or Software and the Intellectual Property Rights therein; and (ii) assist Customer in obtaining, registering, maintaining and defending for Customer's benefit (which defense shall be at Customer's expense except to the extent such defense is made in connection with any claim or other event covered by Service Provider's indemnity obligation contained in para. 10((a))(iv)) hereof), all Intellectual Property Rights in the deliverables and/or Software in any and all countries as Customer may determine in its sole discretion.

(e) **Warranties:** Warranty provisions specific to each Product shall be set forth in an applicable Schedule, executed by both Parties. Subject to the express warranty provisions set forth in each Product Schedule, Service Provider represents and warrants to Customer that:

(i) Service Provider has the full unencumbered right and entitlement to assign all Intellectual Property Rights transferred and assigned in this Agreement, and the ownership and exploitation by Customer of the Deliverables, as contemplated by this Agreement, will not violate or infringe any Intellectual Property Rights of any other Person;

(ii) title to the Deliverables and all media, materials and supplies housing the Deliverables delivered hereunder shall pass to Customer in accordance with the terms hereof free and clear of all liens and encumbrances;

(iii) Service Provider has made no Intellectual Property Rights registrations of any nature in any jurisdiction in the world in respect of the Deliverables including copyright, patent and trademark registrations; and

(iv) the Deliverables are original works of authorship developed by Service Provider for Customer.

## 7 FEES

(a) **Fees:** In consideration of Service Provider performing the Services and providing the Deliverables and/or Products described in the applicable Ordering Document, Customer will pay Service Provider the amounts agreed to on the terms set out in the Ordering Document. The Ordering Document will provide (i) whether the fees for the Deliverables will be determined on a

fixed price basis or on a time and materials basis (the “**Fees**”); (ii) the invoice address of Customer to which the invoices should be sent; and (iii) the payment terms.

(b) **Fixed Price Fees:** When the Fees payable by Customer are determined on a fixed price basis, Service Provider will invoice Customer for the Fees and the expenses incurred by Service Provider in accordance with the milestone payment plan set out in the applicable Ordering Document, or if not set out therein, when the Deliverables have been accepted in accordance with this Agreement.

(c) **Expenses:** Unless otherwise agreed by the Parties as set out in the applicable Ordering Document, Service Provider agrees that it will not incur any expenses for Customer’s account, without Customer’s prior written approval.

(d) **Taxes:** Customer shall pay any and all taxes, however designated or incurred, which are paid or payable as a result of or otherwise in connection with the transactions contemplated in this Agreement, consisting of federal, provincial and local, excise, sales, use, goods and services, harmonized and any taxes or other amounts in lieu thereof. Customer shall not be responsible for any taxes based on Service Provider’s income, capital or any property used by Service Provider in the performance of the Services. Any applicable withholding taxes shall be deducted from payments to Service Provider and Customer shall remit same to the appropriate Governmental Authorities, unless Service Provider provides Customer with appropriate documentation and/or exemption certificates. Customer is not required to pay nor is it liable or responsible for, and Service Provider agrees to indemnify and hold Customer harmless against, any penalty, additional taxes, costs or interest that may be assessed or levied resulting from failure of Service Provider to file any return, form or information statement that may be required by any taxing authority.

## 8 PERSONAL INFORMATION AND CONFIDENTIALITY

(a) **Personal Information:** In no event shall Service Provider obtain or require access to any Personal Information in the provision of the Services and/or Products including the development of any Deliverables, unless explicitly set out in the applicable Schedule and/or Ordering Document that such access is required. If the applicable Schedule and/or Ordering Document does not contemplate that Service Provider requires access to any Personal information and Service Provider accesses any Personal Information in the course of performing such Services and/or Products, then Service Provider shall immediately notify Customer, prevent the further disclosure and dissemination of such Personal Information, and shall follow Customer’s instructions in relation to the Personal Information, which may include the return or destruction of any and all copies of Personal Information that it obtained and some or all of the procedures set out in Service Provider’s [Privacy Policy](https://diginsights188902.app.privacycenter.cloud) found at <https://diginsights188902.app.privacycenter.cloud>. In no event shall Service Provider use such Personal Information for any purpose whatsoever. If the applicable Schedule and/or Ordering Document contemplates and authorizes the Service Provider to access Personal Information, then the provisions set out in Service Provider’s [Privacy Policy](https://diginsights188902.app.privacycenter.cloud) found at <https://diginsights188902.app.privacycenter.cloud> shall apply to such Schedule and/or Ordering Document, and Service Provider shall comply with such provisions.

(b) **Confidentiality Obligation:** Service Provider acknowledges and agrees that it will have access to, or become acquainted with, Confidential Information of Customer. Service Provider further acknowledges and agrees that the Confidential Information constitutes valuable trade secrets of Customer. Except as required by law, Service Provider shall, and shall cause its employees, agents and subcontractors, to hold Confidential Information of Customer in confidence, and shall use the same degree of care by instruction, agreement or otherwise, to maintain the confidentiality of Customer’s Confidential Information that it uses to maintain the confidentiality of its own Confidential Information, but with at least a reasonable degree of care. Service Provider agrees not to make use of Customer’s Confidential Information other than for the exercise of rights or the

performance of obligations under this Agreement, and not to release, disclose, communicate it or make it available to any third Person other than employees, agents and contractors of Service Provider who reasonably need to know it in connection with the exercise of rights or the performance of obligations under this Agreement.

(c) **Subpoena:** In the event that Service Provider receives a request to disclose all or any part of the Confidential Information under the terms of a valid and effective subpoena or order issued by a court of competent jurisdiction or by a governmental or regulatory body, Service Provider agrees to (i) immediately notify Customer of the existence, terms and circumstances surrounding such a request; (ii) consult with Customer on the advisability of taking legally available steps to resist or narrow such request; and (iii) if disclosure of such Confidential Information is required, permit and provide such assistance as Customer may request to obtain an order or other reliable assurance that confidential treatment will be accorded to such portion of the disclosed Confidential Information which Customer so designates.

(d) **Injunctive Relief:** Service Provider acknowledges and agrees that any unauthorized use or disclosure by it of any Confidential Information, in whole or part, will cause irreparable damage to Customer, that monetary damages would be an inadequate remedy and that the amount of such damages would be extremely difficult to measure. Service Provider agrees that Customer shall be entitled to temporary and permanent injunctive relief to restrain Service Provider from any unauthorized disclosure or use of any Confidential Information, without having to post bond. Nothing in this Agreement shall be construed as preventing Customer from pursuing any and all remedies available to it for a breach or threatened breach of a covenant made in this para. 8, including the recovery of monetary damages from Service Provider.

## 9 INDEMNITY

(a) **General Indemnification:** Indemnification provisions specific to each Product shall be set forth in an applicable Schedule, executed by both Parties. Subject to the express indemnification provisions set forth in each Product Schedule, Service Provider shall defend, indemnify and hold harmless Customer from and against any and all claims, liabilities, demands, causes of action, damages, losses and expenses (“**Claim**”), including, without limitation, reasonable legal fees and costs of suit, arising out of or in connection with any:

(i) negligent act or omission of Service Provider;

(ii) personal injury, including death, or any property damage caused by the acts or omissions by Service Provider;

(iii) breach by Service Provider of its obligations under para. 8 and, if applicable, Service Provider’s [Privacy Policy](https://diginsights188902.app.privacycenter.cloud) found at <https://diginsights188902.app.privacycenter.cloud>; or

(iv) allegation that any Deliverable, Product or part thereof, or the use of the Deliverable, Product or part thereof infringes any Person’s Intellectual Property Rights.

