

Kepion SaaS Master Subscription Agreement

THIS KEPION SAAS MASTER SUBSCRIPTION AGREEMENT is entered into as a global Master Agreement by and between the Kepion company defined in Section 1 below and the client (“Client”) identified in the corresponding Order Schedule referencing this Agreement (on behalf of itself and its Affiliates, for whom Client agrees it is responsible under this Agreement). By executing an Order Schedule referencing this Master Agreement, Client agrees to the terms of this Agreement.

This Agreement will be effective upon execution of the first Order Schedule between the parties.

This Agreement consists of the included terms and conditions, and the additional Exhibits as follows:

- Exhibit A: Kepion Availability and Support SLA
- Exhibit B: Professional Services Exhibit
- Exhibit C: End User License Agreement (“EULA”) for Kepion Applications

NOW THEREFORE IN AND FOR CONSIDERATION of the terms and conditions contained herein and for other good and valuable consideration, the parties hereby agree and accept the terms and conditions of this Agreement, as follows:

1. Definitions.

These definitions are intended to apply to the Master Agreement as well as attached Exhibits.

1.1 “Affiliate” means with respect to a party, any person or entity that controls, is controlled by, or is under common control with that party, where “control” means ownership of more than fifty percent (50%) of the outstanding voting securities (but only as long as that person or entity meets this requirement).

1.2 “Agreement” means, collectively, this Kepion SaaS Subscription Agreement, any Statement of Work and Order Schedule agreed to by the parties, as well as any attached or referenced exhibits or schedules, and amendments to this Agreement, each of which are incorporated into the Agreement by this reference.

1.3 “Kepion” means Kepion, Inc., a Washington corporation with offices at 2323 1st Ave Seattle, WA 98121.

1.4 “Kepion Service” means Kepion’s hosted software application (accessible by Authorized Users via supported web browsers) as ordered by Client under an Order Schedule, including ancillary Kepion-proprietary products made available as specified in an Order Schedule, and new features, functionality, enhancements, upgrades, error corrections and bug fixes to the Kepion Service Kepion makes generally available for no additional charge to customers.

1.5 “Authorized User” means a named person who is authorized to use the Kepion Service under a valid subscription or other right granted by Kepion to Client, and has been supplied access to the Kepion Service via a user identification and password by Client (or by Kepion at Client’s request).

1.6 “Client Data” means all the data and information, including text, sound or images, files generated by administrators, managers, employees or collaborators of Client or the subsidiaries of Client or received by administrators, managers, employees or collaborators of Client or the subsidiaries of Client, irrespective of their nature and means and forms of storage and transmission that can be taken (information written or printed on paper, or contained in any other type of support of physical nature, digital information managed and maintained through information systems, information transmitted orally, etc.) regarding or related to the business, in its broad sense, of Client or societies of the Group.

1.7 “Documentation” means the online help materials describing the features and functionality of the Kepion Service (currently located at <https://help.kepion.com/hc/en-us>) that Kepion provides for use with the Kepion Service, as may be updated by Kepion from time to time.

1.8 “Intellectual Property Rights” means all worldwide intellectual property and/or industrial property rights arising under statutes, laws, regulations, common law, treaties, conventions, or other sources, whether or not vested or inchoate, including, without limitation, all (i) provisional patents, patents applications, patents, conceptions, Inventions as defined herein, discoveries, or improvements owned or licensable, including without limitation any patent applications filed or patents acquired after the Effective Date for any and all IPR in existence that is or may be contained in or that applies to any of the Kepion’s Products; (ii) rights associated with works of authorship including copyrights, copyright applications, copyright registrations, design copyrights, moral rights, lay-out design rights, mask work rights, mask work applications, and mask work registrations; (iii) rights relating to the protection of trade secrets and any Confidential Information as defined herein; (iv) trademark, trade dress or service mark rights; (v) any registered designs or applications to register designs; (vi) and any other proprietary rights relating to intangible or industrial property; and (vii) utility models, divisionals, continuations, continuations-in-part, renewals, reissues, and extensions of the foregoing (whether now existing, hereafter filed, issued, or acquired) for any such IPR.

1.9 “Order Schedule” means a document signed by and between both Kepion and Client (including Affiliates of either party that enter into an Order Schedule) that references this

Agreement and details the Kepion Service or Professional Service(s) to be provided by Kepion, the fees associated therewith, and any other transaction-specific provisions.

1.10 “Product” or “Products” means the Kepion product or products that is or are licensed by Client or a Client Affiliate under its Enrollment and “Additional Product” means any Kepion Product that Client or any Client Affiliate chooses to license under its Enrollment; “Product” means any Product that we designate as a Product on an Enrollment and that an Enrolled Affiliate chooses to license under its Enrollment; “Product” also means the statement published by Kepion from time to time on the World Wide Web at <https://www.kepion.com>, or at a successor site that we identify, which identifies the Products that are or may be made available and licensed by Client or a Client Affiliate. The aforesaid “Products” includes without limitation, any and all applications, help files, libraries, source code, firmware, executables, applets, scripts, forms, user manuals and documentation, technical manuals, systems manuals, and all other Products included in or with any of the Products licensed from Kepion and all associated IPR therein for any computer operating systems (“Platforms”).

1.11 “Virtual Machine” shall mean an operating system that is running in a “virtualized” environment hosted on a physical computer whether the virtualization is accomplished by software or hardware, including for example only and not by way of limitation, software providing Virtual Machine environments including without limitation Microsoft Virtual PC, Microsoft Virtual Server, User-mode Linux, and VMware, or hardware-based virtual machines such as Intel’s VT (Vanderpool) and AMD’s Pacifica.

1.12 “Statement of Work” or “SOW” means a document (including an Order Schedule to the extent referencing Professional Services) signed by and between both Kepion and Client (including Affiliates of either party that enter into a Statement of Work) that references this Agreement and describes the activities and deliverables for implementation, training or other Professional Services related to Client’s use of the Kepion Service.

1.13 “Subscription Term(s)” means the subscription period(s) specified in an Order Schedule during which Authorized Users may use the Kepion Service, subject to the terms of the Agreement.

1.14 “CAL” means the CLIENT access license (“CAL”) for a Kepion Service accessed by a Authorized User through any connected hardware device;

2. Provision of the Kepion Service.

2.1 Kepion Service; Access Right. Kepion shall host and make the Kepion Service available to Client during the Subscription Term(s) as described on one or more Order Schedule(s). The Kepion Service includes the features and functionality applicable to the Kepion Service as ordered by Client. Kepion shall host the Kepion Service and may update the content,

functionality, and user interface of the Kepion Service from time to time in its sole discretion. Some features and functionality may be available only with certain versions or editions of the Kepion Service, or subject to additional fees or additional provisions.

