REVINATE GENERAL TERMS AND CONDITIONS OF SERVICE

1.   MASTER SERVICES AGREEMENT

These General Terms and Conditions of Services (these "**General Terms**") are part of an Agreement between Revinate, LLC, a Delaware limited liability company doing business as Revinate, together with its Affiliates (collectively "**Revinate**," "**we**," "**our**," or "**us**"), and the Customer. "**Customer**," "**you**", and "**your**" means the person or entity that has executed a Service Order (as defined below). "**Agreement**", means the Master Services Agreement executed by the Primary Contracting Party (as defined below) together with all documents incorporated therein and herein by reference, including the applicable Service Order(s) executed by the Customer.

2.   DEFINITIONS

"**Affiliate**" means any entity which is owned or controlled by, or under common control with, Revinate.

"**Agreement**" has the meaning set forth in Section 1 of these General Terms.

"**Aggregate Data**" means information, data, and statistics about a group of individuals or transactions that cannot be used to identify Customer or a particular individual, including data derived from de-identifying and anonymizing Customer Data and combining it with data about other individuals, Revinate clients, and transactions.

"**Application**" means any application accessed by Customer that is licensed by Revinate to Customer as part of the Services.

"**Application Programming Interface (API)**" means an API and any accompanying or related Documentation, source code, SDKs, executable Applications and other materials made available by Revinate to Customer as part of the Services. Customer is solely liable for any data or content uploaded, downloaded, or otherwise accessed by Customer using an API.

"**Authorized Users**" means the employees, service providers, and independent contractors of Customer, and employees of such service providers and independent contractors, whom Customer has authorized to use and access the Services on Customer's behalf pursuant and subject to the terms of this Agreement.

"**Contract Anniversary Date**" means (i) the renewal date of the Term for Customer's Products based on the Contract Start Date and length of the Initial Term as further described in Section 10.2, and (ii) with respect to fee increases described in Section 4.6, each successive twelve (12) month period following the Contract Start Date.

"**Contract Start Date**" means the billing commencement date for the Services set forth in the Statement of Work associated with Customer's Service Order.

"**Customer**" means the party that has entered into a Service Order with Revinate, which may be the Primary Contracting Party or its Contracting Affiliate.

"**Customer Data**" means structured data regarding travel guests and leads of Customer and transactions between travel guests and Customer stored in a database hosted by Revinate that is or was (a) acquired from or provided by Customer, (b) acquired by Revinate from a reservation call or other communication with a travel guest or lead of Customer that takes place

in the course of Revinate's performance of the Services for Customer, or (c) acquired by Revinate through Customer's use of the Software. Customer Data does not include Revinate Data.

"**Confidential Information**" has the meaning given to it in Section 9.1 below.

"**Contracting Affiliate**" means a person or entity, other than the Primary Contracting Party, that (i) owns, controls, or manages one or more hotels, resorts, or other properties that the Services will be used in connection with, (ii) is not a competitor of Revinate or in the business of developing and offering Products that are substantially similar to the Services, and (iii) has executed a Service Order under the Master Services Agreement thereby agreeing to be bound by the terms of this Agreement as a "Customer" hereunder with respect to the Services and properties identified in such Service Order.

"**Data Processing Addendum (DPA)**" means Revinate's Data Protection Agreement referenced in Section 8.4 herein.

"**Deliverables**" means all documents, work product and other materials that are delivered to Customer hereunder or prepared by or on behalf of Revinate in the course of performing the Services, including any items identified as such in the Service Order(s) or Statement(s) of Work attached thereto, if any.

"**Documentation**" means user manuals, technical manuals and any other materials provided by Revinate, in printed, electronic or other form, that describe best practices or the installation, configuration, operation, use or technical specifications of the Software.

"**End User License Agreement**" or "**EULA**" means the End User License Agreement available at https://www.revinate.com/terms/eula/ or such other location that Revinate may provide with written notice to Customer.

"**Feedback**" means comments or suggestions from Customer or its Authorized Users regarding the possible creation, modification, correction, improvement or enhancement to the Services, including without limitation ideas for the development of new products and services and any customer testimonials submitted by Customer to Revinate.

"**Guest Engagement Services**" means the guest engagement messaging services offered by Revinate to its Customers through the web via its cloud-based proprietary software, APIs and end-user interface. These services include Revinate's customary guest engagement and initial greeting messages and/or any other messages that Customer and Revinate agree upon in advance to be sent to Customer's guests who have supplied their mobile phone numbers (or other contact number provided) and/or email addresses.

"**Intellectual Property Rights**" means any and all intellectual property or proprietary rights, including without limitation patent, copyright, trademark, service mark, trade secret, moral, and contract rights in any country or jurisdiction in the world, whether or not registered or registerable, and all registrations, initial applications, renewals, extensions, continuations, divisions, or reissues of them now or hereafter in force.

"**Initial Term**" means the twenty-four (24) month period following the Contract Start Date unless otherwise set forth in the applicable Service Order.

"**Payment Application**" means Customer's web-based virtual payment application to which Customer may provide Revinate access for the purpose of enabling Revinate agents to book reservations on Customer's behalf, whether such payment application is part of Customer's Property Management System or is a separate application.

"PA-DSS" means, at any given time, the then-effective Payment Application Data Security Standard published by the PCI Security Standards Council.

"PCI Data" means Cardholder Data (including, without limitation, Primary Account Number, cardholder name, expiration date, and Service Code) and Sensitive Authentication Data (including without limitation full magnetic stripe data or equivalent on a chip, CAV2/CVC2/CW2/CID, PINs/PIN block), as such terms are defined by the PCI Security Standards Council.

"PCI DSS" means, at any given time, the then-effective Payment Card Industry Data Security Standard published by the PCI Security Standards Council.

"Person" means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association or other entity.

"Platform" means a multi-tenant software platform hosted by Revinate which provides access to specified Product capabilities licensed to Customer.

"Primary Contracting Party" means the person or entity that has executed a Master Services Agreement with Revinate.

"Product" means a set of Services that is listed in a Service Order with its own Initial Term and fee structure. Each Product may have a set of options, upgrades or services that may be indicated on a Service Order with associated fees.

"Professional Services" means implementation, training, consulting, design, data mining, or other Customer services, other than provision of the Software, provided as part of a Service Order or related Statement of Work.

"Product Specific Terms" means the terms located via hyperlink for each corresponding product on the Service Order, or such other location that Revinate may provide with written notice to Customer, that contain additional terms for the particular Product you are purchasing.

"Revinate Data" means Aggregate Data and all information and data Revinate has acquired from a source other than Customer, Customer's travel guests and leads, and reservations booked by Revinate on Customer's behalf.

"Revinate Database" means any database hosted by Revinate in connection with providing the Services that contains Customer Data.

"Revinate Developments" means all inventions, designs, creative works, original works of authorship, specifications, software programs (including all source and object code), algorithms, data other than Customer Data, databases, processes, drawings, photographs, charts, graphs, user manuals, documentation, know-how, trade secrets, and all materials, including, without limitation, training and educational materials, that (a) Revinate provides Customer with access to as part of the Services; or (b) are or were developed, prepared, or acquired by or on behalf of Revinate, whether or not in the course of performing the Services, including without limitation any and all Deliverables. Customer Data is excluded from the definition of Revinate Developments, even if Revinate has assisted in the development or collection of the Customer Data.

"Room Count" means the number of rooms in Customer's rental inventory ("Rooms") or other agreed upon units of measure as reflected in the Service Order. By way of example, the Room Count for a Customer's hotel property would be the number of Rooms the hotel has available for guest bookings. Alternatively, the Room Count for a Customer in the business of vacation rental property management would be the number of vacation rental properties the

Customer has available for guest bookings. Customer shall promptly notify Revinate in writing of any change in Rooms or other agreed upon units of measure following execution of the Service Order.

"Security Incident" means an unauthorized third-party gaining access to Customer Data in Revinate's possession or care if (a) it creates a substantial risk of harm to Customer or any individual(s) and (b) such Customer Data was accessed in unencrypted form, or Revinate has reason to believe or suspect that the unauthorized third party has acquired or is reasonably likely to acquire the decryption key.