(b) **Procedures for Indemnification:** Without limiting Service Provider’s indemnity obligations contained in this para. 9, Customer shall provide Service Provider: (i) prompt written notice of the Claim; and (ii) all reasonable information and assistance from Customer, at Service Provider’s expense, which Service Provider may require to defend the Claim. Service Provider shall have carriage of the defence of the Claim, and all negotiations for the settlement or compromise thereof, provided that Customer may have counsel present to represent Customer’s interest and that no settlement or compromise thereof shall attach any liability to or require payment from Customer.

(c) **Remedies:** In the event of an action for infringement as described in para. 9(a)(iv), Service Provider will, in its sole discretion, either (i) obtain the right to use the infringing material for the

purposes of this Agreement; (ii) modify the Deliverables and/or Product so as to render them non-infringing and functionally equivalent; or (iii) provide Customer with functionally equivalent substitute Deliverables and/or Product, provided, however, that if none of the other options set forth in this Paragraph is commercially reasonable, Service Provider will refund to Customer all Fees paid to Service Provider under the applicable Ordering Document and under any other Ordering Document where the Deliverables and/or Products under such Ordering Document are adversely affected by the inability to use the infringing Deliverable and/or Product.

## 10 INSURANCE

(a) **Insurance Coverage:** Service Provider shall, at all times during the Term of this Agreement and for a period of twelve (12) months after the termination or expiration of this Agreement, maintain the following policies of insurance in effect:

(i) worker's compensation insurance or any alternative plan or coverage as permitted or required by Applicable Law;

(ii) commercial general liability insurance (bodily injury, product liability and property damage) with contractual liability insurance to cover liability relating to this Agreement with a minimum coverage of five million dollars (\$5,000,000) per occurrence and five million dollars (\$5,000,000) annual aggregate;

(iii) "All Risk" property insurance in an amount equal to the full replacement value of the premises, equipment and network used to provide the Services;

(iv) professional liability insurance covering the liability for financial loss due to error, omission or negligence of the Service Provider with a minimum coverage of five million dollars (\$5,000,000) per occurrence and five million dollars (\$5,000,000) annual aggregate;

(v) fidelity/crime insurance policy covering employee dishonesty and computer fraud for loss arising out of, or in connection with, fraudulent or dishonest acts committed by the personnel of Service Provider, as well as employees of Subcontractors acting alone or in collusion with others, in a minimum amount of five million dollars (\$5,000,000) per loss; and

(vi) whenever Service Provider possesses, stores, processes or has access to Customer's Confidential Information or any Personal Information, Cyber or Network Liability Insurance with a minimum coverage of five million dollars (\$5,000,000) per occurrence and five million dollars (\$5,000,000) in the aggregate.

(b) **Requirements:** Service Provider shall promptly deliver to Customer certificates of insurance made out by the applicable insurer(s) or their authorized agents for the insurance required under this Paragraph and for any material policy amendments thereto. Each policy shall provide for thirty (30) days' prior written notice to be given by insurer to Customer in the event of any termination, non-renewal or cancellation or any material change in coverage or deductibles. Customer is to be shown as additional insured under the insurance coverage required in this Paragraph, with the exception of Workers' Compensation. Service Provider, Service Provider's insurer(s) and anyone claiming by, through, under or on Service Provider's behalf shall have no claim, right of action or right of subrogation against Customer based on any loss or liability insured under the required insurance. All required insurance shall be carried with responsible insurance companies of recognized standing which are authorized to do business in the jurisdiction in which the Services are rendered and are rated "A VIII" or better by A.M. Best.

## 11 LIMITATION ON LIABILITY



(a) **Exclusion of Certain Types of Damages:** SUBJECT TO PARA. 11(c), IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY LOST REVENUE, LOST PROFITS, DAMAGED DATA, FAILURE TO ACHIEVE COST SAVINGS, LOSS OF USE OF FACILITY OR EQUIPMENT, OR THE FAILURE OR INCREASED EXPENSE OF OPERATIONS OR FOR ANY CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES, EVEN IF ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES.

(b) **Limitation of Direct Damages:** SUBJECT TO PARA. 11(c), IN RESPECT OF ANY CLAIM, DEMAND OR ACTION BY EITHER PARTY AGAINST THE OTHER OR ANY OF THEIR RESPECTIVE EMPLOYEES, DIRECTORS, OFFICERS, OR AGENTS, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, INCLUDING A BREACH BY A PARTY OF ANY OF ITS OBLIGATIONS UNDER THIS AGREEMENT (WHETHER OR NOT A FUNDAMENTAL BREACH), THE OTHER PARTY'S SOLE AND EXCLUSIVE REMEDY SHALL BE TO RECEIVE FROM THE BREACHING PARTY PAYMENT FOR ACTUAL AND DIRECT DAMAGES TO A MAXIMUM AGGREGATE AMOUNT EQUAL TO: (I) IN THE CASE OF A BREACH BY SERVICE PROVIDER, AMOUNT PAID BY CUSTOMER TO SERVICE PROVIDER IN THE 12 MONTHS PRECEDING THE DATE OF THE EVENT.

(c) **Exceptions:** The provisions of paras. 11(a) and 11(b) shall not apply to or limit (i) liability for breach of para. 8 or, if applicable, Service Provider's [Privacy Policy](https://diginsights188902.app.privacycenter.cloud) found at <https://diginsights188902.app.privacycenter.cloud>; (ii) liability for infringement or misappropriation of the other Party's Intellectual Property Rights; (iii) the indemnity obligations set forth in paras. 9(a)(i) to 9(a)(iv); (iv) losses or damages caused by Service Provider's fraud, gross negligence or willful misconduct; or (v) payment obligations arising under para. 7.

(d) **Essential Terms.** THE DISCLAIMER OF REPRESENTATIONS, WARRANTIES AND CONDITIONS AND LIMITATION OF LIABILITY IN THIS AGREEMENT CONSTITUTE AN ESSENTIAL PART OF THIS AGREEMENT. CUSTOMER ACKNOWLEDGES THAT BUT FOR THE DISCLAIMER OF REPRESENTATIONS, WARRANTIES AND CONDITIONS AND LIMITATION OF LIABILITY, NEITHER SERVICE PROVIDER NOR ANY OF ITS LICENSORS OR SUPPLIERS WOULD GRANT THE RIGHTS GRANTED IN THIS AGREEMENT.

(e) **Beneficiaries.** Every right, exemption from liability, release, defence, indemnity, immunity and waiver of whatsoever nature applicable to a Party under this Agreement shall also be available and shall extend to benefit and to protect such Party's affiliates, subcontractors, agents, licensors, suppliers and the directors, officers, employees, contractors and agents of the foregoing and for such purposes such Party is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of such companies and persons in respect to the rights, exemptions, releases, defenses, indemnification, immunities and waivers applicable to such companies and persons.