2.2 Access and Usage Restrictions. Client has a non-exclusive, non-sublicensable, nontransferable (except as specifically permitted in this Agreement) right to access and use the Kepion Service under this Agreement during the applicable Subscription Term, solely for Client's internal business purposes relating to the processing of Client Data subject to the limitations stated in the Order Schedule(s). Unless otherwise specifically permitted in this Agreement, Client shall not (a) sublicense, sell, transfer, assign, distribute or otherwise grant or enable access to the Kepion Service in a manner that allows access or use of the Kepion Service by an individual who is not an Authorized User, or to commercially exploit the Kepion Service; (b) copy, modify or create derivative works based on the Kepion Service (for the sake of clarity, inputting Client Data is not considered a creation of a derivative work); (c) reverse engineer or decompile the Kepion Service (except to the extent permitted by applicable law and only if Kepion fails to provide permitted interface information within a reasonable period of time after Client's written request); (d) copy any features, functions or graphics of the Kepion Service; (e) allow Authorized User subscriptions to be shared or used by more than one individual Authorized User (except that Authorized User subscriptions may be reassigned to new Authorized Users replacing individuals who no longer use the Kepion Service for any purpose, whether by termination of employment or other change in job status or function); or (f) access or use the Kepion Service except as expressly permitted under this Agreement; and (g) access or use the Kepion Service (i) to send or store infringing, obscene, threatening, or otherwise unlawful material, including material violative of third-party privacy rights; (ii) in violation of applicable laws; (iii) to send or store material knowingly or intentionally containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, or agents; (iv) in a manner that interferes with or disrupts the integrity or performance of the Kepion Service (or the data contained in the Kepion Service); or (v) to gain unauthorized access to the Kepion Service (including unauthorized features and functionality) or its related systems or networks.

2.3 Availability & Support. Subject to the Kepion Availability and Support SLA attached as Exhibit A, during the Subscription Term Kepion shall maintain and support the Kepion Service.

2.4 Security and Integrity of Client Data. Client Data will be used exclusively to provide the services included in the contract with Client. Kepion will not use Client Data for other purposes than those included in the contract. Regarding the parties, Client preserves all rights, ownership and interests over Client Data. Kepion does not acquire rights to Client Data other than the rights granted to Kepion by Client to provide services.

Kepion will not provide third parties direct, indirect, general, or unrestricted access to Client Data

Kepion will not reveal the Client Data outside the scope of the services provided to Client except (1) as directed and authorized expressly by Client or (2) as required by Law.

If a judicial authority contacts Kepion to request Client Data, Kepion will try to urge the competent authority to request the information directly from Client. If Kepion is forced to disclose Client Data to the judicial authority, it shall promptly notify the Client, providing a copy of the request.

2.5 Data Protection. Should Kepion come into custody and control of Client Data, Kepion will notify Client. Thereafter, Kepion shall, within the scope of the service provided, and at the best of its abilities, provide appropriate control, organizational and technical mechanisms and good market practices according to (a) maintain confidentiality, integrity and availability of the information assets of Client and (b) avoid them to be disclosed and accessed without authorization, damaged and infected by any kind of malware, as well as to avoid such malware and/or infection to spread through the technological infrastructure of Client and/or the infrastructure providing services to Client.

2.6 Usage Limits. Use of the Kepion Service is subject to the usage limits identified in an Order Schedule, which may include limitations on features and functionality. If a party detects or becomes aware that Client exceeds a limit, that party shall promptly notify the other, and Client shall work with Kepion to promptly change its usage to comply with the limit. If Client fails to change its usage or to comply with the limit within thirty (30) days, or if Client notifies Kepion of its intent to continue with the excess usage, Client shall execute an Order Schedule and pay invoices issued by Kepion for that excess usage. As may be reasonably requested by Kepion from time to time, Client agrees to verify, certify, or provide evidence that its use of the Kepion Service is within the applicable usage limits.

2.7 Professional Services. Kepion may provide, directly or indirectly, implementation, training, consultation or other professional services as described in a Statement of Work ("Professional Services") subject to the additional terms in Exhibit B.

3. Client Responsibilities.

3. Client Responsibilities. Client has exclusive control and responsibility for determining what Client Data Client submits into the Kepion Service and for obtaining all necessary consents and permissions for submission of Client Data and processing instructions to Kepion. Client is further responsible for the accuracy, quality, and legality of all Client Data, and for the acts and omissions of Authorized Users in accessing and using the Kepion Service. Client shall use reasonable measures to prevent, and shall promptly notify Kepion of, any known or suspected unauthorized use of the Kepion Service or Authorized User access credentials.

4. Intellectual Property Rights and Ownership.

4.1 Client. Client grants Kepion a worldwide, non-exclusive license for the limited purpose of allowing Kepion to host, copy, process, transmit and display Client Data as reasonably necessary for Kepion to provide the Kepion Service as permitted in this Agreement. Subject to this limited license right, as between Kepion and Client, Client owns all right, title and interest, including all related Intellectual Property Rights, in and to the Client Data.

4.2 Kepion. Kepion owns and shall continue to own all right, title and interest, including all related Intellectual Property Rights, in and to the Kepion Service. Client acknowledges that the Kepion name, the Kepion logo, and the product and feature names associated with the Kepion Service are trademarks of Kepion or third parties, and no license to those marks is granted under this Agreement. Client grants to Kepion a royalty-free, worldwide, transferable, sub-licensable, irrevocable, and perpetual license to incorporate and use, commercialize and distribute with the Kepion Service any suggestions, recommendations or other feedback specifically relating to the Kepion Service as Client in its discretion may elect to provide and to create derivative works of the same.

5. Use of Aggregate Information.

5. Use of Aggregate Information. Client acknowledges that Kepion collects, logs, and aggregates usage data as part of the normal operation of the Kepion Service (“Aggregated Data”). Kepion may use Aggregated Data for purposes of operating Kepion’s business, monitoring performance of the Kepion Service, and improving the Kepion Service as long as the Aggregated Data is anonymized and Kepion’s use does not reveal or disclose any Client Data, Client Confidential Information, or personally identifiable information or personal data of Authorized Users.

6. Billing and Payment.

6.1 Fees; Payment. Client shall pay all undisputed fees and charges to Client’s account under the Statement of Work or Order Schedule as invoiced by Kepion. Unless otherwise stated in a Statement of Work or Order Schedule, amounts are due and payable within thirty (30) days after the date of the invoice. If Client disputes any part of an invoice in good faith, Client shall (a) provide Kepion with notice and reasonable detail of the dispute before the invoice due date, and (b) pay the undisputed portion by the invoice due date as provided in this Agreement. Except as otherwise specified in an Order Schedule, (a) fees are quoted and payable in United States dollars, (b) fees are based on the Kepion Service purchased as indicated in an Order Schedule whether used or not, (c) payment obligations are non-cancelable and fees paid are non-refundable unless otherwise provided in this Agreement, and (d) the number of subscriptions rights purchased cannot be decreased during the relevant Subscription Term.

