

## MASTER SUBSCRIPTION AGREEMENT

**“Agreement Version Date”**: July 19, 2022

This Master Subscription Agreement (this **“Agreement”**) between the entity or individual using or receiving Absolute’s Products or Services (**“Customer”**) and the applicable Absolute entity as provided in accordance with Section 13.4 hereof is effective as of the commencement date of the first Subscription Term following the Agreement Version Date or the date Customer accepts the terms of this Agreement, whichever is earlier (the **“Effective Date”**). Order Forms entered into before the Agreement Version Date will continue to be subject to the applicable prior agreement between Customer and Absolute governing Customer’s use of Absolute’s Products and Services. An archive of certain prior versions of Absolute’s online agreements is available at <https://www.absolute.com/company/legal/agreements/absolute/archived-agreement>.

BY CLICKING THE BUTTON “AGREE”, “I ACCEPT”, OR OTHERWISE INDICATING ACCEPTANCE, BY DOWNLOADING OR INSTALLING ANY SOFTWARE OR REGISTERING OR USING THE HOSTED SERVICE, SERVICES OR THE PRODUCTS, CUSTOMER AGREES TO ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, INCLUDING ANY APPLICABLE ADDENDA. IF THE INDIVIDUAL AGREEING TO THIS AGREEMENT IS DOING SO ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, SUCH INDIVIDUAL REPRESENTS THAT THEY HAVE THE AUTHORITY TO BIND SUCH COMPANY OR OTHER LEGAL ENTITY TO THE TERMS OF THIS AGREEMENT. IF CUSTOMER DOES NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, CUSTOMER MUST CLICK THE BUTTON THAT INDICATES THAT IT DOES NOT ACCEPT THE TERMS OF THIS AGREEMENT, AND CUSTOMER MAY NOT DOWNLOAD, INSTALL, OR USE ANY PRODUCT.

### **1. DEFINITIONS**

**“Absolute”** has the meaning set forth in Section 13.4.

**“Absolute IP”** has the meaning set forth in Section 6.1.

**“Addenda”** means, collectively, the addenda applicable to certain Products or Services, available at <https://www.absolute.com/company/legal/agreements/absolute/product-and-services-addenda> as may be updated from time to time by Absolute (each, an **“Addendum”**).

**“Affiliate”** means, with respect to a party, any entity that controls, is controlled by, or which is under common control with, such party, where “control” means ownership of at least fifty percent (50%) of the outstanding voting shares of the entity, or the contractual right to establish policy for, and manage the operations of, the entity.

**“Authorized User”** means an employee, agent or contractor authorized by Customer and/or its Affiliates to access, use, download, deploy, or install the Products.

**“Customer Data”** means data submitted by Customer via the Hosted Service or collected by the Software from the Devices and transmitted to the Hosted Service.

**“Devices”** means a device on which the Software is installed.

**“Documentation”** means the manuals, documentation, and similar materials that Absolute provides or makes available to Customer that describe the functionality, features or requirements of the Products, as updated from time to time.

**“Fees”** has the meaning set forth in Section 5.1.

**“Fixes”** has the meaning set forth in Section 4.3.

**“Hosted Service”** means Absolute’s software-as-a-service applications or platforms, including any add-on features, provided to Customer under this Agreement pursuant to an Order Form, as further described in applicable Addenda.

**“Order Form”** means an ordering document for Products or Services. Order Forms may be entered into by Customer either directly with Absolute or with a Reseller.

**“Personal Data”** has the meaning given to such term in the Data Processing Addendum, available at <https://www.absolute.com/company/legal/agreements/absolute/data-processing-addendum>.

**“Products”** means, collectively, the Hosted Service, Software, and any deliverables from the Services that Absolute makes available to Customer under this Agreement and an Order Form.

**“Professional Services”** means any implementation, training, custom support, or other professional services provided to Customer pursuant to an Order Form or statement of work, as further described in the Professional Services Addendum, available at <https://www.absolute.com/company/legal/agreements/absolute/professional-services-addenda>.

**“Reseller”** means an authorized reseller or distributor of the Products and/or Services.

**“Services”** means the Professional Services, Support Services, or other services provided to Customer pursuant to an Order Form, as further described in applicable Addenda specific to such other services.

**“Software”** means any downloadable software provided by Absolute to Customer under this Agreement pursuant to an Order Form, including any such software pre-installed on Customer’s Device(s), as further described in applicable Addenda.

**“Subscription”** means Customer’s right, during the Subscription Term, to possess, use and/or access, Software or the Hosted Service (as applicable), as set forth in the applicable Order Form.

**“Subscription Term”** means the term of the Subscription, as set forth in the applicable Order Form.

**“Support Services”** has the meaning set forth in Section 4.2.

**“Support Services Policy”** means Absolute’s support services policy for a Product, if any, as further described in an applicable Addendum.

**“Third Party Products”** means third party software and services made available to Customer in conjunction with Absolute’s provision of the Products. A current list of Third Party Products can be found at <https://www.absolute.com/company/legal/third-party-software/>.