## 12 TERM AND TERMINATION

(a) **Term of Agreement:** The term of this Agreement shall commence on the Effective Date and shall remain in effect unless and until terminated in accordance with the provision set out in this para. 12 (the "**Agreement Term**").

(b) **Termination of Agreement:** Provided that there is no Schedule or Ordering Document outstanding and in effect, and, except for any obligations stated to survive termination or expiration of the Schedule or Ordering Document, all obligations of the Parties pursuant to all Schedules or Ordering Documents have been satisfied, either Party may terminate this Agreement upon written notice to the other, subject to para. 13(g).



(c) **Customer's Right to Terminate a Schedule or Ordering Document:** Subject to paras. 13(f) and 13(h), Customer may terminate one or more or all Schedules or Ordering Documents and this Agreement and the rights granted thereunder and hereunder without prejudice to enforcement of any other legal right or remedy, immediately upon giving written notice of such termination if:

(i) Service Provider breaches any of its obligations under a Schedule or Ordering Document and such breach continues for a period of fifteen (15) days calendar days after delivery of a written notice by Customer requiring Service Provider to correct such failure; or

(ii) a termination right contained in a Schedule or Ordering Document is triggered (for example, a service level termination event occurred); or

(iii) Service Provider becomes or is adjudicated insolvent or bankrupt, admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; or Service Provider applies for or consents to the appointment of any receiver, trustee or similar officer for it or for all or any substantial part of its property; or such receiver, trustee or similar officer is appointed without the consent of Service Provider; or Service Provider institutes any bankruptcy, insolvency, reorganization, moratorium, arrangement, readjustment or debt, dissolution, liquidation or similar proceeding relating to it under the laws of any jurisdiction, or any such proceeding is instituted against Service Provider and is not dismissed within sixty (60) Business Days; or any judgment, writ, warrant or attachment or execution of similar process is issued or levied against a substantial part of Service Provider's property and remains unsatisfied for ninety (90) calendar days.

(d) **Service Provider's Right to Terminate a Schedule or Ordering Document:** Subject to paras. 13(f) and 13(h), Service Provider may terminate a Schedule or Ordering Document and the rights granted thereunder without prejudice to enforcement of any other legal right or remedy, immediately upon giving written notice of such termination, if Customer:

(i) breaches any material provision of the applicable Schedule or Ordering Document and such breach continues for a period of fifteen (15) calendar days after delivery of a written notice by Service Provider requiring Customer to correct such failure; or

(ii) becomes or is adjudicated insolvent or bankrupt, admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; or Customer applies for or consents to the appointment of any receiver, trustee or similar officer for it or for all or any substantial part of its property; or such receiver, trustee or similar officer is appointed without the consent of Customer; or Customer institutes any bankruptcy, insolvency, reorganization, moratorium, arrangement, readjustment or debt, dissolution, liquidation or similar proceeding relating to it under the laws of any jurisdiction, or any such proceeding is instituted against Customer and is not dismissed within ninety (90) calendar days; or any judgment, writ, warrant or attachment or execution of similar process is issued or levied against a substantial part of Customer's property and remains unsatisfied for ninety (90) calendar days.

(e) **Waiver:** The waiver by either Party of a breach or default of any provision of this Agreement or a Schedule or Ordering Document by the other Party shall not be effective unless in writing and shall not be construed as a waiver of any succeeding breach of the same or of any other provision. Nor shall any delay or omission on the part of either Party to exercise or avail itself of any right, power or privilege by such Party constitute a waiver.

(f) **Effect of Termination of a Schedule or Ordering Document:** Upon the termination of a Schedule or Ordering Document, Service Provider shall, cease performing all Services and delivering all Products contemplated thereunder and Service Provider shall immediately deliver to Customer or its designee:

(i) all Deliverables, including Documentation, in its current state and all documents, media or items containing, in whole or part, any Confidential Information;

(ii) all equipment, tools, identification cards, security passes and other materials owned by Customer and furnished to Service Provider to facilitate the performance of services by Service Provider; and

(iii) when requested by Customer, a notarized affidavit executed by Service Provider certifying that Service Provider has fully performed all termination obligations contemplated by this para. 13(f) and that no items or copies of the above mentioned materials remain in Service Provider's possession or control.

(g) **Survival of Covenants:** Notwithstanding the termination or expiration of this Agreement for any reason, the covenants set out in this para. 13(g) and in paras. 1, 2, 6, 8, 9, 11, 12, and 12(f) of this Agreement shall survive any such termination or expiration.

### 13 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:

(a) is caused by any of the following: (i) acts of war, terrorism, civil riots or rebellions; (ii) quarantines, pandemics, embargoes and other similar unusual governmental action; or (iii) extraordinary elements of nature or acts of God (other than localized fire, hurricane, tornado or flood); and

(b) could not have been prevented by the non-performing Party's reasonable precautions or commercially accepted processes, or could not reasonably be circumvented by the non-performing Party through the use of substitute services, alternate sources, workaround plans or other means by which the requirements of a buyer of services substantively similar to the Services hereunder would be satisfied.

Events meeting both of the criteria set forth in paras. 14(a) and 14(b) above are referred to individually and collectively as "**Force Majeure Events**". The Parties expressly acknowledge that Force Majeure Events do not include vandalism, the regulatory acts of Governmental Authorities, labour strikes, or the non-performance of third Persons or subcontractors relied on for the delivery of the Services, unless such failure or non-performance by a third Person or subcontractor is itself caused by a Force Majeure Event, as defined above. Upon the occurrence of a Force Majeure Event, the non-performing Party shall be excused from any further performance or observance of the affected obligation(s) for as long as such circumstances prevail, and such party continues to attempt to recommence performance or observance to the greatest extent possible without delay. If a Force Majeure Event causes a material failure or material delay in the performance of any Services for more than [spell number (number) and indicate whether Business Days' (defined term in agreement) or calendar days], Customer may, at its option, procure such Services from an alternate source until Service Provider is again able to provide such Services, and Customer shall be relieved from paying any Fees to Service Provider for the duration that Customer has retained such alternate; or Customer may terminate this Agreement and each Schedule or Ordering Document without liability to Service Provider.

### 14 MISCELLANEOUS

(a) **Notice:** All notices or other communications hereunder shall be deemed to have been duly given and made if in writing and if served by personal delivery upon the Party for whom it is intended, if delivered by registered or certified mail, return receipt requested, or by a national

courier service, or if sent by fax (receipt of which is confirmed, with a copy delivered by certified mail), to the last address furnished by the other Party to the Party giving notice.

Any such notification shall be deemed delivered (i) upon receipt, if delivered personally; or (ii) on the next Business Day, if sent by national courier service for next Business Day delivery or if sent by fax.

(b) **Modifications:** This Agreement may be modified only upon written agreement by the Parties hereto.

(c) **Further Assurances:** The Parties hereto agree to do, execute and deliver, or cause to be done, executed and delivered, all such further assignments, documents, instruments, transfers, acts, deeds, matters, assurances and things as, from time to time, may be reasonably necessary or desirable to give effect to this Agreement and the obligations of the Parties hereunder.

(d) **Assignment:** Neither this Agreement nor any of the rights or obligations hereunder may be assigned by either Party without the prior written consent of the other Party, except to a wholly-owned subsidiary of a Party or an entity which acquires all or substantially all of the assets and business of the assigning Party by merger, sale of assets or otherwise, and such Party agrees in writing to be bound by the terms of this Agreement.