Where Client designates use of a third-party payment processor network (such as a payment agent), Client is responsible for payment of all fees and charges associated with use of such network (including registration, participation, and payment processing fees) and Kepion may invoice those fees with other fees due under this Section 6.1 or on a separate invoice.

Subscription Term(s) shall automatically renew for additional periods of one (1) year unless either party gives the other notice of non-renewal at least thirty (30) days prior to the end of the relevant Subscription Term. Subscription pricing for CAL licensing for each renewal term will not increase by more than three percent (3%) as compared to the prior term. Any proposed increase in subscription pricing shall be provided sixty (60) days prior to the end of a Subscription Term and only applicable to the subsequent renewal term.

6.2 Taxes. Fees are exclusive of all applicable taxes, levies, or duties, and Client is responsible for payment of all of those taxes, levies, or duties, excluding taxes based solely on Kepion's income. Client shall pay all fees free and clear of, and without reduction for, any applicable transaction taxes, including but not limited to sales and use taxes, VAT, GST, gross receipts taxes, withholdings and other similar transactional charges ("Transaction Taxes"); Transaction Taxes imposed on payments of fees will be Client's responsibility, and Client shall provide receipts issued by the appropriate taxing authority to Kepion on request to establish that the Transaction Taxes have been paid. Kepion may invoice Transaction Taxes as permitted in applicable law on an invoice as referenced in Section 6.1 or a separate invoice. Kepion reserves the right to determine Transaction Taxes based on Client's "bill to" or "ship to" address, or other information provided by Client on location of Client's use of the Kepion Service. Client is responsible for any taxes, penalties or interest that might apply based on Kepion's failure to charge appropriate tax due to incomplete or incorrect "bill to" or "ship to" location information provided by Client. If Client is exempt from Transaction Taxes, Client shall provide proof of the exemption to Kepion without undue delay upon execution of the applicable Order Schedule.

6.3 Effect of Nonpayment. This Agreement and Client's access to the Kepion Service or Kepion's provision of Professional Services may be suspended or terminated if Client fails to make timely payment of undisputed fees when due. Unpaid amounts may be subject to interest at the lesser of one and one-half percent (1.5%) per month or the maximum permitted by law plus collection costs. Suspension will not relieve Client's obligation to pay amounts due. Upon termination of this Agreement, Client shall pay the balance due on Client's account subject to the provisions of Section 7.3 ("Effect of Termination; Survival").

6.4 Future Features and Functionality. Client acknowledges that purchases under this Agreement or any Order Schedule are not contingent on the delivery of future features or functionality.

7. Term; Termination.

7.1 Term; Termination. This Agreement commences on the Effective Date and, unless earlier terminated under the terms of this Agreement, shall continue for so long as there is a valid Order Schedule authorizing Client's use of the Kepion Service or a Statement of Work in effect. Unless stated otherwise in this Agreement, either party may terminate this Agreement (or any affected Order Schedule or Statement of Work) (a) upon the other party's material breach that, if capable of remedy, remains uncured for thirty (30) days after written notice of breach, except that termination will take effect on notice of a breach of Section 2.2 ("Access and Usage Restrictions") or a material breach of Section 11 ("Confidentiality and Sensitive Data"); or (b) immediately if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, administration, administrative receivership, liquidation or assignment for the benefit of creditors or any similar process under the laws of any jurisdiction.

7.2 Treatment of Client Data After Expiration or Termination. Client agrees that after termination or expiration of this Agreement, or termination or expiration of any Order Schedule or Statement of Work, Kepion may immediately deactivate Client's account(s) associated with the Agreement or applicable Order Schedule(s). During the thirty (30) day period after termination or expiration, Kepion shall grant a reasonable number of Authorized Users access to the Kepion Service for the sole purpose of retrieving any Client Data that it wishes to retain and deleting any remaining Client Data. After the 30-day period, Kepion shall delete Client's account, including remaining Client Data, if any, from the Kepion Service unless legally prohibited.

7.3 Effect of Termination; Survival. Upon early termination of this Agreement by Client under Section 7.1 for Kepion's uncured material breach, Client is entitled to a prorated refund of prepaid fees relating to the Kepion Service applicable to the remaining period in the applicable Subscription Term. Upon early termination of this Agreement by Kepion under Section 7.1, fees relating to the Kepion Service applicable to the duration of any applicable Subscription Term shall become immediately due and payable. In addition, upon expiration or termination of this Agreement for any reason: (a) all subscription rights granted under this Agreement, Kepion's obligation to provide the Kepion Service, and Client's right to access or receive the Kepion Service, will terminate; (b) Client Data will be available for retrieval and deleted under Section 7.2 ("Treatment of Client Data After Expiration or Termination"); and (c) Sections 1 ("Definitions"), the restrictions in Section 2.2 ("Access and Usage Restrictions") for so long as Client has access to the Kepion Service, 3 ("Client Responsibilities"), 4 ("Intellectual Property Rights and Ownership"), 5 ("Use of Aggregate Information"), 6 ("Billing and Payment"), 7.2 ("Treatment of Client Data After Expiration or Termination"), 7.3 ("Effect of Termination; Survival"), 8 ("Representations and Warranties"), 9 ("Indemnification"), 10 ("Limitation of Liability"), 11 ("Confidentiality and Sensitive Data"), and 12 ("General") will survive.

8. Representations and Warranties.

8.1 By Each Party. Each party represents and warrants that it has the power and authority to enter into this Agreement and that its respective provision and use of the Kepion Service is in compliance with laws applicable to each party.

8.2 By Kepion.

(a) Conformity with Documentation. Kepion warrants that, during the Subscription Term, the Kepion Service will perform in a manner materially consistent with the applicable Documentation, and Kepion shall not materially decrease the functionality of Kepion Service. If a breach of the foregoing warranty occurs, Client shall provide Kepion with written notification of the specific way(s) in which the Kepion Service does not comply with the warranty and with reasonable information for Kepion to create a reproducible test case. If Kepion, in its sole discretion, confirms noncompliance, it shall use commercially reasonable efforts to correct that noncompliance within a thirty (30) day period (which may be mutually extended by the parties). If Kepion cannot correct the noncompliance during the 30-day cure period, Client may give Kepion a thirty (30) day notice of intent to terminate. At the end of the notice period, if the Kepion Service still does not comply with this warranty, Client may elect to terminate this Agreement (and any applicable Order Schedule or Statement of Work) and receive a prorated refund of prepaid fees applicable to the remaining period in the then-current Subscription Term. Notwithstanding the foregoing, this warranty shall not apply to any non-conformity due to a modification of or defect in the Kepion Service that is made or caused by or on behalf of anyone other than Kepion. THE FOREGOING RIGHTS ARE THE SOLE AND EXCLUSIVE REMEDY OF Client (AND KEPION'S SOLE LIABILITY) FOR A BREACH OF THE WARRANTY DESCRIBED IN THIS SECTION 8.2(A).