## 2. AGREEMENT SCOPE; ORDERS; AFFILIATES

2.1 Master Agreement. This Agreement is a master agreement governing the Products and/or Services purchased by Customer in an Order Form. Customer's use of or access to certain Products or receipt of Services may be subject to one or more Addenda.

2.2 Reseller Orders. Customer may enter into an Order Form with a Reseller for the purchase of Products or Services governed by this Agreement. Where Customer purchases Products or Services through a Reseller, the Reseller and Customer will enter into a separate agreement setting forth the fees to be paid by Customer to the Reseller for such Products or Services, as well as any other terms or conditions that may apply between them. Subject to receiving payment from the Reseller, Absolute will provide to Customer the Products and/or Services under any such Order Form pursuant to the terms and conditions of this Agreement. Customer acknowledges that Absolute will not be responsible for the obligations of the Reseller to Customer under such separate agreement, for the acts or omissions of the Reseller, or for any third party products or services furnished to Customer by the Reseller. Section 5 (Fees; Payment) below will be of no effect where Customer purchases Products or Services through a Reseller as payment and taxes will typically be addressed in the agreement between the Reseller and Customer.

2.3. Affiliates. Customer's Affiliates may enter into Order Forms for the purchase of Products or Services, in which event this Agreement (and any applicable Addenda) will apply to such Affiliate and to the Products and Services purchased under such Order Forms, and all references elsewhere in this Agreement (and any applicable Addenda) to "Customer" will be deemed to apply to such Affiliate. Such Affiliate will be bound by the terms of this Agreement (and any applicable Addenda) as if it were an original party, and the Customer who initially accepted or agreed to this Agreement will be responsible for ensuring such Affiliate's compliance with this Agreement (and any applicable Addenda).

## 3. PRODUCTS AND RESTRICTIONS

3.1 Hosted Service. Customer may access and use the Hosted Service set forth in each Order Form as further described in the applicable Addenda.

3.2 Software. Customer may use the Software set forth in each Order Form as further described in the applicable Addenda.

3.3 Customer Responsibilities. Customer is responsible for: (a) controlling against unauthorized access to the Hosted Service under its account (including any sub-accounts of its Authorized Users); (b) maintaining the confidentiality of usernames, passwords and account information; and (c) all activities that occur under its account (including any sub-accounts of its Authorized Users) as a result of Customer's or Customer's Authorized Users' access to the Hosted Service. Absolute has and will retain sole control over the operation, provision, maintenance and management of the Hosted Service.

3.4 Product Restrictions. Except to the extent such restriction is expressly prohibited by applicable law, Customer may not, directly or indirectly, and may not authorize or assist any other person (including employees, Affiliates, and third parties) to: (a) decompile, disassemble, reverse engineer, or otherwise attempt to derive the source code, structure, ideas, algorithms, or associated know-how of, any Product, or reconstruct, or discover, any hidden or non-public elements of any Product; (b) translate, adapt, or modify any Product or any portion of any of the foregoing; (c) write or develop any program based upon any Product, or any portion or software applications thereof, or otherwise use the Products in any manner for the purpose of developing, distributing or making accessible products or services that compete with any or all of the Products; (d) sell, sublicense, transfer, assign, lease, rent, distribute, or grant a security interest in any Product or any rights thereto; (e) use the Products, or export, sell or distribute any content or other portion thereof, for the benefit of, or allow access to the Products (or any content or other portion thereof) by, any third persons, or in violation of Section **Error! Reference source not found.**; (f) use the Products other than in accordance with the Documentation; (g) permit the Products to be used by any persons other than Authorized Users; (h) transmit unlawful, infringing, harmful, or other data or code to which Customer is not authorized to transmit, either to or from the Products; (i) alter or remove any trademarks or proprietary notices contained in or on the Products; (j) circumvent or otherwise interfere with any authentication or security measures of the Products, or otherwise interfere with or disrupt the integrity or performance thereof; or (k) otherwise use the Products or any Absolute IP (defined below) except as expressly permitted in this Agreement (including applicable Addenda). Customer acknowledges that Absolute may, but is under no obligation to, monitor Customer's use of the Products to confirm Customer's ongoing adherence to the restrictions set forth in this Section. Absolute may suspend Customer's access to the Hosted Service or terminate Customer's Subscription to the Software for any period during which Customer is, or Absolute has a reasonable basis for alleging Customer is, in non-compliance with any of the prohibited actions in this Section.

3.5 Evaluation Products. If Customer receives a Product for evaluation and/or non-production purposes on a trial, test, staging, or other limited basis, for any duration, with or without payment of a fee being required (in each case, an "**Evaluation Product**"), then Customer may use the Evaluation Product only for the limited purposes expressly authorized by Absolute in writing, solely for the time period designated by Absolute, and subject to any additional usage restrictions specified by Absolute, if any. Customer acknowledges that Evaluation Products may be automatically disabled upon notice from Absolute or expiration of the designated usage period (at the end of which Customer's right to use the Evaluation Product also expires). All Evaluation Products are provided "as is" and on an "as available" basis. Notwithstanding anything to the contrary in this Agreement, Absolute hereby disclaims all warranties with respect to, and will not be responsible or liable for, any Evaluation Products.