(e) **Counterparts:** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement, and delivery of such counterparts may be effected by means of facsimile or other electronic transmission.

(f) **Time:** Time shall, in all respects, be of the essence hereof, provided that the time for doing or completing any matter provided for in this agreement may be extended or abridged by agreement in writing signed by the Parties.

## Schedule 1 – Statement of Work

**THIS STATEMENT OF WORK (“SOW”)** is made between **[Customer Legal Name]** (“**Customer**”) and Dig Insights Inc. (“**Service Provider**” or “**Dig**”).

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<b>INCORPORATION</b>	<b>Incorporation:</b> This Statement of Work incorporates the terms and conditions of the [insert name of Agreement e.g. Master Services Agreement] dated [insert date] between Dig and Customer as if those terms and conditions were contained herein.
<b>DATE</b>	[Date] the “ <b>SOW Effective Date</b> ”)
<b>CLIENT</b>	<b>[Customer Name]</b>
<b>CONTACT INFO</b>	<b>Contact:</b> <b>[Customer Address]</b> <b>Title:</b> <b>Email:</b>
<b>INSIGHTS/ PROJECT LEAD</b>	<b>Add name if different from above</b> <b>Project Name: [Name]</b>
<b>PROJECT DESCRIPTION</b>	<ul style="list-style-type: none"><li>• [Description of Project]</li></ul>
<b>PROJECT DELIVERABLES</b>	[Description of Deliverables] <ul style="list-style-type: none"><li>• [Deliverable 1 [Questionnaire, power point report, data tables etc.]]</li><li>• [Deliverable 2]</li></ul>
<b>ADDITIONAL PROJECT DETAILS</b>	[Complete as applicable]
<b>TIMING</b>	SOW Commencement Date: [Date] The project timeline is as follows: <ul style="list-style-type: none"><li>• Deliverable 1 – Date due or timeline</li><li>• Deliverable 2 – Date due or timeline</li></ul> Estimated date of Project completion: [Date]

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**FEES & PAYMENT  
TERMS**

**Project Fees:** [\$XX]

**Currency:** [Canadian Dollar / US Dollars / Euro / Great British Pounds]

**Invoice Timing:** 60% upon execution of SOW, 40% on completion

**Payment Terms:** [Net 30]

Costs exclude any taxes and will be included on invoices (if applicable).

THE PARTIES ACKNOWLEDGE THAT BY COUNTERSIGNING THIS STATEMENT OF WORK THEY HAVE READ IT, UNDERSTAND IT, AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS AS WELL AS THE TERMS AND CONDITIONS OF THE [INSERT NAME OF AGREEMENT] DATED [INSERT DATE] BETWEEN THE PARTIES WHICH ARE INCORPORATED INTO THIS STATEMENT OF WORK BY THIS REFERENCE. FURTHER, THE PARTIES AGREE THAT THE REFERENCED [INSERT NAME OF AGREEMENT], ITS ATTACHEMENTS INCLUDING THIS STATEMENT OF WORK AND ANY CHANGE AGREEMENT(S) ARE THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN THE PARTIES, SEPERSEDING ALL PROPOSALS OR OTHER PRIOR AGREEMENTS, ORAL OR WRITTEN, AND ALL OTHER COMMUNICATIONS RELATING TO THE SUBJECT.

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**BILLING INFO**

Please specify the following information and any instructions needed for Dig to submit invoices for this project.

**Bill To Address:**

**Addressee Name(s):**

Are Purchase Orders required by your organization? **Yes**  **No**

*If Yes, please provide a purchase order as soon as possible upon signing SOW.*

**Purchase Order # (if applicable):**

**Other billing information (if applicable):**

*[Signature page follows]*

*[Remainder of the page has intentionally been left blank]*

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**SIGNATURES**

This SOW is executed by its duly authorized representatives as of the SOW Effective Date.

Customer:

DIG INSIGHTS INC.

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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## Schedule 2 – Software as a Service Subscription Schedule

DIG INSIGHTS INC. (“DIG” or “DIG INSIGHTS”) OWNS AND OPERATES CLOUD-BASED MARKET RESEARCH SOFTWARE THAT TRACKS AND ANALYZES DATA FOR PRODUCT IDEATION, INNOVATION TESTING AND CLAIMS. THE SERVICE IS OFFERED TO YOU BY DIG INSIGHTS INC. REGISTERED OWNER OF THE UPSIIDE TRADEMARK. FOR THE REST OF THIS TEXT, UPSIIDE WILL BE USED, BUT IT IS UNDERSTOOD THAT UPSIIDE IS PART OF DIG INSIGHTS INC.

This Software as a Service Subscription Schedule (the “SaaS Schedule”) is incorporated into and subject to the terms of the Master Services Agreement between \_\_\_\_\_, a \_\_\_\_\_ with its principal place of business at \_\_\_\_\_ (“You”) and Dig Insights Inc., an Ontario Corporation having its principal place of business at 5700-100 King Street West, Toronto, ON M5X 1C7, Canada (“UPSIIDE”), effective as of \_\_\_\_\_ (“Master Services Agreement”). Capitalized terms not specifically defined in this SaaS Schedule will have the meaning given to them in the Master Services Agreement. The Master Services Agreement, this SaaS Schedule, all other of its Schedules, and its Ordering Documents constitute the “Agreement.”

The parties agree as follows:

### 1. Definitions.

For the purposes of SaaS Schedule, in addition to the capitalized terms defined elsewhere in this SaaS Schedule, the following terms shall have the meanings ascribed to them as follows:

“Affiliate” means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control”, for purposes of this SaaS Schedule, means direct or indirect ownership or control of more than fifty percent (50%) of the voting interests of the subject entity;

“Anonymous Service Data” means any and all data and information that is not personal information (including because it has been de-identified, aggregated or made anonymous by UPSIIDE) created by UPSIIDE through the operation of the Service;

“Customer Service-Compatible Application(s)” means (i) an application that has been developed using the Service APIs by You or by a third party authorized by You to develop such an application for You, or (ii) a third-party cloud-based service that interoperates with the Service through the use of the Service APIs and that has been licensed by You from such third-party and which You wish to use with the Service;

“Malicious Code” means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs;

“Order” means any order for the purchase of a subscription or subscriptions for the Service that has been submitted by You to UPSIIDE;

“Order Form” consists of a description of pricing, quantities, license type, license term, Applicable Specifications, and other business information specific to a Product purchase under the Master Services Agreement;

“SandBox Environment” means a part of the Service that allows customers to test Customer Service-Compatible Application(s) and other uses of the Service API(s);

“Service” means UPSIIDE’s cloud-based innovation testing solution including in each case the Service APIs. The “Service” excludes all Customer Service-Compatible Applications;

“Service APIs” means the APIs that are made publicly available in the Service for the purpose of integrating Customer Service-Compatible Applications with the Service and for the purpose of entering and extracting data from the Service;

“Service Tier(s)” means the various categories of Service access (which will specify the number of permitted Users) provided by UPSIIDE to customers depending on the type of Subscription that has been purchased by such customers as further described in Your Order Form, as such categories of Service access may be updated by UPSIIDE from time to time;

“Subscription Fee” means the monthly, annual or multi-year fees payable by You to UPSIIDE for the right to receive access to the Service as specified in Your Order Form;

“Subscription Term” means an initial subscription term for the Service and any renewal periods for the Service as specified in Your Order Form;

“Term” has the meaning ascribed to that term in Section 10.1;

“User” means an individual or entity who is authorized by You to use the Service on Your behalf, and who has been supplied a user account and password for the Service by You (or by UPSIIDE at Your request);

“Your Data” means all electronic data or information submitted by You, Your Users and/or Your third-party survey recipients to the Service, which includes, without limitation, all electronic data or information transferred by You, Your Users and/or Your third-party survey recipients to the Service from any Customer Service-Compatible Applications utilized by You, Your Users and/or Your third-party survey recipients.