"Sensitive Data" means any of the following: PCI Data; social security number; account number, password, or personal identification number for banking, credit, or other financial or payment account; driver license number or other government-issued identification card number; or user name or email address, in combination with a password or security question and answer that would permit access to an online account (other than login credentials used to log into the Revinate Software).

"Service Order" means the Service Order executed by Customer and Revinate that lists the Services Customer is purchasing from Revinate, quantities, and pricing. Following full execution of the Service Order, Customer may use the Services in accordance with the terms in the Service Order and the provisions of this Agreement.

"Services" means the products and services provided by Revinate to Customer hereunder, including without limitation the Guest Engagement Services, Professional Services, Technical Support Services, and Software subscriptions and licenses described in the Service Order(s), including any Statement(s) of Work attached thereto.

"Software" means any software to which Revinate provides Customer access as part of the Services, including Applications, APIs, and Platforms hosted by Revinate, together with any applicable Documentation.

"Statement of Work" means the document attached to the Service Order that states the Contract Start Date and describes specific Deliverables or Professional Services to be provided to or performed for Customer.

"Technical Support Services" means the Services related to Software support provided by Revinate to Customer.

"Total Base Reservation Rate" means the total amount charged by Customer for a booked reservation, excluding taxes and ancillary fees (e.g., food and beverage, golf, spa visits, etc.)

"Update" means any update, bug fix, patch, correction, or new release that Revinate makes generally available at no additional charge to all licensees of the Software.

"Usage Fees" has the meaning set forth in Section 4.3(d) below.

3. SERVICES AND SOFTWARE

3.1 Services. Revinate shall perform and provide to Customer the Services described in the applicable Service Order(s) executed by Revinate and Customer.

Contracting Affiliates. Contracting Affiliates are permitted to order Services under this Agreement provided that any such Contracting Affiliate executes a Service Order and agrees to be bound by all terms of this Agreement as a "Customer" hereunder with respect to such Service Order and the Services purchased thereunder. The Contracting Affiliate shall be solely responsible for payment of the Fees and other obligations described in Section 4 of these General Terms with respect to any Service Order entered into by such Contracting Affiliate (and thus Revinate shall invoice such Contracting Affiliate directly and look only to such Contracting Affiliate for payment of such amounts unless otherwise instructed in writing by the Primary Contracting Party); with respect to all other obligations and liabilities of a Customer set forth in or arising under this Agreement with respect to such Service Order and the Services provided thereunder, the applicable Contracting Affiliate shall be primarily responsible and liable. Except as expressly provided above, the Primary Contracting Party will be primarily responsible and liable for all obligations and liabilities as the "Customer" under this Agreement.

3.2 Software License. Subject to and conditioned upon Customer's timely payment of the fees set forth in the Service Order(s) and Customer's strict compliance with all terms and conditions set forth in this Agreement, including without limitation the EULA and the DPA, Revinate hereby grants to Customer a non-exclusive, non-transferable, non-sublicensable, limited license, during the term of Services to which the Software relates, to use, solely by and through its Authorized Users, the Software, only as expressly permitted by this Agreement, including without limitation the scope of license terms and use restrictions set forth in the EULA. In addition to the foregoing, access to the Services may require Customer to install certain software applications, and Customer agrees to be bound by any end-user software agreements that govern the installation and use of such software applications. If Revinate authorizes Customer to distribute any such application to third parties, Customer may do so only after effectively binding such third-party users to the applicable end-user software agreements provided by Revinate for the benefit of Revinate.

3.3 Collection and Use of Information. Customer acknowledges that Revinate may, directly or indirectly through the services of third parties, collect and store information regarding use of the Software and about equipment on which the Software is installed or through which it otherwise is accessed and used. Customer agrees that Revinate may use such information for any purpose related to the Software, including but not limited to (a) improving the performance of the Software or developing Updates; (b) verifying Customer's compliance with the terms of this Agreement and enforcing Revinate's rights, including all Intellectual Property Rights in and to the Software; and (c) as otherwise described in the DPA.

3.4 Commercial Messaging Regulations. Certain Services permit Customers to send email, SMS and other messages to their guests. The sending of commercial messages is regulated by law, including CAN-SPAM and the Telephone Consumer Privacy Act in the United States. SMS messaging is further regulated by mobile service carriers and by the policies and best practices of the Mobile Marketing Association and the CTIA, which collectively impose requirements regarding the integrity of SMS content and compliance with acceptable use policies. Customer is responsible for complying with all applicable laws, published rules and policies regarding communication with its guests. If a guest opts out of a specific form of messaging from Customer (e.g., SMS), Customer will update the Services accordingly.

3.5   Use of Proprietary Third-Party Content. Customer may not modify, republish, reproduce, post, transmit, sell, offer for sale, or redistribute Third Party Content (as defined in section 8.3) without the prior written permission of Revinate, and, if applicable, the rights holder of Third Party Content (such as industry research data). Customer must abide by all copyright notices, information, or restrictions related to any Third-Party Content.

3.6   Modifications to the Software.   Customer understands and agrees that Revinate may make modifications and updates to the Software from time to time in its sole discretion. Revinate may determine in its sole discretion whether to provide such modifications and updates to Customer as part of the Technical Support Services described in Section 3.7 below, or whether such modifications and updates will be issued as a separate or new product that is not included in the Technical Support Services.

3.7   Maintenance and Support.   Unless otherwise specified in Customer's Service Order, the Software license granted hereunder entitles Customer to Revinate's standard Technical Support Services.

3.8   Responsibility for Use of Software. Customer is responsible and liable for all uses of the Software through access thereto provided by Customer, directly or indirectly. Specifically, and without limiting the generality of the foregoing, Customer is responsible and liable for all actions and failures to take required actions with respect to the Software by its Authorized Users or by any other Person to whom Customer or an Authorized User may provide access to or use of the Software, whether such access or use is permitted by or in violation of this Agreement. In addition to the foregoing, Customer's use of the Software is subject to Section 5.1(d) herein, and Revinate's Reasonable Use Policy (the "Policy") that restricts use of the Services by Customer in order to prevent abuse such as: (i) sending abusive or unsolicited communications; (ii) engaging in telemarketing or any other mass-texting activity not related to Customer's Services; (iii) using automated texting (SMS or MMS) of any kind, other than those provided unless included in Customer's Services, and (iv) sending the same text message to a large number of recipients via copy-paste or automation. In addition, with respect to the API, Customer's usage is limited to 10 requests per minute maximum, 1,000 requests per day maximum, and 10,000 per month maximum, and with respect to SMS: 24 segments per Room per month. Any use of the Services in violation of the foregoing may result in termination of the Services at Revinate's sole discretion.

3.9   Authorized Users. Customer shall not permit any Person other than an Authorized User to access or use the Software.   Only employees, service providers, and independent contractors of Customer, in each case who have executed written agreements with Customer containing restrictions on use and disclosure of Confidential Information consistent with the provisions of this Agreement and who have agreed to comply with the terms of the EULA, may be designated by Customer as Authorized Users. Each individual natural person shall be deemed a separate Authorized User for purposes of this Agreement.

3.10   Number of Authorized Users. If the applicable Service Order specifies a maximum number of Authorized Users for certain Software or Services, Customer shall only allow such number of individuals to access and use such Software or Services. If the applicable Service Order does not specify a maximum number of Authorized Users, then Customer may provide an unlimited number of Authorized Users with access to the Software. If the fees set forth in the applicable Service Order are based in whole or in part on the number of Authorized Users of certain Software, Customer agrees to promptly and truthfully disclose to Revinate, at all times during the term of this Agreement, changes in the number of individual natural persons Customer is allowing to access such Software.

3.11   Unique Log-in Credentials. Customer shall request from Revinate, and Revinate shall provide, unique log-in credentials for each Authorized User. Authorized Users and Customer shall not permit any Authorized User to share or disclose his or her log-in credentials with or to any other individual or entity, even if such other individual is also an Authorized User. Log-in credentials may not be transferred from one Authorized User to another Authorized User. Customer shall promptly notify Revinate if an individual who was previously an Authorized User ceases to be an Authorized User because such individual is no longer employed by Customer or because of any other reason. Customer shall also promptly notify Revinate if it discovers or suspects that any log-in credentials have been accessed or used by any Person other than the Authorized User to which such log-in credentials were granted, in which case Revinate shall promptly reset or provide Customer with a means of resetting the password associated with such log-in credentials.