3.6 Devices and Configurations. Different Products may have different Device requirements. Customer may check whether a Device is compatible with a Product by checking Absolute's Device Compatibility webpage (available at <https://www.absolute.com/partners/device-compatibility/>). Notwithstanding anything to the contrary in this Agreement, an Order Form or any applicable Addenda, Absolute makes no warranties with respect to use of Products with unsupported Devices, and in no circumstance will Absolute be obligated to provide support services, Fixes or any other services for unsupported Devices.

3.7 Third Party and Customer Components. Customer is solely responsible for obtaining all third-party technologies and connectivity necessary to access and use the Products, and for ensuring that all Customer systems and devices involved in such

access and use are up-to-date and fully operational. In particular, Customer acknowledges that a high-speed Internet connection is required at all times in order to use the Hosted Service properly, and may be required to make full use of the Software. Customer agrees that Absolute may not be obligated to provide certain services to the extent that such high-speed connection is not in operation.

3.8 **Managed Service Providers.** In the event Customer is a managed service provider using the Products as part of its offerings to Customer's own end users ("**MSP End Users**"), the following terms apply notwithstanding anything to the contrary in this Agreement: (a) Customer may use the Products as part of its managed services offerings for its MSP End Users, provided that Customer will ensure that the MSP End Users comply with the terms of this Agreement and all applicable Addenda in their use of Customer's managed services offering; (b) the license granted under Section 3.1 only applies to Customer, not the MSP End Users, and MSP End Users cannot be Authorized Users; (c) Absolute has and will have no liability to the MSP End Users in connection with the Products, and Customer will disclaim all such liability on behalf of Absolute in its end user agreements; and (d) Customer agrees to defend Absolute from and against any claims from an MSP End User arising out of or relating to Customer's provision of services to such MSP End User, and agrees to indemnify and hold harmless Absolute from and pay all related damages, costs and expenses.

#### 4. PROFESSIONAL AND SUPPORT SERVICES

4.1 **Professional Services.** Subject to Customer's ongoing compliance with the terms of this Agreement (including timely payment of all applicable Fees) and applicable Addenda, Absolute will use commercially reasonable efforts to provide to Customer the Professional Services, if any, set forth in each Order Form. Absolute's provision, and Customer's receipt of, the Professional Services will be subject to the Professional Services Addendum (located at <https://www.absolute.com/company/legal/agreements/absolute/professional-services-addenda>).

4.2 **Support Services.** Subject to Customer's ongoing compliance with the terms of this Agreement (including timely payment of all applicable Fees) and applicable Addenda, Absolute agrees to provide support services (the "**Support Services**") to Customer in accordance with the Support Services Policy for the applicable Product, if any.

4.3 **Fixes.** Absolute may from time to time provide patches, bug fixes, updates, and maintenance and service packs (collectively, "**Fixes**") reasonably necessary for the proper function and security of the Products. If Customer enables automatic updates supported by the Products, then Customer acknowledges that Fixes will be automatically installed. Absolute reserves the right to automatically install Fixes to address security vulnerabilities or critical issues, as determined by Absolute in its sole reasonable discretion.

#### 5. FEES; PAYMENT

5.1 **Fees.** Customer will pay to Absolute (and/or the Reseller, as applicable) all fees of the type, amount and payment schedule set forth in the applicable Order Form ("**Fees**"). If the Fees for Professional Services are not set forth on the applicable Order Form or statement of work, the Professional Services will be rendered at Absolute's then-prevailing time and material rates. Customer agrees to promptly reimburse Absolute upon invoice for any pre-approved, actual, out-of-pocket travel and lodging expenses incurred by Absolute in connection with any Professional Services. Except as otherwise expressly set forth in an applicable Order Form or this Agreement, all Fees are non-cancellable and non-refundable and non-recoupable.

5.2 **Payment Terms.** Unless otherwise set forth in the applicable Order Form or Addendum, all Fees will be billed in advance, and all invoices for Fees are due and payable in United States dollars within 30 days after the invoice date, without deduction or setoff. Any overdue portion of a payment will bear interest at a rate equal to the lower of 1.5% per month and the highest rate permitted by law.

5.3 **Taxes.** All Fees and other amounts due hereunder are exclusive of all applicable sales, use, valued-added, or other taxes (federal, state, provincial, or otherwise) ("**Taxes**"). Customer will be responsible for paying all such Taxes, except for those Taxes based on Absolute's net income. If Customer is required by law to withhold or deduct a portion of the amounts paid, Customer will notify Absolute in advance in writing, and will pay such additional amounts as are necessary to ensure that the net amount received by Absolute, after such deduction or withholding, equals the amount Absolute would have received if there had been no such deduction or withholding.