## **2. Grant of License.**

2.1 Commercial License Grant. Subject to this SaaS Schedule, including payment of all applicable Subscription Fees, UPSIIDE grants You a limited, personal, non-transferable, non-sub-licensable, internal license to use the Service during the Subscription Term in accordance with the Service Tier (including, without limitation, the permitted number of Users, Organizations/Spaces, and sample respondents) for which You have subscribed, such Subscription Term and Service Tier as set forth in Your then-current Order Form. The right to use the Service is licensed, not sold. You may also use Customer Service-Compatible Application(s) with the Service to the extent approved in writing by UPSIIDE pursuant to Your then-current Order.

2.2 User Accounts. User accounts are for use by designated Users and cannot be shared or used by more than one User but may be reassigned to new Users replacing former Users who no longer require ongoing use of the Service.

2.3 Sandbox Environment. As part of Your commercial subscription to the Service or Your subscription to the Free Service, UPSIIDE may in its sole discretion provide You with access to the Sandbox Environment. The Service capabilities provided in the Sandbox Environment may be limited or restricted in UPSIIDE’s sole discretion. Except for pre-existing development and interoperability documentation that UPSIIDE makes generally available to Service subscribers, UPSIIDE does not provide any support for the use of the Sandbox Environment or any Service APIs as part of UPSIIDE’s standard commercial subscriptions for the Service or as part of any subscription for the Free Service.

You may purchase development-related support from UPSIIDE as a Professional Service. NOTWITHSTANDING ANY OTHER PROVISIONS IN THIS SAAS SCHEDULE, ACCESS TO THE SANDBOX ENVIRONMENT IS ON AN “AS-IS” BASIS WITHOUT ANY REPRESENTATIONS, WARRANTIES OR CONDITIONS OF ANY KIND.

2.4 Third-Party Services. You acknowledge and agree that the Service may present links to third-party websites or third-party products or services not owned or operated by UPSIIDE that present service offerings, advertisements, promotional materials or product offers from such third parties. UPSIIDE is not responsible for the availability of these third-party websites or third-party services or any other products or services that may be offered via such websites and/or services. Your dealings with any third-party or purchase of any third-party products or services that You may have become aware of through the Service are solely between You and such third party and the terms and conditions governing such dealing, products or services are those that You agreed with the applicable third party and UPSIIDE is not a party to any such terms or conditions. You agree that UPSIIDE is not responsible or liable for any loss or damage of any type incurred by You as the result of any dealings with any third parties or as the result of the presentation of such third parties or their products and/or services via the Service.

2.5 Your Affiliates. Your Affiliates may procure subscriptions for the Service subject to this SaaS Schedule. You shall cause each of Your Affiliates to comply with this SaaS Schedule to the full extent as if such Affiliate were a party hereto, and any act or omission relating to this SaaS Schedule by any such Affiliate shall be deemed an act or omission by You. In addition, each party may use one or more Affiliates to perform its obligations under this SaaS Schedule, provided that such use shall not affect such party’s obligations pursuant to this Agreement and any act or omission by such Affiliate relating to this SaaS Schedule shall be deemed an act or omission of such party.

### **3. Use of the Service.**

3.1 UPSIIDE’s Responsibilities. UPSIIDE shall use commercially reasonable efforts to make the Service available in accordance with the UPSIIDE [Service Level Agreement](https://diginsights.com/wp-content/uploads/2024/07/UPSIIDE_Service-Level-Agreement.pdf), which may be found at [https://diginsights.com/wp-content/uploads/2024/07/UPSIIDE\\_Service-Level-Agreement.pdf](https://diginsights.com/wp-content/uploads/2024/07/UPSIIDE_Service-Level-Agreement.pdf) except for (a) planned downtime, (b) any unavailability caused by circumstances beyond UPSIIDE’s reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labour problems, Internet service provider failures or delays or other force majeure events, or (c) any downtime caused by Customer Service-Compatible Applications(s). UPSIIDE shall also provide support to You for the Service in accordance with the UPSIIDE Service Level Agreement and the Service Tier purchased by You. UPSIIDE does not warrant or support Customer Service-Compatible Application(s). UPSIIDE is not responsible for any disclosure, modification or deletion of Your Data resulting from access to or use by You of any Customer Service-Compatible Application(s).

3.2 Your Responsibilities. You are responsible for all activities that occur in Your User accounts and for Your Users’ compliance with this SaaS Schedule. You shall: (i) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all of Your Customer Service-Compatible Application(s) and Your Data; (ii) use commercially reasonable efforts to prevent unauthorized access to, or use of, the Service and Your Customer Service-Compatible Application(s), and notify UPSIIDE promptly of any such unauthorized access or use, and in no case more than 72 hours from the time You become aware of any unauthorized access, use or disclosure; (iii) comply with all applicable local, provincial, state, federal and foreign laws in using the Service and Your Customer Service-Compatible

Application(s); and (iv) be responsible for any Customer Service-Compatible Applications developed or purchased by You.

3.3 Use Guidelines. You shall not: (i) use the Service or Your Customer Service-Compatible Application(s) to send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (ii) use the Service or Your Customer Service-Compatible Application(s) to send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material that is harmful to children or violates third-party privacy or publicity rights; (iii) use any automated system or software to extract or scrape data from the websites or other interfaces through which we make the Service or Your Customer Service-Compatible Application(s) available; (iv) use the Service or Your Customer Service-Compatible Application(s) to send or store Malicious Code; (v) interfere with or disrupt the integrity or performance of the Service or the data contained therein; or (vi) attempt to gain unauthorized access to the Service or any related systems or networks.

3.4 Service Changes. UPSIIDE may change the Service at any time upon reasonable notice to You by posting the changes on the UPSIIDE website; sending You notice via an email to the email address You provide on Service registration; placing a message on Your invoice; in writing; by electronic communication; or any other notice method likely to come to Your attention. If You do not accept the change, Your sole recourse is to terminate Your subscription(s) to the Service. Your continued access to and use of the Service after the change has come into effect constitutes Your acceptance of the change. If You terminate Your subscription to the Service due to a change in the Service, You will not be entitled to any refunds. The Service may contain features designed to interoperate with Customer Service-Compatible Applications. UPSIIDE cannot guarantee the continued availability of such Service features and may cease providing them without entitling You to any refund, credit or any other compensation.

3.5 Publicity. Except upon the prior written consent of You in each instance, UPSIIDE shall not use Your corporate name and logo on the UPSIIDE website or in presentations or other marketing materials created by UPSIIDE for any purpose. Neither party may issue press releases relating to this SaaS Schedule without the other party's prior written consent.