3.12   Limited Software Warranty. Revinate warrants that, during the term of the applicable Services, the Software will substantially contain the functionality described in the Documentation and, when operated in accordance with the Documentation, will substantially perform in accordance therewith.

3.13   Acts that Void Warranty. The limited warranty set forth in Section 3.12 will not apply and will become null and void if Customer breaches any provision of this Agreement, or if Customer, any Authorized User or any other Person provided access to the Software by Customer or any Authorized User, whether or not in violation of this Agreement:

(a)   Accesses or uses the Software on or in connection with any hardware or software not specified in the Documentation or expressly authorized by Revinate in writing;

(b)   Modifies or damages the Software;

(c)   Misuses the Software, including any use of the Software other than as specified in the Documentation or expressly authorized by Revinate in writing; or

(d)   Fails to install any Update to an installed Application, if applicable, within three (3) days after Revinate makes such Update available.

3.14   Limited Remedy. If any Software fails to perform in accordance with the limited warranty set forth in Section 3.12 above, and such failure is not excluded from warranty as provided above, Revinate will, subject to Customer's promptly notifying Revinate in writing of such failure, at its sole option, either:

(a)   Repair or replace the Software, provided that Customer provides Revinate with all information Revinate reasonably requests to resolve the reported failure, including sufficient information to enable Revinate to recreate such failure; or

(b)   Refund the pro-rated fees paid for such Software from day of notice to termination, subject to Customer's ceasing all use of and, if requested by Revinate, destroying or returning to Revinate all Confidential Information in Customer's possession pursuant to Section 9.6.

The remedies set forth in this Section 3.14 are Customer's sole remedies and Revinate' sole liability under the limited warranty set forth in Section 3.12 above.

3.15   Disclaimer. Customer understands and acknowledges that the Software is not intended or designed to be used as a "Payment Application," as that term is defined by the PCI Security Standards Council, or for the storage, transmission, or processing of PCI Data or Sensitive Data. Therefore, Revinate DOES NOT WARRANT THAT THE SOFTWARE IS OR SHALL BE (A) SUITABLE FOR STORING, TRANSMITTING, OR PROCESSING PCI DATA OR SENSITIVE DATA OR (B) COMPLIANT WITH PA-DSS.

3.16   **Restrictions Related to Data.** Customer shall not store or transmit any PCI Data or other Sensitive Data using the Revinate Software, except that Customer may collect PCI Data from travel guests over the telephone and enter such PCI Data into Customer's Payment Application; provided, however, that Customer shall not record such telephonic transmission of PCI Data or otherwise store such PCI Data using the Services. Revinate may, but is not required to, search for and delete any Sensitive Data it discovers or finds is being stored by or on behalf of Customer in the Revinate Software. If Customer violates the restrictions set forth in this paragraph, then Customer's use of the Software for storage or transmission of PCI Data or other Sensitive Data shall be at Customer's own risk, and Revinate shall have no liability to Customer with respect to such data.

4.   **COMPENSATION; BILLING AND PAYMENT TERMS**

4.1   **Fees**. In consideration for the Services, Customer shall pay Revinate the fees described in the Service Order(s), including any Statement(s) of Work attached thereto, and any applicable Product Specific Terms. All fees are non-cancelable and non-refundable

4.2   **Reimbursement of Expenses.** In addition to the payment of fees pursuant to Section 4.1, unless otherwise specified in a Service Order or Statement of Work, Customer agrees to reimburse Revinate for all actual, documented and reasonable travel and out-of-pocket expenses incurred by Revinate in connection with the performance of the Professional Services. Customer agrees to provide reasonable accommodations at no charge to Revinate when required for on-site visits by Revinate personnel for implementation, training, Customer advocacy, consulting or other agreed-upon Services.

4.3   **Payment Terms**. Except to the extent different payment terms or billing cycles are set forth in the applicable Service Order(s), the following shall apply:

(a)   **Recurring Fees**. Where Services or Software are provided in exchange for a recurring fee, with the exception of Usage Fees, the recurring fees shall be invoiced by Revinate and paid by Customer pursuant to Section 4.4. Services shall be deemed to commence on the Contract Start Date unless otherwise provided in the applicable Service Order or associated Statement of Work.

(b)   **One-Time Fixed Fees**. Where certain Services are provided in exchange for a one-time fixed fee, such as but not limited to set up and training fees, the one-time fixed fee shall be invoiced within 30 days of contract execution and paid as described in Section 4.4.

(c)   **Time and Materials Basis Fees**. Where Services are provided on a time and materials basis, the fees for such Services shall be calculated at Revinate's then current standard rates or, when specified, rates set forth in the applicable Service Order(s) and Statement(s) of Work, and shall be paid as described in Section 4.4.

(d)   **Usage Fees**. A Service Order may provide that a one-time fixed fee or monthly recurring fee will be charged for certain Services, and that Customer's usage of certain Services may result in additional fees if such usage exceeds any applicable volume limitations set forth in the Service Order, such as number of transactions, call minutes, Toll Free Numbers, Local Numbers, Short Code Numbers (Standard or Vanity), Authorized Users, hours of training or consulting services, number of emails that can be sent, or other limitations ("**Usage Fees**"). Revinate will invoice Usage Fees in arrears for the prior month's transactions. Whenever Usage fees are incurred by Customer, they shall be paid as described in Section 4.4.

(e)   **Expense Reimbursement**. Expenses incurred by Revinate shall be paid and reimbursed by Customer as described in Section 4.4, unless otherwise specified in a Service Order or Statement of Work.

4.4   Invoicing and Payment. Revinate shall invoice Customer for the recurring fees and all other fees, including but not limited to Usage Fees, One-Time Fixed Fees, Time and Material Basis Fees, and Expense Reimbursements, pursuant to the invoicing terms specified in Customer's Service Order. The parties acknowledge and agree that all fees payable by Customer to Revinate for Services shall be paid by Customer as payor to Revinate as payee via Revinate-initiated Automated Clearing House (ACH) debit transactions. Customer agrees to execute and deliver to Revinate any necessary documents to complete the foregoing as needed from time-to-time. Insufficient funds shall put your account into delinquent status. Revinate reserves the right to terminate Services at that time for nonpayment. A monthly late fee of 3% per month may be assessed on unpaid balances over 15 days past due. Revinate will not bill Customer's guests directly for requested reservations, activities, ticketing, or any other items purchased by guests. Customer acknowledges and agrees that Customer remains solely responsible for billing for such items and for collecting any required payments from guests.

4.5   Disputed Amounts. Any disputed charges must be presented by Customer to Revinate in writing within 10 days of invoice, and the parties agree to cooperate in good faith to promptly resolve any disputed invoice within five (5) days of Revinate' receipt of Customer's written notice of dispute. In the event Customer disputes any amounts invoiced by Revinate in good faith, the undisputed amount shall be paid when due, and only disputed amounts shall be withheld pending resolution of the dispute. If payment of a disputed amount has already been made at the time Customer provides notice of the disputed charge and later resolution of the dispute is in Customer's favor, a credit will be made by Revinate to Customer on the next invoice.

4.6   Fee Increases. Customer acknowledges and agrees that the fees described in Section 4.3 will automatically increase on the Contract Anniversary Date by the amount specified in Customer's Service Order.

4.7   Taxes. Customer shall be responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental entity on any amounts payable by Customer hereunder; provided, that, in no event shall Customer pay or be responsible for any taxes imposed on, or with respect to, Revinate's income, revenues, gross receipts, personnel or real or personal property or other assets.