(b) Malicious Code. Kepion warrants that, to the best of its knowledge, the Kepion Service is free from, and Kepion shall not knowingly or intentionally introduce, software viruses, worms, Trojan horses or other code, files, scripts, or agents intended to do harm ("Malicious Code"), provided however, that Kepion shall not be in breach of this warranty if Client or any third party introduces Malicious Code.

8.3 By Client. Client represents and warrants that it has obtained all necessary consents and permissions from data subjects for the submission and processing of personal data before submission of that personal data to the Kepion Service.

8.4 WARRANTY DISCLAIMERS. EXCEPT AS WARRANTED IN THIS SECTION 8, ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. WHEN Kepion IDENTIFIES A VERSION OF THE Kepion SERVICE OR OTHER TECHNOLOGY AS BETA, PILOT, TRIAL, LIMITED RELEASE, PRE-RELEASE, EVALUATION, NON-PRODUCTION OR

SIMILAR DESIGNATION, THAT VERSION IS PROVIDED "AS IS," EXCLUSIVE OF ANY AND ALL WARRANTIES, IS NOT SUPPORTED, AND IS NOT SUBJECT TO ANY AVAILABILITY OR SECURITY OBLIGATIONS, AND Kepion MAY TERMINATE OR DISCONTINUE THAT VERSION AT ANY TIME WITHOUT LIABILITY. Kepion IS NOT RESPONSIBLE FOR AND DISCLAIMS ALL LIABILITY RELATED TO DELAYS, DELIVERY FAILURES, INTERCEPTION, ALTERATION OR OTHER DAMAGE RESULTING FROM PROBLEMS INHERENT IN THE USE OF THE INTERNET, MOBILE AND PERSONAL COMPUTING DEVICES, AND TRANSMISSION OF ELECTRONIC COMMUNICATIONS OVER THE INTERNET OR OTHER NETWORKS OUTSIDE OF ITS CONTROL.

9. Indemnification.

9.1 By Kepion. Kepion shall defend, indemnify and hold Client harmless from and against any damages and costs (including reasonable attorneys' fees and costs incurred by Client) finally awarded against Client (or, subject to Section 9.3, the amount of any settlement Kepion enters into) resulting from any claim, demand, suit or proceeding from an unaffiliated third party ("Claim") specifically alleging that the Kepion Service directly infringes or misappropriates a valid copyright, trademark, or trade secret of a third party . Kepion shall have no indemnification obligation for Claims to the extent arising from: (a) Client's or any Authorized User's use of the Kepion Service other than as permitted under this Agreement; (b) the combination of the Kepion Service developed by Kepion with any Client Data or with any Client or third party products, services, hardware, data, content, or business processes; or (c) from the modification of the Kepion Service by any party other than Kepion or Kepion's agents, or modification by Kepion or Kepion's agents based on Client instructions. The foregoing is Kepion's exclusive obligation for infringement claims. If Kepion becomes aware of a Claim alleging infringement or misappropriation, or Kepion reasonably believes such a Claim will occur, Kepion may, at its sole option: (i) obtain for Client the right to continue use of the Kepion Service; (ii) replace or modify the Kepion Service so that it is no longer infringing; or, (iii) if neither (i) nor (ii) is reasonably available to Kepion, terminate the Kepion Service, in which case Kepion's sole liability (in addition to the indemnification obligations set out in this Section 9.1) is to refund to Client a prorated amount of prepaid fees for the Kepion Service applicable to the remaining period (from the date Kepion is notified of the infringement claim by Client) in the then-current Subscription Term.

9.2 By Client. Client shall defend, indemnify and hold Kepion harmless from and against any damages and costs (including reasonable attorneys' fees and costs incurred by Kepion) finally awarded against Kepion (or, subject to Section 9.3, the amount of any settlement Client enters into) resulting from any Claim arising from (a) allegations that use of the Client Data infringes a valid copyright, trademark, or trade secret, privacy, or publicity rights of a third party; or (b) Client's failure to obtain consents and permissions from data subjects for the submission and processing of personal data in the Kepion Service; or (c) instructions by Client or its Authorized Users for processing data other than as specifically allowed in this Agreement.

9.3 Indemnity Process. Each party's indemnification obligations are conditioned on the indemnified party: (a) promptly giving written notice of the Claim to the indemnifying party; (b) giving the indemnifying party sole control of the defense and settlement of the Claim; and (c) providing to the indemnifying party all available information and assistance resulting from the Claim, at the indemnifying party's request and expense. The indemnified party may participate in the defense of the Claim, at the indemnified party's sole expense (not subject to reimbursement). Neither party may settle any claim that includes a financial or specific performance obligation on, or admission of liability by, the party against whom the claim is brought without that party's prior written consent. Neither party may admit liability for or consent to any judgment or concede or settle or compromise any Claim unless that admission or concession or settlement or compromise includes a full and unconditional release of the other party from all liabilities in respect of the Claim.

10. Limitation of Liability.

10.1 Liability Cap. EXCEPT FOR: (A) CLIENT'S PAYMENT OBLIGATIONS OR WILLFUL INFRINGEMENT OF KEPION INTELLECTUAL PROPERTY RIGHTS; (B) A BREACH BY EITHER PARTY OF ITS DATA PROTECTION OR CONFIDENTIALITY OBLIGATIONS IN SECTIONS 2.4 ("SECURITY AND INTEGRITY OF CLIENT DATA"), 2.5 ("DATA PROTECTION"), AND 11 ("CONFIDENTIALITY AND SENSITIVE DATA") (FOR WHICH, TOGETHER, THE AGGREGATE LIABILITY LIMITATION OF A PARTY TO THE OTHER PARTY INCLUDING ITS AFFILIATES IS THE ANNUAL SERVICE LICENSE COST IN THE AGGREGATE; OR (C) EITHER PARTY'S OBLIGATIONS UNDER SECTION 9 ("INDEMNIFICATION") (FOR WHICH THE AGGREGATE LIABILITY LIMITATION OF A PARTY TO THE OTHER PARTY INCLUDING ITS AFFILIATES IS THE ANNUAL KEPION SERVICE COST IN THE AGGREGATE),

IN NO EVENT WILL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE AMOUNTS ACTUALLY PAID BY AND DUE FROM CLIENT RELATING TO THE KEPION SERVICE FOR THE THEN-CURRENT ANNUAL SUBSCRIPTION TERM, UNDER THE APPLICABLE ORDER SCHEDULE(S) RELATING TO THE CLAIM.