#### 6. PROPRIETARY RIGHTS

6.1 **Reservation of Rights.** Absolute owns and retains all rights, title and interest, including all intellectual property rights, in and to all technology, software, algorithms, user interfaces, trade secrets, techniques, designs, inventions, works of authorship and other tangible and intangible material and information pertaining to the Products, the Services, the Anonymized Data (defined below) and Product Usage Data (defined below) (collectively, "**Absolute IP**"), and nothing in this Agreement will limit Absolute from using or exploiting any concepts, ideas, techniques or know-how of or related to the Absolute IP or otherwise arising in connection with Absolute's provision of the Products or Services under this Agreement. Other than as expressly set forth in this Agreement, Absolute grants no license or other rights in or to the Absolute IP. All such rights are expressly reserved to Absolute.

6.2 **Customer Data.** Customer owns and retains all rights, title and interest, including all intellectual property rights, in and to Customer Data. Absolute may remove or restrict access to Customer Data, including if Absolute believes such data may violate applicable law, or if a third party brings or threatens legal action against Absolute or a third party. Customer hereby grants to Absolute a non-exclusive, royalty-free, sublicensable (to its subcontractors) non-transferable, worldwide license to reproduce, distribute, and use and display the Customer Data for the purpose of exercising Absolute's rights and performing its obligations under this Agreement. Notwithstanding the foregoing, Absolute may use the Customer Data to create anonymized datasets, provided that the resulting dataset does not identify Customer or any individual ("**Anonymized Data**"), and may use the Anonymized Data for its business purposes, including, without limitation, to improve its products and services. Customer represents and warrants that it has a lawful basis to submit such Customer Data to Absolute in connection with the delivery of the Products, that there is no software or materials

subject to an "open source license" (as that term is commonly understood) included in the Customer Data, and that it will comply with all laws and regulations applicable to Customer's performance under this Agreement.

6.3 Product Usage Data. Absolute may collect and use Product Usage Data for security, support, product and operations management, and research and development purposes. "**Product Usage Data**" is information other than Customer Data that is automatically collected and reported by the Products about how the Products are used by Absolute's customers. Product Usage Data will not be shared with third parties in a manner attributable to Customer or any individual.

6.4 Feedback. Customer agrees that Absolute may use and exploit in any manner on a worldwide, irrevocable, perpetual, royalty-free basis any suggestions, requests and feedback provided by or on behalf of Customer regarding the Products or any other Absolute IP.

6.5 Third Party Products. The Products may include or incorporate Third Party Products. The third party owner, author or provider of any such Third Party Products retains all ownership and intellectual property rights in and to that content. All Third Party Products are provided on an "as is" and "as available" basis without any warranty of any kind. Absolute is not responsible for, and under no obligation to control, monitor, or correct Third Party Products, and may remove any Third Party Products in its sole discretion (provided that the case of such removal, Section 10.2(a) will continue to apply).

## 7. TERM AND TERMINATION

7.1 Term. This Agreement will start on the Effective Date and continue until its termination in accordance with this Agreement. The term of each Order Form will begin on the commencement date of the earliest Subscription Term or delivery of Services under such Order Form, as applicable, and continue, unless otherwise terminated in accordance with this Agreement, until the later of the end of the last-to-expire Subscription Term under such Order Form and the completion of any Services to be provided under such Order Form.

7.2 Termination for Convenience. Either party may terminate this Agreement for convenience by written notice, provided that any outstanding Order Forms, including all Subscriptions thereunder, will survive and continue subject to the terms of this Agreement until the expiry of such Order Forms in accordance with Section 7.1.

7.3 Termination for Material Breach. Either party may terminate this Agreement by written notice if the other party is in material breach of this Agreement and/or any affected Order Forms, where such material breach is not cured within 30 days after written notice of such breach from the non-breaching party. If Customer terminates for Absolute's uncured material breach, Absolute will refund to Customer all pre-paid but unused Fees under the terminated Order Forms. For the avoidance of doubt, Customer's failure to pay amounts due within 15 days of receiving written notice of non-payment, or Customer's non-compliance with any provision of Section 3.4 will be deemed a material breach by Customer of this Agreement.

7.4 Termination for Bankruptcy or Insolvency. Either party may terminate this Agreement if the other party ceases to do business in the ordinary course or is insolvent (i.e., unable to pay its debts in the ordinary course as they come due), makes any assignment for the benefit of creditors, is declared bankrupt, or is the subject of any liquidation or insolvency proceeding which is not dismissed with prejudice within 120 days.

7.5 Effect of Termination. Subject to Section 7.2, upon the effective date of expiration or termination of this Agreement for any reason: (a) all outstanding Order Forms and Subscriptions will immediately terminate; (b) Customer's access to the Hosted Service will terminate and Customer will immediately cease use of, and delete from its systems, the Software, and (c) all outstanding payment obligations of Customer will become due and payable immediately. Except as expressly set out in this Agreement, Customer will have no entitlement to any refund of Fees in the event of any termination of this Agreement or any Order Form. The following provisions will survive the expiration or termination of this Agreement for any reason: Sections 1, 3.4, 3.5, 3.8, 5 (with respect to Fee amounts due), 6, 7.5, 8, 11, 12, **Error! Reference source not found.** and 13.