5.   RESPONSIBILITIES OF CUSTOMER

5.1   Responsibilities. Customer shall:

(a)   Provide Revinate with such access to Customer's premises, hardware, software, devices, IT systems, and property management systems (collectively, "PMS") as may reasonably be requested by Revinate for the purposes of performing the Services;

(b)   Respond promptly to any Revinate request to provide direction, information, approvals, authorizations or decisions that are reasonably necessary for Revinate to perform Services in accordance with the requirements of this Agreement;

(c)   Provide, in a timely manner, such information as Revinate may reasonably request in order to carry out the Services, and ensure that such information is complete and accurate in all material respects;

(d)   Use the Services, Software, and Deliverables in accordance with all applicable laws and regulations;

(e)   Keep, maintain and insure any Revinate equipment leased by Customer or located at Customer's premises in good condition/in accordance with Revinate's instructions as

notified in writing from time to time, and shall not dispose of or use Revinate equipment other than in accordance with Revinate's written instructions or authorization;

(f)   Fulfill its technical responsibilities set forth in the Statement(s) of Work, if any; and

(g)   Be responsible for Customer's network issues and changes to Customer's computer environment, network, or PMS and notify Revinate sufficiently in advance of any changes that may affect the operation or provision of Revinate Services so that necessary adjustments can be made. Changes and/or upgrades to an existing PMS or conversion to a new PMS or other third-party system may result in additional fees if Revinate is required to provide integration services or other Professional Services to ensure continuity of Services for Customer's new, changed, or upgraded third party system.

5.2   Delays Caused by Customer. If Revinate' performance of its obligations under this Agreement is prevented or delayed by any act or omission of Customer or Customer's agents, subcontractors, consultants or employees, Revinate shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges or losses sustained or incurred by Customer, in each case, to the extent arising directly or indirectly from such prevention or delay.

6.   INDEPENDENT CONTRACTOR

The relationship of the parties is that of independent contractors. This Agreement is not intended to create and shall not be construed as creating between the parties a relationship of principal and agent, joint venturers, partners, employer-employee or any other similar relationship, the existence of which is hereby expressly denied, nor shall either party be considered in any sense an affiliate or subsidiary of the other. Revinate will be free from direction and control over the means and manner of providing the Services, subject only to the right of Customer to specify the desired results. Neither party shall have any authority to create or assume in the other party's name or on its behalf any obligation, expressed or implied, or to act or purport to act as the other party's agent or legally empowered representative for any purpose whatsoever, except as expressly provided for herein.

7.   INTELLECTUAL PROPERTY RIGHTS

7.1   Revinate Developments. Customer acknowledges and agrees that the Software and any Revinate Data are provided under license, and not sold, to Customer. Revinate shall own and retain all right, title, and interest in and to the Software, the Services, the Revinate Data, and any and all Revinate Developments (including without limitation the Deliverables), including all Intellectual Property Rights associated therewith, except as expressly granted to Customer in this Agreement.   To the extent Revinate uses Revinate Developments in the creation or development of the Deliverables, Revinate hereby grants to Customer and its successors and assigns a limited non-exclusive, non-transferable license to use such Revinate Developments solely in connection with Customer's use of the Deliverables, the Software, and the Services during the term of this Agreement. Customer shall use commercially reasonable efforts to safeguard all Software (including all copies thereof) from infringement, misappropriation, theft, misuse, modification, decompilation, reverse engineering, or unauthorized access. Customer shall promptly notify Revinate if Customer becomes aware of any infringement of Revinate's Intellectual Property Rights in the Software and fully cooperate with Revinate in any legal action taken by Revinate to enforce its Intellectual Property Rights. This Section shall survive termination or expiration of any Services, Product, or this Agreement.

7.2   Feedback. Customer grants Revinate the right to use Feedback provided by Customer or its Authorized Users.   Customer agrees information disclosed by Revinate during

discussions related to Feedback shall be considered Revinate Confidential Information. Customer grants to Revinate a non-exclusive, perpetual, irrevocable, worldwide, royalty-free license, without restriction, remuneration, or attribution of authorship to use, publish and disclose Feedback in any manner Revinate chooses and to display, perform, copy, make, have made, use, sell, and otherwise commercially exploit the Feedback in any manner and via any media that Revinate chooses without reference to the source. Customer acknowledges that Feedback disclosed to Revinate under this Agreement is only intended as suggestions and shall not be binding upon Revinate in any way.

7.3 **Trademarks and Publicity**. Customer hereby grants Revinate a worldwide right and license during the term of this Agreement to use, publish, and display Customer's name and marks for the purpose of marketing products and services to potential Revinate customers, subject to Customer's prior written approval of any such use, publication, or display. For example, Revinate may display Customer's logo on Revinate's website and in Revinate marketing materials solely for the purpose of identifying Customer as a customer of Revinate. Revinate's use of Customer's marks shall be in the same manner and quality of use as used by Customer and shall be subject to any written trademark usage guidelines or restrictions Customer provides to Revinate. The goodwill in any such use by Revinate shall accrue solely to Customer, or, as applicable, the legal rights-holder. Customer reserves the right to review and request Revinate not to use Customer's marks for a specific use hereunder. Notwithstanding the foregoing, any press release pertaining to this Agreement shall be subject to the prior written approval of both parties.

7.4 **Identification and Co-Branding.** Revinate may brand the Services. Customer's guests may be told that Revinate is providing the Services, provided, however, that all messages via the Guest Engagement Services shall be made by Revinate to appear as if they come directly from Customer.

Revinate and Customer agree that the Guest Engagement Services will be marketed to guests using the company names of both Customer and Revinate, that a minimum level of co-branding shall be part of the Services, and that all co-branding initiatives shall be consistent with the timing and content requirements set forth in Revinate's Co-Branding Guidelines.

In addition to the rights set forth in Section 7.3 above, Customer grants Revinate the limited right to make use of Customer's trademarks, brand names(s) and logos for the purposes of providing the Services and engaging in co-branding of same.

8. DATA OWNERSHIP AND RIGHTS

8.1 **Customer Data**. All Customer Data is the sole and exclusive property of Customer. Customer hereby grants to Revinate a limited right and license to use, create, modify, and copy the Customer Data only for the purpose of performing the Services and as otherwise expressly permitted herein. For the Guest Engagement Services, Revinate shall retain books and records accounting for the number of requests it receives from Customer's guests each month, the number of responses made, and the number of recommendations sent via email, text or other medium (individually, a "Record"). The most recent 250,000 Records shall be made available to Customer in electronic form only, consistent with the manner in which such Records are exported, upon fourteen (14) days prior written notice to Revinate at no additional cost.

8.2 **Revinate Data**. All Revinate Data is the sole and exclusive property of Revinate, even if Revinate provides Customer with access to such Revinate Data during the term of this Agreement by appending it to Customer Data in any Revinate Database. Revinate grants to Customer a limited revocable right and license to use the Revinate Data, as it is displayed in the Revinate Database, during the term of this Agreement for Customer's internal business purposes only.

8.3   Ownership of Content Received from Third Parties. Revinate gathers, stores, analyzes, displays and uses a variety of information, such as: (a) publicly available reviews and rankings posted on third party web sites, feedback and information provided by guests at Customer facilities, posts from social media sites and forums, news articles, blog posts, photos and videos, and (b) commercially available data regarding hospitality businesses and guest travel and hospitality trends, such as occupancy rates and rate metrics, marketing engagement data and guest travel information (collectively "Third Party Content"). Some Third Party Content is public information (such as online reviews) and other Third Party Content is proprietary to its creators (such as industry research data). Third Party Content may be owned by the people or entities that publish the content, or by other parties.

8.4   Personal Data Protection. Revinate will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer data processing by the Services ("Customer Data"). Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of Customer Data by Revinate personnel except: (a) to provide the Services, or (b) as Customer expressly permits in writing. Safeguards also include measures to comply with applicable laws regarding the processing of personal data, including the General Data Protection Regulation and California Consumer Privacy Act. When the Services involve processing of personal data regarding residents of the European Economic Area or California, Revinate's Data Protection Agreement located at **https://revinate.com/data-processing-addendum** is incorporated herein by reference.

8.5   Return of Customer Data. Upon termination for any reason of a Product that includes hosting by Revinate of Customer Data, Revinate will exercise commercially reasonable efforts to provide to Customer a copy, in such form and format reasonably requested by Customer, of Customer Data stored or hosted by Revinate in connection with the terminated Product, to the extent such Customer Data is readily accessible by Revinate.