10.2 Liability Exclusions. NEITHER PARTY NOR ITS LICENSORS WILL BE LIABLE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, IMPLIED, INCIDENTAL, CONSEQUENTIAL OR RELATED DAMAGES OR OBLIGATIONS (INCLUDING LOSS OF REVENUE, PROFITS, OR USE) ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING THE USE OR INABILITY TO USE THE KEPION SERVICE, OR FOR ANY CONTENT OBTAINED FROM OR THROUGH THE KEPION SERVICE, ANY INTERRUPTION, INACCURACY OR ERROR IN THE CONTENT, EVEN IF THAT PARTY HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF THE DAMAGES.

10.3 Limitations Fair and Reasonable. EACH PARTY ACKNOWLEDGES THAT THE LIMITATIONS OF LIABILITY STATED IN THIS SECTION 10 REFLECT THE ALLOCATION OF RISK BETWEEN THE PARTIES UNDER THIS AGREEMENT, AND THAT IN THE ABSENCE OF THOSE LIMITATIONS OF LIABILITY, THE ECONOMIC TERMS OF THIS AGREEMENT WOULD BE SIGNIFICANTLY DIFFERENT.

10.4 Limitation of Liability Restrictions. Notwithstanding the foregoing, nothing in this Section 10 shall exclude or limit the liability of either party or its Affiliates for death or bodily injury caused by the negligence of that party or that party's Affiliates arising out of the performance of Professional Services under this Agreement, or for any other liability to the extent that liability may not be limited as a matter of applicable law.

11. Confidentiality and Sensitive Data.

11.1 Confidentiality. "Confidential Information" means this Agreement, the Kepion Service, Kepion pricing information, Kepion technical information, Client Data and any other information disclosed by one party ("Discloser") to the other ("Recipient") related to the provision or use of the Kepion Service that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Recipient may use Discloser's Confidential Information solely to perform Recipient's obligations or exercise its rights under this Agreement. Recipient will not disclose, or permit to be disclosed, Discloser's Confidential Information to any third party without Discloser's prior written consent, except that Recipient may disclose Discloser's Confidential Information solely to Recipient's employees and subcontractors who have a need to know and who are bound in writing to keep that information confidential under confidentiality requirements consistent with this Agreement. Recipient agrees to exercise due care in protecting Discloser's Confidential Information from unauthorized use and disclosure, and at a minimum will use at least the degree of care a reasonable person would use. The foregoing will not apply to any information that: (a) was in the public domain at the time it was communicated to the Recipient by the Discloser; (b) entered the public domain after the time it was communicated to the Recipient by the Discloser through no fault of the Recipient; (c) was in the Recipient's possession free of any obligation of confidence at the time it was communicated to the Recipient by the Discloser; (d) was rightfully communicated to the Recipient free of any obligation of confidence after the time it was communicated to the Recipient by the Discloser; (e) was developed by employees or agents of the Recipient independently of and without reference to any information communicated to the Recipient by the Discloser; or (f) is expressly permitted to be disclosed under the terms of this Agreement.

11.2 Compelled Disclosure. The Recipient shall not be in violation of Section 11.1 for a disclosure that was in response to a valid order by a court or other governmental body, as long as the Recipient provides the Discloser with prior written notice of the disclosure to permit the Discloser to seek confidential treatment of that information.

11.3 Sensitive/Personal Data. Client agrees that it shall not submit into the Kepion Service the following types of information except with Kepion's prior written approval: government-issued identification numbers, consumer financial account information, credit and payment card information, credit reports, personal health information, or information deemed "sensitive"

under applicable law (such as racial or ethnic origin, political opinions, or religious or philosophical beliefs).

12. General.

12.1 Notices. Notices to a party will be sent by first-class mail, overnight courier, or prepaid post to the address for that party as identified on the first page of the Agreement (or as subsequently updated in writing to the other party) and will be deemed given 72 hours after mailing or upon confirmed delivery or confirmed receipt. Client shall address notices to Kepion's legal team, with a copy to Kepion, Inc., at the address in Section 1.3, when Client has sent a notice to an entity other than Kepion, Inc.

12.2 Assignment. Neither party may assign any of its rights or obligations under this Agreement, whether by operation of law or otherwise, without the other party's prior written consent (not to be unreasonably withheld) except as provided in this Section 12.2. Notwithstanding the foregoing, either party may assign this Agreement in its entirety (including all Order Schedules) to its Affiliate or under a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets without the other party's consent, provided the assignee has agreed to be bound by all of the terms of this Agreement and all fees owed to the other party are paid in full. If a party is acquired by, sells substantially all its assets to, or undergoes a change of control in favor of, a direct competitor of the other party, then that other party may terminate this Agreement upon written notice.

12.3 Governing Law; Venue. This Agreement will be governed by the Law of the State of Washington (without application of the conflicts of law provisions of any jurisdiction). Each party irrevocably submits to the personal jurisdiction and venue of and agrees to service of process issued or authorized by, any court in the Applicable Jurisdiction in any action or proceeding. Neither the United Nations Convention of Contracts for the International Sale of Goods nor the Uniform Computer Information Transactions Act will apply to this Agreement.

12.4 Export Laws. Each party shall comply with the export laws and regulations of the United States and other applicable jurisdictions in providing and using the Kepion Service. Without limiting the generality of the foregoing, Client represents that it is not named on any U.S. government denied-party list, and shall not make the Kepion Service available to any user or entity that is located in a country that is subject to a U.S. government embargo, or is listed on any U.S. government list of prohibited or restricted parties.

12.5 Remedies. Unless stated otherwise in this Agreement, the parties' rights and remedies under this Agreement are cumulative. Where Client controls any Affiliate, Kepion is entitled to remedies from Client for the obligations and liabilities of Affiliates who place orders under this Agreement.

12.6 Independent Contractors. The parties are independent contractors. No joint venture, partnership, employment, or agency relationship exists between Client and Kepion as a result of this Agreement or use of the Kepion Service or Professional Services.

12.7 U.S. Government End Users. If Client is a branch agency or instrumentality of the United States Government, the following provision applies. If Client is the U.S. Federal Government, Kepion provides the Kepion Service, including related software and technology, under the following: Government technical data and software rights related to the Kepion Service include only those rights customarily provided to the public as defined in this Agreement. This customary access right and license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not conveyed under these terms, it must negotiate with Kepion to determine if there are acceptable terms for transferring those rights, and a mutually acceptable written addendum specifically conveying those rights, must be included in any applicable contract or agreement.

12.8 Waiver; Modification. The failure of a party to enforce any right or provision in this Agreement will not constitute a waiver of that right or provision unless the waiver is in writing signed by the waiving party. No modification hereof will be effective unless in writing and signed by both parties.

12.9 Severability. If any provision of this Agreement is unenforceable, that provision will be changed and interpreted to accomplish the objectives of that provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect. Without limiting the generality of the foregoing, Section 10 (“Limitation of Liability”) will remain in effect notwithstanding the unenforceability of any provision in Section 8 (“Representations and Warranties”).

12.10 Entire Agreement; Execution. This Agreement comprises the entire agreement between Client and Kepion and supersedes all prior or contemporaneous proposals, quotes, negotiations, discussions, or agreements, whether written or oral, between the parties for services governed by the terms of this Agreement. If a conflict arises between the terms of this Agreement and the terms of any Statement of Work, any Order Schedule, or other exhibit to this Agreement, that conflict will be resolved in the following order: (a) any Order Schedule; (b) any Statement of Work, (c) this Agreement; then (d) any exhibits to this Agreement. This Agreement will be construed as if drafted by both parties and will not be strictly construed against either party. Headings are for reference purposes only and in no way define, limit, construe or describe the scope or extent of that section. Reference to words like (a) “includes” and “including” is inclusive and means “includes (or including), but not limited to”; and (b) “arising” (or which “arise” or “arises”) “out of this Agreement” means matters which occur under this Agreement or relate to the provision or use of Kepion Services that directly flow from a party’s performance of or failure to perform its obligations under this Agreement. Any

preprinted terms on any Client ordering documents or terms referenced or linked in those terms will have no effect on the terms of this Agreement and are hereby rejected, including where the Client ordering document is signed by Kepion. This Agreement may be executed in counterparts, which taken together shall form one binding legal instrument. The parties hereby consent to the use of electronic signatures for execution of this Agreement, and further agree that electronic signatures to this Agreement are legally binding with the same force and effect as manually executed signatures.

Exhibit A

Kepion Availability and Support SLA

This Service Level Agreement (“SLA”) describes Kepion’s availability and support service level policies for use of the Kepion Service under the terms of an Agreement. The SLA is effective during the Subscription Term of an Order Schedule between Kepion and the Client that has executed an Agreement that explicitly references this SLA. Capitalized terms in this SLA shall have the meaning assigned to them in the Agreement unless otherwise defined in this Exhibit.

Service Availability. During the Subscription Term, Kepion shall maintain a Service Availability Percentage at or above 99% for a given calendar month (“Uptime Target”). Service Availability means the ability to login to the Kepion Service (production site) via the login page. Client’s sole and exclusive remedy for Kepion’s failure to meet the Uptime Target in a month (each an “Availability Failure”) is as follows: (a) for the third month of an Availability Failure in a rolling six (6) month period, Client will be eligible for a credit of 3 percent (3%) of Client’s monthly user and workspace fees for the applicable month (calculated based on the monthly prorated amount for the then-applicable annual term); and (b) for the four or more months of an Availability Failure in a rolling six month period, Client will be eligible for a credit of five percent (5%) of Client’s monthly user and workspace fees for the applicable month (calculated based on the monthly prorated amount for the then-applicable annual term). Client may claim a credit by providing notice of the Availability Failure to Kepion and requesting the credit in writing within fourteen (14) days after the Availability Failure occurs. Kepion shall apply credited amounts only to future subscription fees due, if any, under the applicable Order Schedule upon Kepion’s verification of the Availability Failure and Client’s eligibility for a credit. Kepion shall provide Client with a root cause analysis for each verified Availability Failure and a description of measures taken or to be taken in response.

The Service Availability Percentage is calculated monthly as follows: Service Availability Percentage = (Actual Service Availability / Planned Service Availability) * 100

Actual Service Availability means total minutes of Planned Service Availability in a calendar month minus minutes of unavailability for any reason other than Permitted Outages.

Planned Service Availability means total minutes in a calendar month minus minutes of Permitted Outages.

Permitted Outages means unavailability due to: (1) scheduled maintenance during maintenance hours (not to exceed four hours per week, beginning at 3 p.m. Pacific Standard/Daylight Time on Saturdays, or at another time with at least seven (7) days prior notice from Kepion) (“Scheduled Maintenance”); (2) emergency maintenance due to factors outside of Kepion’s control that could not have been reasonably anticipated by Kepion and that reasonably require prompt action to protect the integrity and security of Client Data,

Confidential Information or the Kepion Service; (3) due to a general failure of Internet connectivity outside of Kepion's reasonable control; (4) mutually-agreed-upon downtime in connection with professional service updates to the Kepion Service administered to Client; and (5) downtime resulting from a Client-specific configuration, action or data integration.

Support. Subject to Client's compliance with the terms of the Agreement, Kepion shall respond to support requests according to its regular maintenance hours. LICENSOR's regular maintenance hours are from 9 am to 5 pm Pacific Time (or Pacific Daylight Savings Time when such is in effect) Monday through Friday except for the following federal or state holidays or company holidays in any calendar year:

- Memorial Day (last Monday of May)
- Independence Day (July 4th)
- Labor Day (first Monday in September)
- Thanksgiving (fourth Thursday of November)
- Christmas (December 25th)
- New Year's Day (January 1st)

Kepion support usually responds to maintenance requests beginning at 9am PT or PDST, (whichever is in effect). The preferable way to contact Kepion for support is email at support@kepion.com.

Kepion shall use commercially reasonable efforts to promptly resolve each request. Client may submit support cases to Kepion through the following channels:

- Through the Case Portal within the Support section of the Kepion Community, where available
- E-mail: support@kepion.com
Kepion recommends email reporting for the quickest response, particularly on Severity 1 issues.

Authorized User self-help support is also available at <https://help.kepion.com/hc/en-us> where detailed Kepion Service information may be found.

Client may view outstanding cases and issues that are being worked on by Kepion support personnel, along with each case's history, by accessing an Authorized User's Community login under Case Portal section of Support where available.

Severity Level Determination: Client shall reasonably recommend to Kepion an appropriate Severity Level designation based on the definitions in the next paragraph and included table. Kepion's initial response time shall be based on Client's reported Severity Level. Kepion may validate Client's Severity Level designation and shall notify Client of a change in the Severity

Level designation with justification for the change. The parties may escalate conflicts in Severity Level designation for resolution through consultation between the parties’ management, during which time the parties shall continue to handle the support issue based on Kepion’s Severity Level designation.

Severity Level Definitions & Target Response Times: Kepion shall use commercially reasonable efforts to adhere to the following response times for the first contact initiated by a Kepion support representative.

Severity Level	Description	Response Time (during regular maintenance hours)	Initial Review and Technical Assessment Time (to include targeted workaround/resolution timeframe)
1	Fatal. Critical error preventing any useful work from being done. Includes issues affecting all users and a complete loss of system availability where no workaround is available.	2 hours	1 business day
2	Severe Impact. Persistent error affecting many users that prevents major functions from being performed or that severely degrades performance, with no reasonable workaround available.	4 hours	1 business day
3	Degraded Impact. Error affecting some, but not all users, disabling only certain non-essential functions. Workaround available for short	1 business day	3 business days

	term, but not suitable for long term.		
4	Minimal Impact. Routine technical issues, errors affecting a small number of users, and other issues with no immediate impact on day-to-day operations, or where a reasonable workaround is available.	2-3 business days	5 business days

Disaster Recovery. Kepion utilizes disaster recovery facilities that are geographically remote from their primary data centers. The primary data centers are backed up for disaster recovery purposes to a corresponding data center in the same region. That is, United States data centers are backed up to United States disaster recovery data centers while European data centers are backed up in Europe. In the event production capabilities at the primary data centers were rendered unavailable, the disaster recovery hosting facilities would be enabled and brought online. In the event that data needs to be restored, all data will be restored from the prior scheduled overnight backups.