#### **4. Fees and Payment.**

4.1 Fees. In consideration for the receipt of the Service, You shall pay UPSIIDE the Subscription Fees, all as specified in Your Order Form(s). All amounts are payable in the currency specified in Your Order Form.

4.2 Invoicing and Payment. UPSIIDE will invoice You electronically and You agree to accept UPSIIDE's invoices in that manner. Unless otherwise stated on an invoice sent to You by UPSIIDE, all invoiced amounts for the Service are due upon Your receipt of UPSIIDE's invoices for such amounts. You shall: (i) keep the billing, credit card and payment information You provide to UPSIIDE or its payment processors, including Your name, credit card number and expiry date, mailing address, email address and telephone number, accurate and up to date, otherwise, UPSIIDE may suspend provision of the Service to You and/or interoperation of the Service with any of Your Customer Service-Compatible Application(s); (ii) promptly advise UPSIIDE if Your credit card information changes due to loss, theft, cancellation or otherwise; (iii) be liable for Your failure to pay any fees billed to You by UPSIIDE caused by Your failure to provide UPSIIDE with up to date billing information; and (iv) upon termination of the Service, provide UPSIIDE with a forwarding address for all final invoices or correspondence if Your mailing address differs from that which You provided in Your registration information for the Service.

4.3 Taxes. Unless otherwise stated, UPSIIDE's prices for the Service do not include any direct or indirect local, state, provincial, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including value-added, goods and services, harmonized, use or withholding taxes (collectively, "Taxes"). You are responsible for paying all applicable Taxes associated with Your purchases pursuant to this SaaS Schedule, excluding taxes based on UPSIIDE's net income or property. If UPSIIDE has the legal obligation to pay or collect Taxes for which You are responsible under this section, the appropriate amount shall be invoiced to and paid by You, unless You provide UPSIIDE with a valid tax exemption certificate authorized by the appropriate taxing authority.

4.4 Pre-authorized Payment. By providing Your credit card information to UPSIIDE as part of Your Service account registration, You authorize UPSIIDE to charge Your credit card for all outstanding fees, taxes and charges and outstanding account balances incurred by You in respect to the Service, and this Section 4.4 constitutes UPSIIDE's good and sufficient authority for so doing. If any of Your pre-authorized payment(s) fail, UPSIIDE may immediately deactivate Your account for the Service without notice to You and collect the fees owing using other collection mechanisms. You are solely responsible for all charges incurred under Your account by You or third-parties. If You do not provide notice of non-renewal of Your subscription for the Service by the applicable time period specified in Section 10.1 for Your Subscription Term (i.e. monthly, annual or multi-yearly), then the relevant fees for the renewal of Your subscription to the Service for a new subscription having the same Subscription Term will be automatically processed and charged to You in full at the then-current fees for the Service for such renewed Subscription Term.

4.5 Fee Changes. UPSIIDE may change the fees UPSIIDE charges for the Service at any time in UPSIIDE's discretion. Changes to the fees will be communicated by being posted on the UPSIIDE website and will become effective at the time of posting, provided, however, any fee changes will not change Your subscription fees applicable to Your current Subscription Term, however, such fee changes will be applicable to Your next subscription renewal. If You do not wish to pay the changed fees, then Your sole recourse is to not renew Your subscription for the Service. Your renewal of Your subscription for the Service (including by not providing notice of non-renewal in accordance with the time periods specified in Section 10.1) after a fee change has come into effect constitutes Your acceptance of the fee change.

4.6 Suspension of Service. If Your account is five (5) or more days overdue in the case of a monthly Subscription Term or fifteen (15) or more days overdue in the case of an annual or multi-year Subscription Term, then in addition to any of its other rights or remedies, UPSIIDE shall have the right to suspend provision of the Service to You without liability until such amounts are paid in full.

## **5. Proprietary Rights.**

5.1 Reservation of Rights. Subject to the limited rights expressly granted pursuant to this SaaS Schedule, UPSIIDE reserves all right, title and interest in and to the Service, including all related intellectual property rights. No rights are granted to You pursuant to this SaaS Schedule other than as expressly set forth in this SaaS Schedule.

5.2 License Restrictions. You shall use the Service and Your Customer Service-Compatible Application(s) solely as contemplated in this SaaS Schedule and shall not license, sublicense, sell, resell, lease, transfer, assign, distribute, time share or otherwise make the Service and Your Customer Service-Compatible Application(s) available to any third party except to the extent expressly agreed by UPSIIDE in writing. You shall not: (i) modify, reverse engineer, decompile, disassemble, or create derivative works based on the Service except to the extent that enforcement of this restriction is prohibited by applicable law notwithstanding a contractual provision to the contrary; (ii) circumvent any

user limits or other use restrictions that are built into the Service; (iii) use the Service and Your Customer Service-Compatible Application(s) for an illegal purpose, criminal offence, intellectual property infringement, harassment (including annoying or offensive transmissions) or in a manner that would cause interference with network operations; (iv) interfere with the Service or any of the hardware, software or other infrastructure used to provide the Service; or (v) access the Service in order to build competitive product(s) or service(s), or to copy any ideas, features or graphics of the Service.

5.3 Lawful Purposes. You will comply with all laws and regulations that may apply to Your use of the Service and/or any Customer Service-Compatible Applications. If your use of the Service and/or any Customer Service-Compatible Applications requires you to comply with industry-specific regulations applicable to such use, you will be solely responsible for such compliance. You may not use the Service and/or any Customer Service-Compatible Applications in a way that would subject UPSIIDE to those industry-specific regulations without obtaining UPSIIDE's prior written agreement. You may not: (i) use the Service and/or any Customer Service-Compatible Applications to manage any illegal operations; (ii) use any type of spider, crawler, virus, worm, Trojan-horse, time bomb or any other codes or instructions that are designed to damage or disable the technology underlying the Service; (iii) send any unsolicited communication not permitted by applicable law; (iv) register accounts by "bots" or other automated methods or (v) endanger any part of any system or Internet connection of UPSIIDE or any third party.

5.4 Your Data and Anonymous Service Data. As between UPSIIDE and You, You exclusively own all right, title and interest in and to all of Your Data. Your Data is deemed to be Your Confidential Information. UPSIIDE shall only access Your User accounts, including Your Data, to respond to service or technical problems or as necessary for the operation of the Service or billing. You hereby grant UPSIIDE and its Affiliates a non-exclusive, irrevocable, perpetual, sub-licensable, transferable license to process, copy and otherwise use Your Data as reasonably required to provide the Service and any Customer Service-Compatible Applications utilized by You and/or Your Users. The forgoing license shall include the right for UPSIIDE to process, copy and otherwise use Your Data for the purpose of creating Anonymous Service Data. UPSIIDE shall own all right, title and interest in and to the Anonymous Service Data, including all intellectual property rights in the Anonymous Service Data, and You hereby assign, transfer and convey to UPSIIDE any ownership interest You may have in any Anonymous Service Data.

5.5 You as Controller. You agree that in the event that You or any of your Users are subject to the General Data Protection Regulation (the "GDPR"), or related laws including related laws of European Union member states: (i) You are the controller of Your Data and that UPSIIDE is a processor; and (ii) You further represent that you have undertaken all requirements to comply with all privacy and data protection laws including but not limited to the GDPR. Such requirements may include but are not limited to maintaining adequate records and registration requirements with supervising or other regulatory authorities.