9.   CONFIDENTIALITY AND NON-SOLICITATION

9.1   Definition. "**Confidential Information**" means any information that either party (the "**Disclosing Party**") discloses to the other party (the "**Receiving Party**") or that the Receiving Party otherwise learns or acquires in connection with the parties' performance under this Agreement that the Disclosing Party designates as confidential or which Receiving Party should reasonably know is confidential due to the nature of the information or the circumstances surrounding its disclosure, whether such information is of a technical, business or other nature, and regardless of form or media now known or later developed. Confidential Information includes, without limitation, (a) information regarding third parties which the Disclosing Party is obligated to keep confidential, (b) information or data relating to Disclosing Party's business and technology, including by way of example and without limitation information concerning current or proposed projects, concepts, ideas, business models, processes, methods, trade secrets, know-how, inventions, discoveries, designs, technical specifications, source code, documents, marketing plans, sales information, strategies, financial information, and customer and supplier identities. Confidential Information may be contained in tangible materials, such as documents, drawings, reports and computer programs, or may be in the nature of unwritten information that is disclosed orally or merely observed. Confidential Information excludes any information that Receiving Party demonstrates (i) is or becomes generally known or available to the public through no failure on the Receiving Party's part to preserve its confidentiality; (ii) is already in the possession of the Receiving Party, with no obligations of confidentiality, at the time of disclosure; (iii) is disclosed to the Receiving Party by a third party who has the right to disclose it without restriction on its further disclosure or use; or (iv) is independently developed by the Receiving Party without use of or reference to any of the Disclosing Party's Confidential Information. Confidential Information of Customer includes, without limitation, the Customer Data.

9.2   Restrictions on Use and Disclosure.   Except as expressly permitted by this Agreement, Receiving Party will not, during or subsequent to the term of this Agreement use the Confidential Information for any purpose whatsoever other than the performance of its obligations under this Agreement or disclose the Confidential Information to any third party except with Disclosing Party's prior written permission; provided, however, that Receiving Party may disclose the Confidential Information on a need-to-know basis to those employees, consultants, suppliers, and other agents and representatives of Receiving Party who (a) require access to such Confidential Information for the purpose of performing Receiving Party's obligations under this Agreement; (b) are informed by Receiving Party of the confidential nature of such Confidential Information and the obligations of Receiving Party under this Agreement; and (c) have executed written restricted nondisclosure agreements with Receiving Party containing restrictions on use and further disclosure consistent with the terms of this Section 9.   Receiving Party shall be responsible for any breach of this Agreement by its agents or representatives.   Receiving Party agrees to take reasonable precautions to prevent any unauthorized disclosure, access, or use of Confidential Information, including implementing reasonable technical, administrative, and physical safeguards.

9.3   Disclosure Required by Law.   This Section 9 will not be construed to prohibit disclosure of Confidential Information to the extent that such disclosure is required by law or valid order of a court or other governmental authority; provided, however, that if Receiving Party is subpoenaed or otherwise compelled by valid law or a court order to disclose Confidential Information, prior to disclosure, Receiving Party shall first give prompt written notice to Disclosing Party of the receipt of any subpoena or other request for such disclosure sufficiently in advance to permit Disclosing Party to contest the subpoena or requested disclosure and/or seek a protective order requiring that the Confidential Information so disclosed be used only for the purposes for which the order was issued; and provided further that Receiving Party shall provide Disclosing Party with reasonable assistance with any such action.

9.4   Notification Obligations.   Receiving Party will promptly notify Disclosing Party if Receiving Party becomes aware of any unauthorized disclosure or use of Confidential Information of the Disclosing Party and will cooperate with Disclosing Party to assist it in regaining possession of the Confidential Information and to prevent its further unauthorized disclosure or use.

9.5   Ownership.   Receiving Party agrees that all Confidential Information is and will remain the sole exclusive property of Disclosing Party or the applicable third party, as the case may be.

9.6   Return or Destruction.   Upon any written request from Disclosing Party, Receiving Party shall promptly return or destroy all copies of Confidential Information (including backups, summaries, and excerpts) in its possession or control, and within ten (10) business days of Disclosing Party's request, certify in writing to Disclosing Party that such return or destruction has been completed.   Notwithstanding the foregoing, nothing in this section shall require the return or destruction of any Confidential Information: (a) deemed necessary to comply with any obligations under applicable law, reasonable corporate governance requirements or other contractual requirements; or (b) that cannot reasonably be returned, destroyed or deleted, such as oral communications reflecting Confidential Information, email and standard backup systems. The receiving party shall: (x) continue to extend the protections of this section to such Confidential Information and limit further use and disclosure of such Confidential Information to those purposes that make the return or destruction of such Confidential Information infeasible, and (y) comply with the preceding paragraph as soon as permitted under applicable laws or recipient's internal record retention policy.

9.7   Use of Aggregate Data. Notwithstanding the restrictions set forth in this Section 9, during and after the term of this Agreement, Revinate may retain, use, and disclose Aggregate Data derived using the Customer Data in accordance with Revinate's DPA.

9.8   Non-Solicitation. During the term of this Agreement and continuing for 12 months after the termination of this Agreement, neither party shall directly or indirectly, for its own account or for the account of others, urge, induce, entice, or in any manner whatsoever solicit any employee directly involved in the activities conducted pursuant to this Agreement to leave the employment of the other party or any of its affiliates. For purposes of the foregoing, urge, induce, entice or solicit shall not be deemed to mean: (a) circumstances where an employee of a party initiates contact with the other party or any of its affiliates with regard to possible employment; or (b) general solicitations of employment not specifically targeted at employees of a party or any of its affiliates, including responses to general advertisements.

10.   TERM AND TERMINATION

10.1   Term of this Agreement. This Agreement shall commence as of the later signature date set forth in Customer's initial Service Order and shall continue thereafter until completion of all Services, unless sooner terminated in accordance herewith.

10.2   Term of Products. The Initial Term for each Product purchased by Customer shall commence for billing and all other purposes on the Contract Start Date specified in the Statement of Work associated with Customer's Service Order. The term for each Product shall automatically renew on the Contract Anniversary Date for successive renewal terms that are of equal duration to the Initial Term, unless otherwise stated in Customer's Service Order, or unless either party indicates in writing its intention not to renew such Product at least ninety (90) days before the end of the then-current Initial Term or renewal term, as the case may be. For example, if Customer's Contract Start Date is January 15th, and the Initial Term is 24 months, the Term for each Product set forth in Customer's Service Order will automatically renew on January 15th two years later.

10.3   Termination for Cause. Either party may terminate this Agreement, effective upon written notice to the other party if the other party breaches this Agreement, and such breach is incapable of cure, or with respect to a breach capable of cure, the breaching party does not cure such breach within thirty (30) days after receipt of written notice of such breach. Notwithstanding the foregoing, the cure period shall be five (5) days for any violation by a party of the other party's intellectual property rights hereunder, or any breach by a party of its confidentiality obligations set forth in Section 9.

10.4   Termination Due to Insolvency. Revinate may terminate this Agreement, effective upon written notice to Customer, if Customer becomes insolvent or admits its inability to pay its debts generally as they become due; (i) becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, which is not fully stayed within seven (7) business days or is not dismissed or vacated within 45 days after filing; (ii) is dissolved or liquidated or takes any corporate action for such purpose; (iii) makes a general assignment for the benefit of creditors; or (iv) has a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

10.5   Termination for Nonpayment. Revinate may terminate this Agreement, effective upon written notice to Customer, if Customer has failed to pay any undisputed amounts when due hereunder within ten (10) calendar days of written notification that payment has not been received.

10.6   Termination of Contracting Affiliate or Primary Contracting Entity. In the event this Agreement is terminated by a Contracting Affiliate, or terminated by Revinate due to nonpayment by a Contracting Affiliate of amounts due under Section 4 or due to an event described in Section 10.4 affecting only a Contracting Affiliate, such termination shall be effective only with respect to such Contracting Affiliate and Service Orders to which it is a party, and this Agreement shall continue in full force and effect with respect to the Primary Contracting Party and all other Contracting Affiliates. In the event this Agreement is terminated by Revinate for any other reason, or by the Primary Contracting Party, unless such termination is with respect to a Product pursuant to Section 10.2, this entire Agreement together with all Service Orders will terminate with respect to the Primary Contracting Party and all Contracting Affiliates.

10.7   Other Rights of Termination. The rights of termination provided in this Section 10 are in addition to, and not in lieu of, any other rights of termination described elsewhere in this Agreement.

10.8   Effect of Termination; Survival. Upon termination by Customer of any Product(s) prior to the end of the Initial Term or any renewal term for such Product(s) as described in Section 10.2, Customer shall pay to Revinate the amount that would have been due and payable by Customer for such Product(s) through the end of the Initial Term or any renewal term, as the case may be, pursuant to Section 4. Such amount shall be calculated using the greater of (i) the recurring fee paid by Customer at the beginning of the then applicable Term, or (ii) the recurring fee paid by Customer at the time of termination of the Product(s). In addition, upon termination of this Agreement for any reason (a) any payment obligations of Customer will immediately become due and payable, (b) all rights and obligations of the parties under this Agreement including any license grants shall immediately terminate except as expressly provided herein, and (c) each party shall return to the other all property and Confidential Information of the other party in its possession or control, subject to Section 9.6. The termination of this Agreement, regardless of how it occurs, will not relieve Customer of any obligations that have accrued prior to termination, including payment obligations. Where the context, nature, or express terms of any provision indicates intent that it shall survive the term or termination or expiration of this Agreement, then it shall survive the same. This includes, but is not limited to, the following provisions of these General Terms: Section 7 (Intellectual Property), Section 8 (Data Ownership and Rights), Section 9 (Confidentiality and Non-Solicitation), Section 12 (Limitations of Liability), and Section 13 (Indemnification).

11.   REPRESENTATIONS AND LIMITED WARRANTY

11.1   Limited Warranty. Revinate warrants that the Services will be performed in a professional and workman-like manner by qualified personnel with the requisite skills and training.

11.2   Exclusive Remedy. Revinate' sole obligation, and Customer's exclusive remedy for any breach by Revinate of the foregoing warranty, will be that Revinate shall use commercially reasonable efforts to cure the breach in a timely manner. If, in Revinate' sole judgment, curing the breach is not commercially feasible, Revinate shall credit Customer for fees paid by Customer for the Services during the affected period of time, in proportion to the extent that the Services were impaired.

11.3   Authority. Each of Revinate and Customer represents and warrants that: (a) it has the full right, power and authority to enter into and perform this Agreement; (b) the person signing this Agreement on its behalf is a duly authorized representative of such party who has in fact been authorized to execute this Agreement; (c) its entry herein does not violate any other agreement by which it is bound; (d) it is a legal entity in good standing in the jurisdiction of its formation, and (e) it will comply with all applicable laws, ordinances, rules, regulations, directives and guidelines applicable to Revinate' provision and Customer's use of the Services (collectively "Laws") including, without limitation, all data privacy and processing Laws.

11.4   Guest Information. Each Customer that uses Revinate's guest-facing Services represents and warrants to Revinate that it has authority from its guests and prospective guests to provide to Revinate the names, email addresses, telephone numbers and other information of such guests and prospective guests in order to provide those Services.

12.   LIMITATIONS OF LIABILITY

12.1   No Liability for Security Incidents Caused By Customer. Revinate shall have no liability or obligation to indemnify Customer with respect to any Security Incident to the extent caused by any act or omission of Customer or Customer's employees, contractors (excluding Revinate), or agents, including without limitation (a) their loss of control of any device, (b) their failure to maintain the confidentiality of their log-in credentials, (c) their transmission of data via methods that are not secure, (d) any vulnerability in their environment, systems, hardware, software, or physical or administrative security safeguards or procedures, or (e) their use of the Revinate Software for storage or transmission of PCI Data or other Sensitive Data in violation of Section 3.16, or (f) their failure or delay in installing any Update to an installed Application, if applicable, that Revinate has made available.

12.2   Guest Engagement Services. Customer acknowledges that the Guest Engagement Services constitute a communications tool designed to assist Customer in responding to requests and needs of Customer's guests in a friendly, efficient, and time-saving manner and that the Services provide a platform for such communications. Customer further acknowledges that the Services and Revinate do not make decisions or take actions in response to guest communications and that all such decisions and actions are made or taken or as directed by Customer who shall be solely responsible for responding to guest communications. Revinate cannot and does not guarantee availability of Authorized Users to respond to guest communications and Revinate shall not be responsible or have any liability for any decisions and actions of such parties or for the failure of such parties to respond or take action in response to guest communications. Customer further agrees that Revinate shall have no liability for any outcomes or experiences of Customer's guests, including but not limited to injury, harm or loss claimed to be suffered by a guest that involves or relates in any way to the Guest Engagement Services or the use thereof by Customer.

12.3   Guest Consent. Customer is responsible for obtaining guest consent for communications sent by the Guest Engagement Services and certifies that all guest data provided to Revinate is compliant with regulations promulgated by the Federal Communications Commission ("FCC"). Customer further acknowledges that it will use the Guest Engagement Services in a manner compliant with FCC, Telephone Consumer Protection Act of 1991, and other relevant regulations.   Customer also agrees to follow Revinate Best Practices when communicating with guests.

12.4   Third Party Services. Customer acknowledges and agrees that certain Services operate on or with or using APIs and/or other services operated or provided by third parties ("Third Party Services"). Revinate is not responsible for, and shall have no liability, in contract, tort, strict liability or otherwise, for any damages, including but not limited to loss of revenue, anticipated profits, business or sales, caused by or on account of the operation of any Third Party Services or the availability or operation of the Services to the extent such availability and operation is dependent upon Third Party Services. Customer is solely responsible for procuring any and all rights necessary to access Third Party Services and for complying with the applicable terms or conditions thereof. Revinate does not make any representations or warranties with respect to Third Party Services or any third-party providers. Any exchange of data or other interaction between Customer and a third-party provider is solely between Customer and such third party provider and is governed by such third party's terms and conditions

12.5   DISCLAIMER OF WARRANTIES. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, REVINATE MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COMPATIBILITY, SECURITY, ACCURACY, OR ANY IMPLIED WARRANTIES ARISING OUT OF THIS AGREEMENT. REVINATE DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS ARISING FROM CUSTOM OR TRADE USAGE OR FROM COURSE OF DEALING OR PERFORMANCE. WITHOUT LIMITATION TO THE FOREGOING, REVINATE PROVIDES NO WARRANTY OR UNDERTAKING, AND MAKES NO REPRESENTATION OF ANY KIND THAT THE SERVICES OR THE SOFTWARE WILL MEET CUSTOMER'S REQUIREMENTS, ACHIEVE ANY INTENDED RESULTS, BE COMPATIBLE OR WORK WITH ANY OTHER SOFTWARE, APPLICATIONS, SYSTEMS OR SERVICES, OPERATE WITHOUT INTERRUPTION, MEET ANY PERFORMANCE OR RELIABILITY STANDARDS, OR BE PROVIDED ERROR FREE, UNINTERRUPTED, SECURE, OR VIRUS-FREE, OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED.

12.6   NO LIABILITY FOR CONSEQUENTIAL DAMAGES. IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES, OR ANY OF THEIR RESPECTIVE LICENSORS OR SERVICE PROVIDERS, BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY UNDER ANY THEORY OR CAUSE OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE, FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE SERVICES, OR THE SOFTWARE, INCLUDING, BUT NOT LIMITED TO, INTERRUPTED COMMUNICATIONS, LOSS OR CORRUPTION OF DATA, USE OF CONTENT POSTED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE VIA THE SERVICES, OR LOST REVENUE OR PROFITS, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY IN THIS AGREEMENT.

12.7   LIABILITY CAP. AT NO TIME SHALL THE CUMULATIVE LIABILITY OF EITHER PARTY, TOGETHER WITH ITS DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, AGENTS, AND REPRESENTATIVES, TO THE OTHER PARTY FOR ALL CLAIMS OR DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT IN ANY WAY, UNDER ANY THEORY OF LIABILITY, EXCEED THE TOTAL AMOUNT OF ALL FEES PAID TO REVINATE BY CUSTOMER UNDER THIS AGREEMENT DURING THE SIX-MONTH PERIOD IMMEDIATELY PRECEDING THE ACCRUAL OF THE MOST RECENT CLAIM. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, NEITHER THE LIABILITY CAP IN THIS SECTION 12.7, NOR THE LIMITATIONS OF LIABILITY IN THIS SECTION 12, SHALL APPLY TO OR LIMIT: (I) EITHER PARTY'S INDEMNITY OBLIGATIONS UNDER THIS AGREEMENT (WHETHER CONTAINED IN THESE GENERAL TERMS OR ELSEWHERE), (II) EITHER PARTY'S LIABILITY ARISING FROM ITS BREACH OF SECTION 9 (CONFIDENTIALITY), OR (III) CUSTOMER'S LIABILITY ARISING FROM USE OR DISTRIBUTION OF THE SOFTWARE, SERVICES, OR REVINATE DATA IN VIOLATION OF THE EULA OR OTHERWISE OUTSIDE THE SCOPE OF THE LICENSES GRANTED HEREUNDER, OR CUSTOMER'S OTHER INFRINGEMENT, MISAPPROPRIATION, OR VIOLATION OF REVINATE'S INTELLECTUAL PROPERTY RIGHTS.

12.8   Contracting Affiliate Arrangements. If this Agreement is part of a Contracting Affiliate arrangement, the foregoing terms form a single limit of liability among Revinate, the Primary Contracting Party, and all Contracting Affiliates that have executed a Service Order with Revinate pursuant to such arrangement, regardless of whether the Contracting Affiliates are identified on a single Service Order or multiple Service Orders, and regardless of whether the Service Orders are signed by a single party or multiple entities. The existence of more than one claim, or the same claim by the Primary Contracting Party and multiple Contracting Affiliates will not increase the foregoing limits.

12.9   APPLICABILITY. THE LIMITATIONS AND DISCLAIMERS SET FORTH IN THIS AGREEMENT SHALL APPLY WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS, EVEN IF REVINATE OR CUSTOMER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE, AND EVEN IF THE REMEDIES UNDER THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE. THE FOREGOING LIMITATIONS OF LIABILITY WILL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION.

12.10   Bargained For Allocation of Risk. Customer acknowledges that the limitations of liability contained in this Agreement are an essential element of the Agreement between the parties and that in the absence of such limitations, the pricing and other terms set forth in this Agreement would be substantially different.

13.   INDEMNIFICATION

13.1   Mutual Indemnification Obligations. Each party will indemnify, defend, and hold harmless the other party and its parents, subsidiaries, affiliates, officers, directors, employees, consultants, representatives, and agents from and against all liabilities, losses, damages, injuries, harm, expense, expenditure and disbursement of every nature (including, without limitation, costs of investigation, travel expenses, and value of time expended by personnel), fines, fees, costs, and expenses of litigation, including, without limitation, reasonable attorneys' fees incident to any of the foregoing (collectively, "**Losses**") that result from the grossly negligent, reckless, or intentionally wrongful acts or omissions of such indemnitor or its employees or agents.

13.2   Revinate's Indemnification Obligations. Revinate will indemnify, defend, and hold harmless Customer, its parents, subsidiaries, affiliates, officers, directors, employees, consultants, representatives, and agents from and against all Losses resulting from any claim, suit, action or proceeding brought, instituted, asserted, or threatened by a third party alleging that Revinate's Services or Software infringe, misappropriate, or violate a third party's Intellectual Property Rights. Notwithstanding the foregoing, Revinate shall have no obligation to indemnify, defend, or hold harmless Customer from or against Losses arising from (a) Customer's combination, operation or use of the Services, Software, or Deliverables provided by Revinate with technology, content, data or other materials not supplied by Revinate if the Losses would have been avoided by use of other technology, content, data or other materials ("**Customer Combinations**"); or (b) modifications to Services, Software, or Deliverables made by or on behalf of Customer or at Customer's request ("**Customer Modifications**").

13.3   Customer's Indemnification Obligations. Customer will indemnify, defend, and hold harmless Revinate and its parents, subsidiaries, affiliates, officers, directors, employees, consultants, representatives, and agents from and against all Losses resulting from (a) any claim, suit, action or proceeding that is brought, instituted, asserted, or threatened by a third party alleging that any Customer Data, Customer Combinations, or Customer Modifications infringe, misappropriate, or violate a third party's Intellectual Property Rights; (b) any information Customer or any user submits, posts, or transmits through the Services or any other act or omission of Customer or any user in connection with the Services; (c) Customer's or any user's grossly negligent use or intentional misuse of the Services; (d) Customer's or any user's breach of its material obligations under this agreement; (d) Customer's or any user's violation of any rights of any other person or entity arising out of or related to the use of the Services; or (e) that results from Customer's use of the Revinate Software in violation of Section 3.16 to store or transmit PCI Data or other Sensitive Data, including without limitation Losses arising from breach or unauthorized access, use, or disclosure of any such PCI Data or other Sensitive Data, such as costs of notifying affected individuals or providing identity theft monitoring or protection services if and only to the extent required by applicable law or any judgment or settlement.

13.4   Additional Indemnification Obligations. The indemnification obligations set forth in Section 13.1 through 13.3 of these General Terms are in addition to any other indemnification obligations set forth in any other part of this Agreement. All indemnification obligations set forth in this Agreement, whether in these General Terms or elsewhere, shall be subject to the procedures set forth in Sections 13.5, 13.6, and 13.7 below.

13.5   Conditions to Indemnification. The obligations set forth in this Section shall apply only if the indemnitee (a) notifies the indemnitor in writing of a claim promptly upon learning of or receiving the same and (b) provides the indemnitor with reasonable assistance requested by the indemnitor, at the indemnitor's expense, for the defense and settlement, if applicable, of any claim. The indemnitee's failure to perform any obligations or satisfy any conditions under this Section shall not relieve the indemnitor of its obligations hereunder except to the extent that the indemnitor can demonstrate that it has been materially prejudiced as a result of such failure.

13.6   Control of Defense. After receipt of notice, the indemnitor shall be entitled, if it so elects, at its own cost, risk and expense: (a) to take control of the defense, investigation, and compromise or settlement, if applicable, of such lawsuit or action; and (b) to employ and engage attorneys of its own choice to handle and defend the same. If the indemnitor fails to assume the defense of such claim within ten (10) business days after receipt of notice of the claim, the indemnitee against which such claim has been asserted will (upon delivering notice to such effect to the indemnitor) have the right to undertake, at the indemnitor's cost and expense, the defense, compromise or settlement of such claim on behalf of and for the account and risk of the indemnitor; provided, however that such claim shall not be compromised or settled without the written consent of the indemnitor. In the event the indemnitee assumes the defense of the claim, the indemnitee will keep the indemnitor reasonably informed of the progress of any such defense, compromise or settlement. Notwithstanding the foregoing, the indemnitee shall be entitled to conduct its own defense at the cost and expense of the indemnitor if the indemnitee establishes that the conduct of its defense by the indemnitor would reasonably be likely to prejudice materially the indemnitee due to a conflict of interest between the indemnitee and the indemnitor; and provided further that in any event, the indemnitee may participate in such defense at its own expense.

13.7   Relationship to Insurance. The parties' rights and liabilities hereunder are for the benefit of the indemnified parties, their heirs and their legal representatives, and are not intended to relieve a primary insurer of its coverage obligations.

14.   AMENDMENTS, SERVICE ORDERS, PRIORITY

14.1   Additional Service Orders. Additional Services may be added to this Agreement by execution of a new Service Order. In order to be effective, a Service Order must be signed by authorized representatives of both parties.

14.2   Changes to These General Terms. Revinate may amend this Agreement from time to time, including the EULA and DPA referenced via hyperlink herein, by posting an amended version at its website and providing Customer notice thereof. Such amendment will be deemed accepted and become effective 30 days after such notice (the "Proposed Amendment Date"). However, if Customer gives Revinate written notice of rejection of the amendment prior to the Proposed Amendment Date, this Agreement will continue under its original provisions, and the amendment will become effective at the start of the next term. Revinate reserves the right to modify, suspend, or discontinue the Services upon notice to Customer. Revinate shall not be liable should Revinate exercise its right to modify, suspend, or discontinue the Services. If, however, Revinate discontinues the Services, Revinate will refund to Customer any subscription fees Customer has prepaid for the period after which Revinate has discontinued the Services.