## 8. CONFIDENTIALITY

8.1 Definition. "**Confidential Information**" means any information disclosed, directly or indirectly, by or on behalf of one party or its Affiliates ("**Discloser**") to the other party or its Affiliates ("**Recipient**") in connection with this Agreement, prior to or after the Effective Date, that is (a) designated as "confidential," or in some other manner to indicate its confidential nature, and/or (b) any information that otherwise should reasonably be expected to be treated in a confidential manner based on the circumstances of its disclosure or the nature of the information itself. Without limiting the foregoing, Absolute IP is Absolute's Confidential Information, and Customer Data is Customer's Confidential Information. However, Confidential Information does not include any information which: (i) is or becomes generally known and available to the public through no act of the Recipient; (ii) was already in the Recipient's possession without a duty of confidentiality owed to the Discloser at the time of the Discloser's disclosure, as shown by the Recipient's contemporaneous records; (iii) is lawfully obtained by the Recipient from a third party who has the express right to make such disclosure; or (iv) is independently developed by the Recipient without breach of an obligation owed to the Discloser.

8.2 Use; Maintenance. Neither party may use the other party's Confidential Information for any purpose except to exercise its rights and perform its obligations under this Agreement. Neither party may disclose, or permit to be disclosed, either directly or indirectly, any Confidential Information of the other party, except: (a) to its and its Affiliates' employees, contractors, officers, directors, advisors, or prospective investors or purchasers with a bona fide need to know the Confidential Information and in each case subject to written obligations of confidentiality no less onerous than those set out herein, or (b) where the Recipient becomes legally compelled to disclose Confidential Information, provided the Recipient has given the Discloser prior notice of such legally compelled disclosure and a reasonable opportunity to seek a protective order or other confidential treatment for such Confidential information (if permitted by applicable law). Each party will take at least reasonable measures and care to protect the secrecy of, and avoid disclosure and unauthorized use of, the Confidential Information of the other party, and will take at least those measures that it takes to protect its own most highly confidential information. Notwithstanding anything to the contrary in this Section **Error! Reference source not found.**,

Absolute's sole and exclusive obligations with respect to the disclosure and protection of Customer Data are as set forth in Section 9. The Recipient acknowledges that a breach of this Section could cause irreparable harm to the Discloser for which monetary damages may not be ascertainable or an adequate remedy, and agrees that the Discloser will have the right, in addition to its other rights and remedies, to seek injunctive or other equitable relief in any court of competent jurisdiction (notwithstanding Section 13.4), for any violation of this Agreement, and the Recipient waives any requirement for the posting of a bond in connection therewith. The Recipient does not acquire any rights, express or implied, in the Discloser's Confidential Information, except for the limited use specified in this Agreement. Confidential Information, including all right, title and interest therein, remains the sole and exclusive property of the Discloser

## **9. DATA SECURITY AND DATA PROTECTION**

9.1 Data Protection. To the extent Absolute obtains Personal Data in connection with its performance of this Agreement, Absolute will process such Personal Data in accordance with the Data Processing Addendum (located at <https://www.absolute.com/company/legal/agreements/absolute/data-processing-addendum>). Customer represents and warrants that it has made all necessary disclosures and has a lawful basis to share the Personal Data with Absolute for use as contemplated by this Agreement. Except as otherwise set forth in the Data Processing Addendum, Customer has and will retain sole responsibility for all Customer Data and other information and materials provided by or on behalf of Customer or any Authorized User in connection with using the Products.

9.2 Data Security. Absolute will implement and maintain commercially reasonable and industry-standard administrative, physical, and technical safeguards designed to prevent unauthorized access, use, or disclosure of Customer Data on Absolute systems in accordance with the Absolute Security Standards (located at <https://www.absolute.com/platform/security-information/process/>). Absolute may modify the Absolute Security Standards from time to time, but will continue to provide at least the same level of security as is described in the Absolute Security Standards. Absolute's sole and exclusive liability, and Customer's sole and exclusive remedy, for any unauthorized loss, destruction, damage, or alteration to Customer Data will be for Absolute to use commercially reasonable efforts to restore such data from the latest backup maintained by Absolute in accordance with Absolute's then-current archiving and backup policies. Absolute will not be responsible for any disclosure of Customer Data caused by any third party except to the extent caused by Absolute's breach of this Section.

## **10. REPRESENTATIONS AND WARRANTIES**

10.1 Mutual. Each party represents and warrants to the other party: (a) it is duly organized, validly existing, and in good standing as a corporation or other entity under the laws of the jurisdiction of its incorporation or other organization; (b) it has the full organizational right, power, and authority to enter into and perform its obligations and grant the rights, licenses, consents, and authorizations it grants or is required to grant under this Agreement; (c) the execution of this Agreement has been duly authorized by all necessary corporate or organizational action of such party; and (d) when executed and delivered by both parties, this Agreement will constitute the legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms. This Section will not apply to Customers entering into this Agreement on their own behalf as an individual.

10.2 Hosted Service and Software. Absolute warrants that: (a) the Hosted Service and Software will perform substantially in accordance with the applicable Documentation, provided that Customer's sole and exclusive remedy for breach of the foregoing warranty is to have Absolute fix the Hosted Service or Software, as applicable, so that it performs substantially in accordance with the Documentation; and (b) Absolute has implemented commercially reasonable safeguards, processes and anti-virus software designed to prevent the introduction of any third party code intended to disrupt Customer's or Absolute's systems and networks, including, for example, viruses, spyware, malware, trojan horses or other malicious code into the Hosted Service and the Software. If Absolute is unable to fix the Hosted Service or Software in accordance with (a), above, within ninety (90) days of receipt of notice of the applicable non-conformity, Customer may elect to terminate the affected Order Form, and Absolute will refund to Customer all pre-paid but unused Fees under such Order Form. The foregoing warranties do not apply if the Product or any portion thereof: (i) has been altered, except by or on behalf of Absolute; (ii) has not been used, installed, operated, repaired, or maintained in accordance with this Agreement or the Documentation; or (iii) is used on equipment, products, or systems not meeting specifications identified by Absolute in the Documentation. Additionally, the foregoing warranties only apply when notice of a warranty claim is provided to Absolute during the applicable Subscription Term, and do not apply to any bug, defect or error caused by or attributable to software or hardware not supplied by Absolute.

10.3 Services. Absolute warrants that it will provide the Services in a professional and workmanlike manner and, in the case of Support Services, in accordance with any applicable Support Services Policy. Customer's sole and exclusive remedy for Absolute's breach of this warranty is for Absolute to reperform the affected Services.

10.4 By Customer. Customer represents, warrants and covenants to Absolute that Customer owns or otherwise has and will have the necessary rights and consents in and relating to Customer Data so that, as received by Absolute and used in accordance with this Agreement, it does not and will not infringe, misappropriate, or otherwise violate any intellectual property rights or privacy rights of any third party or violate any applicable laws.

## **11. INDEMNIFICATION**

11.1 By Absolute. Absolute will: (a) defend, or at its option settle, any claim brought against Customer by a third party to the extent it alleges that Customer's authorized use of a Product infringes upon or misappropriates the intellectual property or proprietary rights of the claiming third party (each an "Infringement Claim"), and (b) pay any damages awarded in a final judgment (or amounts agreed in a monetary settlement), including reasonable legal fees and expenses, in any such Infringement Claim defended by Absolute. If any such Infringement Claim is brought or threatened, Absolute may, at its sole option and expense: (w) procure for Customer the right to continue to use the applicable Product; (x) modify the Product to make it non-infringing; (y) replace the affected aspect of the Product with non-infringing technology having substantially similar capabilities; or (z) if none of the foregoing is commercially

practicable, terminate the affected Order Forms with respect to the allegedly infringing Products and refund to Customer all pre-paid but unused Fees under the terminated Order Forms. Notwithstanding the foregoing, Absolute's obligation to indemnify Customer under this Section will not apply to the extent that an Infringement Claim is caused by: (1) any use of any Product in combination with software, products or services not provided by Absolute or modified by anyone other than by or at the direction of Absolute, or (2) Customer's failure to use the Product in accordance with this Agreement; and Absolute will have no obligation to indemnify Customer under this Section: (I) for any claims related to Customer Data; or (II) if Customer is not using the then-current release or immediately prior release of the Product.

11.2 **9Disclaimer.** SECTION 11.1 STATES THE ENTIRE LIABILITY OF ABSOLUTE, AND THE EXCLUSIVE REMEDY OF CUSTOMER, WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS BY ABSOLUTE, THE PRODUCTS OR OTHER ABSOLUTE IP, OR ANY PART THEREOF.

11.3 **By Customer.** Notwithstanding anything to the contrary in this Section 11, Customer will defend or, at its option, settle, any claim brought against Absolute by a third party: (a) alleging that the use by or on behalf of Absolute of Customer Data and/or any data provided by Customer to Absolute in accordance with this Agreement infringes or misappropriates any third party's rights or violates any laws; or (b) arising from the misuse of any Absolute IP by Customer (including its Authorized Users and anyone having access due to Customer), including a breach of Section 3.4. Customer will pay all damages finally awarded against Absolute (or the amount of any settlement Customer enters into), including reasonable legal fees and expenses, with respect to such claim defended by Customer.

11.4 **Procedure.** The indemnification obligations under this Agreement are contingent upon the indemnified party providing the indemnifying party with: (i) prompt written notice of, (ii) sole control over the defense and settlement of, and (iii) all information and assistance reasonably requested by the indemnifying party in connection with the defense and settlement of, the claim subject to indemnification by the indemnifying party. The indemnifying party will not consent to the entry of any judgment or agree to settlement of any such claim without the prior written consent of the indemnified party, which shall not be unreasonably withheld, conditioned or delayed. The indemnified party shall have the right to participate in the defense of such claim with counsel of its own choosing and at its own expense.

## 12. DISCLAIMER; LIMITATION OF LIABILITY

12.1 **Disclaimer.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT OR AN ADDENDUM, ABSOLUTE DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY AND ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, LOSS OF DATA, ACCURACY OF RESULTS, OR OTHERWISE ARISING FROM A COURSE OF DEALING OR RELIANCE. ABSOLUTE DOES NOT REPRESENT OR WARRANT THAT ANY PRODUCT WILL BE ERROR-FREE OR UNINTERRUPTED, THAT ANY PRODUCT WILL BE COMPATIBLE WITH ANY PARTICULAR DEVICE, THAT ANY DATA PROVIDED BY ABSOLUTE THROUGH ANY PRODUCT WILL BE ACCURATE, OR THAT ITS SECURITY MEASURES WILL BE SUFFICIENT TO PREVENT THIRD-PARTY ACCESS TO CUSTOMER DATA OR CUSTOMER'S DEVICES. ABSOLUTE SPECIFICALLY DISCLAIMS ALL RESPONSIBILITY FOR ANY THIRD-PARTY PRODUCTS PROVIDED WITH THE PRODUCTS AND FOR THE AVAILABILITY OF, OR CUSTOMER'S USE OF, ANY DATA OR INFORMATION STORED ON OR IN CONNECTION WITH THE PRODUCTS.

12.2 **Limitation of Liability.** EXCEPT FOR A PARTY'S OBLIGATIONS UNDER SECTION 11 (INDEMNIFICATION) OR SECTION 8 (CONFIDENTIALITY), IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF BUSINESS, REVENUE, PROFITS, GOODWILL, DATA, OR ECONOMIC ADVANTAGE, AND COSTS OF SUBSTITUTE GOODS OR SERVICES) ARISING OUT OF OR RELATING TO THIS AGREEMENT, HOWEVER CAUSED, AND BASED ON ANY THEORY OF LIABILITY, WHETHER FOR BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE, EVEN IF THE OTHER PARTY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR ABSOLUTE'S OBLIGATIONS UNDER SECTION 11.1 OR ABSOLUTE'S BREACH OF SECTION 8, IN NO EVENT WILL ABSOLUTE AND ITS AFFILIATES' TOTAL AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE AMOUNT PAID OR PAYABLE BY CUSTOMER UNDER THE ORDER FORMS GIVING RISE TO THE CLAIM DURING THE 12-MONTH PERIOD PRIOR TO THE DATE THE CLAIM AROSE. THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED OR EXCLUSIVE REMEDY.

## 13. GENERAL PROVISIONS

13.1 **Changes.** Absolute may make changes or updates to the Products or Services from time to time, including to reflect changes in technology, industry practices, patterns of system use, and availability of Third Party Products; provided, however, any such changes will not result in a material reduction in the level of performance or availability of the applicable Product or Services provided to Customer under this Agreement.

13.2 **Assignment.** Neither party may assign this Agreement or any of its rights or obligations under this Agreement without the prior written consent of the other party, except that Absolute may assign this Agreement without the consent of Customer as part of a corporate reorganization, or upon a change of control, consolidation, merger, sale of all or substantially all of its business or assets related to this Agreement, or a similar transaction or series of transactions. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.

13.3 **Force Majeure; Delays.** Except for the obligation to pay money, including without limitation the obligation to pay the Fees neither party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including without limitation an act of war, terrorism, act of God, earthquake, flood, embargo, riot, sabotage, labor shortage or dispute, pandemic, epidemic or other public health crisis, governmental act or failure or degradation of the Internet. The delayed party must give the other party notice of such cause and its expected duration. Absolute will not be responsible for any delay in or failure of

Absolute's performance caused in whole or in part by Customer's delay in performing, or failure to perform any of its obligations under the Agreement.

13.4 Absolute Contracting Entity; Governing Law. The country of Customer's jurisdiction of incorporation or organization will determine: (a) the Absolute contracting entity with which Customer is contracting under this Agreement ("**Absolute**"); and (b) the governing law that applies to this Agreement and the venue where the parties agree to submit to exclusive jurisdiction, in each case as set forth in the table below.

Customer Location	Absolute Contracting Entity	Governing Law	Venue
Canada, Mexico, Central America, South America, and the Caribbean	Absolute Software Corporation	British Columbia, Canada	British Columbia, Canada
Asia and Australasia	Absolute Software (Asia) Pte. Ltd.	Singapore	Singapore
Europe, Middle East and Africa	Absolute Software EMEA Limited	England and Wales	London, England
United States	Absolute Software, Inc.	Delaware, United States	Delaware, United States

13.5 Notice. Any notice required or permitted to be given in accordance with the Agreement will be effective only if it is in writing and delivered to the intended recipient as follows: (a) for notices to Customer, via e-mail to the e-mail address specified by Customer when registering for a Product or the email address specified in any Order Form and (b) for notices to Absolute, by certified or registered mail or a nationally recognized overnight carrier to the following address: c/o Legal Department, Absolute Software Corporation, Suite 1400, Four Bentall Centre, 1055 Dunsmuir Street, Vancouver, British Columbia, Canada V7X 1K8, with an e-mail copy to LegalNotices@absolute.com. Either party may change its address for receipt of notice by notifying the other party in accordance with this Section. Notices are deemed given upon receipt if delivered via e-mail, two business days following the date of mailing if delivered via certified or registered mail, or one business day following delivery to a courier.

13.6 Publicity. Absolute may use Customer's name as a reference for marketing or promotional purposes on Absolute's website and in other communications with existing or potential Absolute customers, subject to any written trademark policies Customer may provide Absolute in writing. Neither party will issue any press release or publish or disseminate any white papers or case studies describing the activities taking place under this Agreement with reference to the other party's name without the other party's prior written consent, not to be unreasonably withheld.

13.7 U.S. Government Restricted Rights. The Software is commercial computer software, as that term is defined in 48 C.F.R. §2.101. Accordingly, if the Customer is the U.S. Government or any contractor therefor, Customer will receive only those rights with respect to the Software and Documentation as are granted to all other end users under license, in accordance with (a) 48 C.F.R. §227.7201 through 48 C.F.R. §227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. §12.212, with respect to all other U.S. Government licensees and their contractors.

13.8 Export. Customer will not knowingly export or re-export, directly or indirectly, any product, including software, received from Absolute or any Reseller under this Agreement or any direct product of such product to any destination, entity or person to which such export or re-export is restricted or prohibited by applicable laws ("**Export Control Lists**"), without obtaining prior written authorization from the competent government authorities as required by those laws. Customer represents and warrants that Customer is not on any Export Controls Lists, and will immediately notify Absolute in writing in the event Customer is listed on any Export Control Lists. Absolute, on behalf of itself and its Affiliates, makes no representation that the Absolute IP is appropriate or available for use in any specific country or region. Customer is not using and will not use any of the Absolute IP, nor any information acquired through the use of the Products, for military or quasi-military projects, unless specifically authorized by the United States, Canadian or Australian government or the appropriate European body for such purposes. Note that any Software containing encryption may be subject to additional restrictions.

13.9 Miscellaneous. Each Addenda is incorporated by reference into this Agreement. In the event of a conflict between the terms of this Agreement and an Addendum, the Addendum will control, but, in each case, only with respect to the Products or Services to which such Addendum relates. Any translation of this Agreement is provided for Customer's convenience only. The meanings of terms, conditions and representations herein are subject to definitions and interpretations in the English language. Any translation provided may not accurately represent the information in the original English. This Agreement (together with any Addenda) is the sole agreement of the parties concerning the subject matter hereof, and supersedes all prior agreements and understandings with respect to said subject matter. Customer may not subcontract or delegate any rights or obligations granted to it under this Agreement to any third parties, including its consultants or contractors, without Absolute's prior written consent. Absolute may use subcontractors or otherwise delegate aspects of its performance under this Agreement, provided that Absolute will remain responsible hereunder for any such subcontractor's performance. No terms of any purchase order, acknowledgement, or other form provided by Customer or any Reseller will modify this Agreement, regardless of any failure of Absolute to object to such terms. No modification, amendment, or waiver of any provision of this Agreement will be effective unless agreed to by the parties. Any ambiguity in this Agreement will be interpreted without regard to which party drafted this Agreement or any part thereof. Subject to Section 13.10, there are no third party beneficiaries to this Agreement, and Customer acknowledges that Absolute will have no obligations or liability whatsoever with any third parties with which Customer does business. This Agreement may be executed in counterparts. The headings in this Agreement

are inserted for convenience and are not intended to affect the interpretation of this Agreement. The relationship between the parties is that of independent contractors. Waiver of any term of this Agreement or forbearance to enforce any term by either party shall not constitute a waiver as to any subsequent breach or failure of the same term or a waiver of any other term of this Agreement. Any provision found to be unlawful, unenforceable or void shall be severed from the remainder of this Agreement, and the remainder of this Agreement will continue in full force and effect without said provision.

13.10 Notice Regarding Apple. This Section only applies to the extent the Products include Absolute's mobile application for use on an iOS device. Customer acknowledges that this Agreement is between Customer and Absolute only, not with Apple Inc. ("**Apple**"), and Apple is not responsible for the Products or the content of it. Apple has no obligation to furnish any maintenance and support services with respect to the Products. If the Product fails to conform to any applicable warranty, Customer may notify Apple, and Apple will refund any applicable purchase price for the mobile application to Customer. To the maximum extent permitted by applicable law, Apple has no other warranty obligation with respect to the Product. Apple is not responsible for addressing any claims by Customer or any third party relating to the Product or Customer's possession and/or use of the Product, including: (1) product liability claims; (2) any claim that the Product fails to conform to any applicable legal or regulatory requirement; or (3) claims arising under consumer protection or similar legislation. Apple is not responsible for the investigation, defense, settlement, and discharge of any third-party claim that the Product and/or Customer's possession and use of the Product infringe a third party's intellectual property rights. Customer agrees to comply with any applicable third-party terms when using the Product. Apple and Apple's subsidiaries are third-party beneficiaries of this Agreement, and upon Customer's acceptance of this Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce this Agreement against Customer as a third-party beneficiary of this Agreement. Customer hereby represents and warrants that: (a) Customer is not located in a country that is subject to a U.S. Government embargo or that has been designated by the U.S. Government as a "terrorist supporting" country; and (b) Customer is not listed on any U.S. Government list of prohibited or restricted parties.