5.6 Legitimate purpose / consent. You agree and represent that all personal information You collect, provide, or otherwise use in any way in relation to the Service and/or any Customer Service-Compatible Application(s) is necessary for Your legitimate interest, which is not overridden by fundamental rights of the subject individual, and otherwise that You have all rights and have obtained all necessary consents to collect, provide and manage all personal information You provide to UPSIIDE for any purpose. You further represent that You will not collect, provide or otherwise use in any way in relation to the Service any special category of personal data as described in the GDPR.



5.7 Suggestions. You hereby grant UPSIIDE and its Affiliates a paid-up, royalty-free, worldwide, transferable, sub-licenseable, irrevocable, perpetual, unrestricted license to use or incorporate into the Service and/or any other products or services any suggestions, enhancement requests, recommendations or other feedback provided by You or Your Users relating to the Service and/or any Customer Service-Compatible Applications.

## **6. Confidentiality.**

6.1 Definition of Confidential Information. As used in this SaaS Schedule, “Confidential Information” means all confidential and proprietary information of a party (the “Disclosing Party”) disclosed to the other party (the “Receiving Party”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure, including Your Data and any business and marketing plans, technology and technical information, product designs, and business processes. Confidential Information shall not include any information that: (i) is or becomes generally known to the public without any prior confidentiality obligation; (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (iii) was independently developed by the Receiving Party without breach of any obligation owed to the Disclosing Party; or (iv) is received from a third party without breach of any obligation owed to the Disclosing Party.

6.2 Confidentiality. The Receiving Party shall not disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this SaaS Schedule, except with the Disclosing Party’s prior written permission.

6.3 Protection. Each party agrees to protect the confidentiality of the Confidential Information of the other party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind (but in no event using less than reasonable care).

6.4 Compelled Disclosure. If the Receiving Party is compelled by law to disclose Confidential Information of the Disclosing Party, it shall provide the Disclosing Party with prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party’s cost, if the Disclosing Party wishes to contest the disclosure. If the Disclosing Party is not successful in opposing such compelled disclosure obligation, then the Receiving Party may disclose the Confidential Information required to be disclosed pursuant to such compelled disclosure obligation.

6.5 Remedies. If the Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of the Disclosing Party in breach of the confidentiality and non-use protections in this SaaS Schedule, the Disclosing Party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being specifically acknowledged by the parties that any other available remedies may be inadequate.

## **7. Warranties and Disclaimers.**

7.1 Warranties. Each party warrants that it has the legal power and authority to enter into this SaaS Schedule. UPSIIDE warrants that (i) it will provide the Service in a manner consistent with general industry standards reasonably applicable to the provision thereof; and (ii) the Service will not contain or transmit to You any Malicious Code (except for any Malicious Code contained in User or Your-uploaded materials or otherwise originating from You or a User). If You believe there has been a breach of the warranty set forth in Section 7.1(i), then You must notify UPSIIDE of such claim within ninety (90) days of the date of the alleged breach of such warranty.

7.2 Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 7.1, UPSIIDE MAKES NO REPRESENTATIONS AND PROVIDES NO WARRANTIES OR CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED REPRESENTATIONS, WARRANTIES AND/OR CONDITIONS, INCLUDING ANY REPRESENTATIONS, WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY QUALITY, DURABILITY, TITLE, NON-INFRINGEMENT, SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. UPSIIDE DOES NOT WARRANT THAT THE SERVICES WILL BE ERROR FREE OR OPERATE WITHOUT INTERRUPTION OR DOWNTIME. FURTHER, UPSIIDE SHALL NOT BE RESPONSIBLE FOR ANY LIMITATIONS, DELAYS, AND ANY OTHER PROBLEM INHERENT IN THE USE OF THE INTERNET AND/OR ELECTRONIC COMMUNICATIONS.

## **8. Indemnification.**

8.1 Indemnification by You. You shall, on demand from UPSIIDE, indemnify, defend and hold UPSIIDE, its Affiliates and its and their directors, officers, employees, contractors and agents (the “UPSIIDE Indemnitees”) harmless from and against any and all damages, liability and costs, including but not limited to fines, penalties, and attorneys’ fees, incurred by any of the UPSIIDE Indemnitees in connection with or arising out of: (i) Your violation or breach of these Terms or any applicable law or regulation, whether or not referenced in this SaaS Schedule; (ii) Your violation of any rights of any third party; (iii) Your misuse of the Service; or (iv) Your Data and/or any of Your Customer Service-Compatible Application(s).

8.2 Indemnification by UPSIIDE. UPSIIDE, AT ITS OWN EXPENSE, SHALL INDEMNIFY AND HOLD HARMLESS YOU AND EACH OTHER INDEMNIFIED PARTY AND DEFEND ANY ACTION BROUGHT AGAINST THE SAME WITH RESPECT TO ANY CLAIM, PROCEEDING, DEMAND, CAUSE OF ACTION, DEBT OR LIABILITY, LOSS, EXPENSE, INCLUDING ATTORNEYS’ FEES (COLLECTIVELY, “CAUSES OF ACTION”), TO THE EXTENT BASED UPON A CLAIM THAT THE SERVICE INFRINGES OR VIOLATE ANY PATENTS, COPYRIGHTS, TRADE SECRETS, LICENSES, OR OTHER RIGHTS OF ANY THIRD PARTY.

## **9. Subscription Term and Termination.**

9.1 Term of this SaaS Schedule. Service subscriptions purchased by You will entitle You to use the Service for the Subscription Term(s) set forth in Your Order Form. Service subscriptions may be purchased for monthly, annual or multi-year Subscription Terms and such Subscription Terms are renewable as follows: (i) for a monthly Subscription Term – for an additional month commencing at the end of Your current monthly Subscription Term provided that neither You nor UPSIIDE has provided notice of non-renewal at least two (2) days prior to the end of Your then-current monthly Subscription Term; (ii) for an annual Subscription Term – for an additional one (1) year period commencing at the end of Your current annual Subscription Term provided that neither You nor UPSIIDE has provided notice of non-renewal at least forty-five (45) days prior to the end of Your then-current annual Subscription Term; and (iii) for multi-year Subscription Term – for the same multi-year period as Your current multi-year Subscription Term commencing at the end of Your current multi-year Subscription Term provided that neither You nor UPSIIDE has provided notice of non-renewal at least forty-five (45) days prior to the end of Your then-current multi-year Subscription Term. This SaaS Schedule will commence on the date of UPSIIDE’s acceptance of Your first Order for the Service or the effective date of Your Order Form incorporating this SaaS Schedule, whichever occurred earlier, and shall continue thereafter for as long as You have an active Subscription Term (which period shall constitute the “Term” of this SaaS Schedule).

9.2 Termination by You. You may terminate this SaaS Schedule (including all of Your then-current Subscription Terms) and all of Your rights to use the Service by emailing UPSIIDE at [support@upsiide.com](mailto:support@upsiide.com) with Your termination request. Termination will occur once UPSIIDE has disabled Your ability to access and use the Service (which UPSIIDE will do within two (2) business days of receipt of Your termination request). Your termination will not entitle You to any refunds.