14.3   Other Amendments. Except as expressly provided above, any amendment to this Agreement must be in writing and signed by both parties.

14.4   Order and Priority. The provisions of this Agreement shall be interpreted, whenever reasonable, to be consistent with each other and so that all provisions remain in full force and effect. Whenever such interpretation is not reasonable, and there is a conflict or inconsistency between the various parts of this Agreement, the parts of this Agreement shall control and govern in the following order and priority: (a) the applicable Service Order; (b) these General Terms, (c) the EULA; (d) the applicable Product Specific Terms, if any; and (e) our DPA.

15.   EXPORT REGULATION

The Software and Services, including without limitation the Deliverables and the Revinate Data, may be subject to US export control laws, including the US Export Administration Act and its associated regulations. Customer shall not, directly or indirectly, export, re-export or release the Software to, or make the Software accessible from, any jurisdiction or country to which export, re-export or release is prohibited by law, rule or regulation. Customer shall comply with all applicable federal laws, regulations and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing or otherwise making the Services or the Software available outside the US.

16.   GENERAL

16.1   Entire Agreement. This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof, and supersedes in their entirety any and all prior or contemporaneous agreements, representations, statements, and negotiations regarding the subject matter hereof, either written or oral.

16.2   Waiver. No waiver of any breach or default shall constitute a waiver of any subsequent breach or default, nor shall any delay or omission on the part of either party to exercise or avail itself of any right or remedy that it has or may have hereunder, operate as waiver of any right or remedy.

16.3   Remedies Cumulative. Except as otherwise provided in this Agreement, all remedies provided for in this Agreement will be cumulative and in addition to, and not in lieu of, any other remedies available to either party at law, in equity or otherwise.

16.4   Severability. If any provision of this Agreement is adjudicated invalid or unenforceable, this Agreement will be amended to the minimum extent necessary to achieve, to the maximum extent possible, the same legal and commercial effect originally intended by the parties. To the extent permitted by applicable law, the parties waive any provision of law that would render any clause of this Agreement prohibited or unenforceable in any respect.

16.5   Governing Law and Venue. This Agreement shall be governed by the laws of the State of California, United States of America, notwithstanding any choice of law rules of any jurisdiction that would cause the application of another jurisdiction's laws or rules. This Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods or the Uniform Computer Information Transactions Act. Any legal action relating to this Agreement must be brought in the federal or state courts in San Francisco County, California, U.S.A., and the parties agree to the exercise of jurisdiction by such courts.

16.6   Arbitration. In the event of a dispute between the Parties arising out of or relating to this Agreement, the Parties agree that final, binding arbitration shall be the exclusive means of resolving such disputes. Specifically, the Parties agree that all disputes or claims of any nature whatsoever arising out of or related to this Agreement, or the breach thereof, shall be resolved by final, binding arbitration before a single arbitrator administered in accordance with the rules of the American Arbitration Association ("AAA") in San Francisco County, California. The arbitrator

shall have the authority to finally resolve all matters, including arbitrability, shall have the authority to award any and all available remedies, including legal and equitable relief, and shall decide all disputes in accordance with California law without regard to its conflict of laws rules. The parties may apply to any court of competent jurisdiction for a temporary restraining order, preliminary injunction, or other interim or conservatory relief, as necessary, without breach of this arbitration agreement and without any abridgment of the powers of the arbitrator. The prevailing Party will be entitled to receive from the non-prevailing Party all costs, damages and expenses, including reasonable attorneys' fees, incurred by the prevailing Party in connection with the action or proceeding, whether or not the controversy is reduced to judgment or award. Judgment on the award may be entered in any court having jurisdiction. The Parties agree that the arbitration proceeding, and all matters addressed at arbitration, shall be maintained in strict confidence and shall not be disclosed for any purpose. The Parties choose arbitration because it is usually less expensive and quicker than litigation, and it will allow the Parties to resolve their disputes privately.

16.7 Equitable Remedies. The parties agree that any material breach of this Agreement by either party or its directors, officers, employees, affiliates, agents, advisers, attorneys, accountants, consultants, bankers, or other representatives may cause immediate and irreparable harm, for which monetary damages would be inadequate or difficult to ascertain. The parties therefore agree that, notwithstanding Section 16.6, upon the existence of any such breach or threatened breach, the non-breaching party may immediately seek a temporary restraining order or other appropriate form of equitable relief, without posting a bond or other form of security, either before or after arbitration is commenced, from the state courts sitting in San Francisco County, California or the U.S. District Court for the District of California, and the parties hereby waive any claim or defense that such forum is not convenient or proper. Each party hereby agrees that any such court shall have personal jurisdiction over it and consents to service of process in any manner authorized by California law. This paragraph will not limit either party's rights to obtain monetary damages in addition to or as substitution for such equitable relief.

16.8 Expenses. Each party shall bear any and all costs and expenses incurred by it in the performance of, or in connection with, the performance of this Agreement, unless expressly otherwise agreed upon by the parties.

16.9 Notices. Except as described in Section 14, all notices permitted or required under this Agreement shall be in writing and shall be by personal delivery, nationally recognized overnight courier service, facsimile or electronic transmission, or by certified or registered mail, return receipt requested, and shall be deemed given (a) upon personal delivery to the party to be notified, whether by hand delivery or by courier, (b) three (3) days after deposit in the mail, postage prepaid, or (c) the day such notice or communication is faxed or sent electronically, provided that the sender has received a confirmation of such fax or electronic transmission. Notice to Customer shall be delivered to the address for legal notices set forth in the most recent Service Order or the Customer Contact Information Sheet attached thereto. Notice to Revinate shall be delivered to Attn: Contracts Administrator, Revinate, 389 SW Scalehouse Ct., Bend, OR 97702, with copies addressed to Revinate's Chief Financial Officer delivered to the same street address, and to Revinate's Chief Executive Officer delivered to 2345 Yale Street, First Floor, Palo Alto, CA 94306. Any notice delivered by electronic transmission shall be sent to legal@revinate.com. Notwithstanding the foregoing, either party may designate an updated address for receipt of notices hereunder by providing notice of such updated address to the other party.

16.10   Assignment. Neither party may assign or otherwise transfer its rights or delegate its duties under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed, and any attempt to do so without consent shall be void. Notwithstanding the foregoing, either party may assign its rights and obligations under this Agreement to a purchaser of all or substantially all of the outstanding capital stock or assets of such party or the surviving entity in a merger, reorganization, or other business combination involving such party, provided that notice of such assignment is given in advance to the non-assigning party and the surviving or acquiring company has agreed in writing to be bound by the terms of this Agreement. Subject to the foregoing limitations, this Agreement shall inure to the benefit of and be binding upon the parties, their successors and permitted assigns.

16.11   Third-Party Beneficiaries. The parties do not intend to confer any right or remedy to any third party.

16.12   Force Majeure. Any delay in the performance of any duties or obligations of either party (except the payment of money owed) shall not be considered a breach of this Agreement if the delay is caused by a labor dispute, shortage of materials, fire, earthquake, flood, pandemic, or any other event beyond the control of the party if the party uses reasonable efforts, under the circumstances, to notify the other party of the circumstances causing the delay and to resume performance as soon as possible.

16.13   Construction; Interpretation. This Agreement is the result of negotiations between and has been reviewed by each of the parties hereto and their respective counsel, if any; accordingly, this Agreement shall be deemed to be the product of all of the parties hereto, and no ambiguity shall be construed in favor of or against any one of the parties hereto. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter hereof. Headings contained in this Agreement are for convenience of reference only and do not form part of this Agreement. A word importing the singular includes the plural and vice versa. Gendered pronouns are used for convenience and are intended to refer to the masculine or feminine, as applicable. The word "including" shall be interpreted to mean "including without limitation".

16.14   Counterparts; Electronic Transmission. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.