Scope. Kepion shall provide technical assistance in support of the Kepion Service as described in the Agreement and this Exhibit. Model-building questions or requests for assistance in designing or building Kepion models or parts of models or formula help may require an appointment with a Kepion Customer Success representative, which may be subject to an additional fee. Kepion is not responsible for configuring or diagnosing problems in any other part of the Client’s technical infrastructure.

Responsibilities. Kepion’s ability to provide support depends on Client’s compliance with the Agreement, participation of knowledgeable Client representatives that provide accurate and detailed information sufficient for Kepion to reproduce the reported error, and Client’s response to Kepion communications in a timely manner. Kepion is not obligated to provide support for issues related to network unavailability due to reasons beyond Kepion’s control including emergency updates to address security, privacy, legal, regulatory, or third party hardware or software issues not reasonably foreseeable by Kepion or within Kepion’s direct control.

Kepion reserves the right to update support policies from time to time, but only to the extent that the update does not materially and adversely diminish Client's rights to support services as provided in this Exhibit.

Exhibit B

Professional Services Exhibit

This Exhibit (the “Professional Services Exhibit”) contains terms that apply to Kepion’s provision of Professional Services to Client under the Agreement. The terms of this Professional Services Exhibit are hereby incorporated by reference into the Agreement and applicable to the Professional Services described in a Statement of Work executed by the parties. Capitalized terms in this Professional Services Exhibit shall have the meaning assigned to them in the Agreement unless otherwise defined in this Exhibit.

- A. **Professional Services.** Kepion may provide, directly or indirectly, implementation, training, consultation or other Professional Services as described in a Statement of Work. Kepion shall provide or arrange for resources as Kepion deems necessary to perform the Professional Services. Kepion shall use commercially reasonable efforts to meet the schedules stated in the Statement of Work, and Client agrees to cooperate in good faith to allow Kepion to achieve completion of the Professional Services in a timely manner, including by providing Client Data and assistance as required in a Statement of Work or otherwise reasonably requested by Kepion. If achievement of any particular milestone is dependent on performance of tasks by Client or by a third party outside of Kepion’s control, the projected dates for accomplishing those milestones will be reasonably adjusted to reflect any changes or delays in those tasks. Subject to applicable local law and custom, Kepion requires the background screening for all its personnel before their employment at Kepion, typically including: (a) social security number verification; (b) criminal history including up to seven (7) years for felonies and misdemeanors; (c) employment verification for last three (3) employers; and (d) education verification of the highest degree listed by that personnel. While performing services on Client’s premises, Kepion’s professional services resources shall comply with reasonable workplace standards and policies communicated to them which are also applicable to Client’s employees for the protection of Client’s facilities, equipment, and personnel.
- B. **Payment of Professional Services Fees.** Client shall pay all fees and charges to Client’s account under the Statement of Work as invoiced by Kepion (or by an Affiliate of Kepion as indicated in a Statement of Work or invoice) under the terms of Section 6 (Billing and Payment) of the Agreement. Unless otherwise stated in a Statement of Work, amounts are invoiced monthly in arrears on a time and materials basis as Professional Services are performed and expenses are incurred.
- C. **Term & Termination** Upon the expiration or early termination of the Agreement or a Statement of Work by Kepion for Client’s uncured material breach under Section 7.1 (“Term; Termination”) of the Agreement, any amounts (including expenses) owed to Kepion for completed Professional Services and work in progress will be immediately due and payable. Upon early termination of the Agreement or a Statement of Work by Client for Kepion’s uncured material breach under Section 7.1 of the Agreement, Client shall be

responsible for payment of fees for Professional Services rendered before the date of termination. In addition, Kepion's obligation to provide Professional Services and Client's right to receive the Professional Services will terminate upon expiration or termination of this Agreement for any reason.

- D. **Representations and Warranties.** Kepion represents and warrants that it shall perform Professional Services in a professional and workmanlike manner. Client shall have thirty (30) days after completion of the Professional Services to notify Kepion of the specific way(s) in which Kepion has failed to conform to the foregoing warranty. If Kepion, in its sole discretion, confirms the non-conformity, Kepion's entire liability and Client's exclusive remedy will be, at Kepion's election, either to: (a) correct any nonconforming elements of the Professional Services so that they conform to the warranty; or (b) if Kepion is not able to make the nonconforming elements conforming after good faith efforts, provide a refund of the fees paid for the nonconforming elements of the Professional Services.
- E. **WARRANTY DISCLAIMERS.** EXCEPT AS WARRANTED IN SECTION 4.1, ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.
- F. **Change Management.** Either party may request a change to a Statement of Work by describing the proposed change and reason for the change in writing to the other party. Upon receipt of a request, the receiving party agrees to work with the requesting party in good faith to determine the anticipated impact on the Professional Services and Statement of Work. No change will take effect until accepted by the parties as indicated in a document signed by both parties describing the material changes to the Statement of Work, which might include changes to the scope, schedule, fees and obligations of the parties.
- G. **Ownership.** Unless otherwise expressly stated in a Statement of Work or the Agreement, Kepion is not granting to Client, directly or indirectly from the Professional Services or otherwise, any ownership interest or Intellectual Property Rights in (a) the Kepion Service; (b) modifications, extensions and customizations to the Kepion Service, (c) other configurations of the Kepion Service for Client, or d) any deliverables under the Statement of Work.
- H. **Limitation of Liability for Professional Services.** SUBJECT TO THE EXCEPTIONS AND EXCLUSIONS IN THE AGREEMENT'S LIMITATION OF LIABILITY, IN NO EVENT WILL EITHER PARTY'S AGGREGATE LIABILITY UNDER A STATEMENT OF WORK EXCEED THE AMOUNTS ACTUALLY PAID BY AND DUE FROM Client RELATING TO THE PROFESSIONAL SERVICES UNDER THE STATEMENT OF WORK.
- I. **Insurance.** Kepion shall, at its own expense during the term of this Agreement, maintain insurance related to the performance of Professional Services under this Agreement

including, as applicable, general commercial liability, errors and omissions, employer liability, automobile insurance, and worker's compensation insurance as required by applicable law.

- J. **Non-Exclusivity.** Subject to compliance with obligations in the Agreement and this Professional Services Exhibit on Confidential Information and Intellectual Property Rights, nothing in the Agreement or this Professional Services Exhibit will be deemed to prevent Kepion from performing services that are similar or identical to, or otherwise competing with the Professional Services.
- K. **Subcontractors.** If Kepion utilizes subcontractors to perform the Professional Services, Kepion may provide information it receives under this Agreement to those subcontractors under confidentiality terms at least as protective of that information as the confidentiality terms of this Agreement. Kepion is responsible for the acts of the subcontractors it utilizes as if it had performed the acts itself.
- L. **Named Resources.** Should a Statement of Work name an Kepion resource by name, then Kepion shall use commercially reasonable efforts to keep that resource involved for the duration of the Professional Services, provided however that the resource shall not be dedicated full-time to the Professional Services, and provided further that should Kepion need to change that resource, Kepion will coordinate with Client to minimize impact. Client may also request replacement of an Kepion resource; provided, however, replacement is subject to availability of alternative resources from Kepion, and Kepion is not responsible for reasonable delays resulting from the replacement.

Exhibit C

EULA for Kepion Applications

Kepion Inc. (“Kepion”) is a Washington corporation with its principal offices at 2323 1st Ave Seattle, WA 98121, U.S.A.

READ CAREFULLY BEFORE INSTALLING THE PRODUCT(S).

When used in this end user license agreement (“EULA”), the terms “you,” “licensee,” “client” or “affiliate” mean the licensee of a product as defined in this EULA and Master Agreement Section 1 (the term Master Agreement includes all addenda and schedules and any other attachments to the Master Agreement) entered into between client with Kepion.

The terms “your,” “yours,” “licensee’s,” “client’s” or enrolled affiliates (or derivatives of the aforesaid terms) are interchangeable.

Each product contains copyrights, inventions, trade secrets and other intellectual property rights (as defined in Master Agreement Section 1) belonging to Kepion.

You may not install, copy, display, execute, perform or use a product except in accordance with the terms and conditions of this EULA and the Master Agreement. A product may only be installed, copied, displayed, executed, performed and/or used in accordance with the terms and conditions contained in this EULA and the Master Agreement and any appendix with additional terms applicable to a specific product, but only when payments are timely made pursuant to the Master Agreement.

If you install, copy, display, execute, perform or make any other use of a product, you are deemed to have accepted and you are bound by all the terms and conditions of the EULA (including without limitation each appendix applicable to such product) and the Master Agreement.

In order to use a product, you may be required to obtain a unique electronic activation code or codes from Kepion to enable installation, copying, display, execution, performance and other use of the product.

If you do not accept and agree to the terms and conditions of this EULA, you are prohibited from installing, copying, displaying, executing, performing, or using in any other fashion any product.

Please be aware that any violation of this EULA is also unlawful and would subject you to claims of infringement, misappropriation and conversion of Kepion’s copyrights, trade secrets,

invention rights, and other intellectual property rights, and will subject you and each individual infringer to claims for both entity and personal liability for damages (including without limitation statutory damages) and other remedies and relief. any violation of this EULA may also constitute violation of criminal laws.

If you licensed a product or utilized a service that is an upgrade of an earlier version of a product, then terms and conditions in this EULA shall supersede the terms and conditions of the prior agreement and prior EULA that applied to the earlier version, as of the date of installation of the upgrade.

This EULA and the Master Agreement also apply to Kepion

- updates,
- supplements,
- Internet-based services, and
- support services

For the Products, except for any additional terms and conditions that accompany those items. If such additional terms and conditions contradict these terms and conditions, such other terms and conditions shall prevail. This EULA supplements the Master Agreement

NOTICE:

TO INSTALL ANY PRODUCT, EULA WITH AND ACCEPTANCE OF THE TERMS AND CONDITIONS OF THIS EULA (INCLUDING ANY APPENDICES) ARE REQUIRED, AND IN THE INSTALLATION SCREEN, SUCH EULA AND ACCEPTANCE MUST BE SELECTED FOR INSTALLATION.

Section 1. Grants Of Licenses

1.1 Types of Products. The Products may include one or more of the following types of software: “Server Software” that provides services or functionality on a computer or a Virtual Machine acting as a server and/or “Client Software” that allows a computer, workstation, terminal, handheld PC, pager, telephone, “smart phone,” or other electronic device (each of the foregoing a “Device”) to access or utilize the services or functionality provided by the Server Software.

1.2 Scope of License; Additional Prohibitions. The software is licensed, not sold. Subject to the terms and conditions of this EULA and the Master Agreement and during the Term herein (subject to any early termination), you are granted the aforesaid rights to use the Products. Kepion reserves all other rights. Unless applicable laws give you additional rights, you may use the Products only as expressly permitted in the Master Agreement and this EULA. In doing so, you must comply with any technical limitations in the Products that only allow you to use it in

certain ways. You shall use your best efforts to prevent unauthorized installation, copying, display, execution, performance, distribution or other use in whole or in part of the Products. You are not granted any rights of any kind to the source code of any Product.

You may not:

- work around any technical limitations in the Products;
- reverse engineer, decompile or disassemble the Products, except and only to the extent that applicable law expressly permits despite this limitation;
- make more copies of the Products than specified in this EULA or allowed by applicable laws despite this limitation;
- publish the software for others to copy;
- rent, lease or lend the software; or
- use the software for commercial software hosting services.

1.3 Backup Copy. You may make one backup copy of the software. You may use it only to reinstall the software as permitted herein.

1.4 Documentation. Any Person that has valid access to your computer or internal network may copy and use the documentation only for your internal reference purposes, subject to all terms and conditions of the Master Agreement and this EULA.

1.5 No Change of Ownership of IPR. No title to or ownership of any of the Intellectual Property Rights (“IPR”) in or to the licensed Products or related materials and documentation) are assigned to you hereunder. You recognize and acknowledge the exclusive right of Kepion in and to Kepion’s trademarks, service marks, trade names, copyrights and any other IPR in and to the Kepion Products.

Section 2. Term And Termination

2.1 Term. This EULA shall be effective so long as you are compliance with the terms and conditions of the Master Agreement and of this EULA.

2.2 Termination of EULA. This EULA shall be automatically terminated upon any breach by you of any of its terms and conditions or any breach of the Master Agreement that terminates any grants made herein. Any such termination shall not operate as a bar, discharge, forgiveness, waiver, impairment, or other limitation of Kepion’s rights in law or equity against any CUSTOMER who breaches this EULA, including without limitation, rights to any unpaid fees or other costs or charges under the Master Agreement. Immediately upon any termination of this EULA arising from your breach of this License and without any obligation of Kepion to notify you of said breach, your rights to the applicable Products shall be terminated, and you shall return to Kepion all documentation and materials and copies thereof within your possession or control and thereafter shall make no further use of the Products.