9.3 Termination or Suspension by UPSIIDE. Without limiting other remedies UPSIIDE may have, UPSIIDE may limit, suspend, or terminate Your use of the Service, prohibit Your access to the Service and/or delete Your User account(s) for the Service, without prior notice, if You are in arrears in Your payment for the Service by (i) more than five (5) days for monthly Subscription Terms, or (ii) more than fifteen (15) days for annual or multi-year Subscription Terms. UPSIIDE shall also be entitled to terminate this SaaS Schedule (including all of Your Subscription Term(s)) and Your rights to access and use the Service if You are: in breach of this SaaS Schedule; creating problems in respect to the operation of the Service; creating legal liabilities (actual or potential) through Your use of the Service; acting inconsistently or in violation of any of UPSIIDE's policies; infringing someone else's intellectual property rights; engaging in fraudulent, immoral or illegal activities; or for other reasons that could have an adverse effect on UPSIIDE, its service providers or any other customers of the Service. UPSIIDE may provide You with notice of termination by sending an email to the email address provided by You when registering for the Service. UPSIIDE shall also have the right to cancel any commercial User accounts that has been inactive for more than one (1) year.

9.4 Effect of Termination. Upon termination or expiration of this SaaS Schedule or any Subscription Term for the Service, Your ability to access and use the Service (including Your Data) will end unless You renew Your subscription for the Service. Upon written request from You, UPSIIDE will use commercially reasonable efforts to provide You with a copy of Your Data in CSV format, provided that Your access to the Service was not terminated pursuant to Section 10.3 and further provided that such request is made to UPSIIDE within thirty (30) days of such termination or expiration. If You request a copy of Your Data, a minimum two (2) hour fee will be applicable and You must pre-pay such fee before UPSIIDE will begin the services to provide You with a CSV copy of Your Data.

9.5 Outstanding Fees. Termination of this SaaS Schedule (and/or suspension of Your rights to access and/or use the Service) shall not relieve You of the obligation to pay any fees accrued or payable to UPSIIDE prior to the effective date of any such termination or expiration. If this SaaS Schedule and/or any Subscription Term(s) are terminated (or if Your rights to access and/or use the Service are suspended), You will not be entitled to a refund for the unused portion of any of Your Subscription Term(s).

9.6 Surviving Provisions. The following provisions shall survive any termination or expiration of this SaaS Schedule: Section 1 and Sections 4 through 10 along with any provisions that are identified as surviving in any Order Form into which this SaaS Schedule may be incorporated.

## **10. General Provisions.**

10.1 Export. You acknowledge and agree that the Service and Customer Service-Compatible Application(s) may be subject to export and import controls under the regulations of Canada, the United States and other countries, and You shall comply with all export and import control regulations of such countries. You shall not use the Service and/or any Customer Service-Compatible Application(s) for any purposes prohibited by export laws, including, without limitation, nuclear, chemical or biological weapons proliferation. You shall be responsible for procuring all required permissions for any subsequent export, import or use of the Service and/or any Customer Service-Compatible Application(s).



**ATTACHMENT 1 TO THE SAAS SCHEDULE**

**Upside Order Form**

<u><b>CUSTOMER INFORMATION</b></u>	<u><b>ORDER INFORMATION</b></u>
<p><b>Primary Contact(s):</b>  <b>Email:</b>  <b>Phone:</b></p> <p><b>Company Legal Name:</b>  <b>Address:</b>  <b>City:</b>  <b>Province/State:</b>  <b>Zip/Postal Code:</b>  <b>Country:</b></p> <p><b>Invoicing / Accounts Payable Contact(s)</b>  <b>Name:</b>  <b>Email:</b>  <b>Phone:</b></p> <p>Are purchase orders required? Yes <input type="checkbox"/> No <input type="checkbox"/>  <i>If Yes, please send a copy to <a href="mailto:AR@diginsights.com">AR@diginsights.com</a> upon signing this order form.</i></p>	<p><b>Proposed By:</b>  <b>Pricing Valid Through:</b></p> <p><b>Subscription Date:</b></p> <p><b>Currency:</b> US Dollars  <b>Payment Terms:</b> Net 30</p> <p><b>Billing Frequency:</b></p> <ul style="list-style-type: none"> <li>- Subscription Fee: Annual, in advance</li> <li>- Account Usage: Usage Credits are pre-purchased in advance of study launching.</li> </ul>

**Subscription Details**

<b>Account Name</b>	
<b>Subscription Tier</b>	
<b>Subscription Term</b>	Start Date: End Date:
<b>Subscription Fee</b>	\$
<b>Add-ons (Enabled Resources, Integrated Resources, etc.)</b>	\$
<b>Users</b>	Unlimited
<b>Workspaces</b>	1
<b>Bring-your-own respondents</b>	50-300/month – US Dollar \$1 per additional completes

**Account Usage**

*Sample costs are variable and quoted based on the audience of each study*

<b>Pre-Purchased Usage Credits</b>	\$
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**Professional Services**

<b>Professional Services</b>	\$
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**Consulting Services**

<b>Consulting Services</b>	\$
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**Your invoice:**

<b>Item</b>	<b>Price</b>
<b>Subscription Fees</b>	\$
<b>Usage Credits</b>	\$
<b>Professional Services</b>	\$
<b>Consulting Services</b>	\$
<b>Total Fees*</b>	\$

\*Pricing does not include applicable taxes



This Order Form is between Dig Insights Inc. o/a UPSIIDE (“**Dig**” or “**Upside**”), a Canadian corporation with offices at 5700-100 King Street West, Toronto, ON M5X 1C7, Canada and the organization listed below (“**Customer**” or “**You**”) and is effective as of the date last signed below (the “**Effective Date**”). Dig owns and operates cloud-based market research software that tracks and analyses data for product ideation, innovation testing and claims. The service is offered to you by Dig, registered owner of the Upside trademark. Usage Credits are valid for 12 months from the date of purchase and unused Usage Credits will be forfeited once expired.

To confirm your order, please complete and return this page by e-mail to Dig. Please retain this copy for your records. THE PARTIES ACKNOWLEDGE THAT BY COUNTERSIGNING THIS ORDER FORM THEY HAVE READ IT, UNDERSTAND IT, AND AGREE THAT IT INCORPORATES THE TERMS AND CONDITIONS OF UPSIIDE’S STANDARD TERMS AND CONDITIONS AS IF THOSE TERMS AND CONDITIONS WERE CONTAINED HEREIN. SUCH TERMS AND CONDITIONS FORM AN INTEGRAL AND BINDING PART OF THIS SAAS ORDER FORM AND CAN BE FOUND [HERE](https://diginsights.com/wp-content/uploads/2024/07/Upside_TermsandConditions.pdf): [https://diginsights.com/wp-content/uploads/2024/07/Upside\\_TermsandConditions.pdf](https://diginsights.com/wp-content/uploads/2024/07/Upside_TermsandConditions.pdf)

Accepted and agreed to by the authorized representative of each party:

**Dig Insights Inc. o/a UPSIIDE**

**Customer Name**

\_\_\_\_\_  
By (Signature)

\_\_\_\_\_  
By (Signature)

Name:

Name:

Title:

Title:

Date:

Date: