

Plus Delta Partners Terms and Conditions of Purchase

These Plus Delta Partners Terms and Conditions of Purchase (“**Terms and Conditions**”) govern a Client’s purchase and use of Services (as defined below) provided by Copper Reef Enterprises LLC dba Plus Delta Partners (“**Plus Delta**”), a California limited liability company with an address of 6965 El Camino Real, Suite #105-488, Carlsbad, California 92009. By executing a written agreement, order form, statement of work, addendum, amendment or other document that references these Terms and Conditions (each, a “**SOW**”) or by receiving, using or accessing any Services, the person or entity named in such SOW (the “**Client**”) agrees to these Terms and Conditions. In the event of any conflicts or inconsistencies between (a) these Terms and Conditions, (b) any SOW, and (c) any terms, conditions, policies, or other agreements provided by or on behalf of Client and agreed to by Plus Delta in connection with the Services (collectively, “**Client Terms**”), the order of precedence shall be as follows: (i) these Terms and Conditions control, unless expressly stated otherwise with section references in the applicable SOW; then (ii) the applicable SOW; and then (iii) any Client Terms. For the avoidance of doubt, general terms in Client Terms (including any conflicting standard terms, purchase order terms, or vendor policies) shall not modify or supersede these Terms and Conditions or any SOW unless Plus Delta has expressly agreed in writing to such modification with specific reference to the provision being modified.

As used herein, a SOW and these Terms and Conditions are together referred to as the “**Agreement**.” Unless otherwise set forth in these Terms and Conditions, capitalized terms used but not defined herein shall have the meanings given to such terms in the applicable SOW. Each of Plus Delta and Client may be referred to in these Terms and Conditions individually as a “**Party**” and, together, as the “**Parties**.”

1. Services. All services to be provided by Plus Delta to a Client shall be as described in an applicable SOW (the “**Services**”) and shall be performed or provided by Plus Delta in accordance with the Agreement and, in the case of the functionality of AGYL (defined below), the Documentation (defined below).

1.1 Types of Services. The Services may consist of one or more of the following which shall be specified in an applicable SOW:

(a) skill-building training and development program(s) consisting of workshops, coaching sessions, and other training activities (each a “**Program**”); and/or

(b) access to Plus Delta’s AGYL software (“**AGYL**”), including any programmed instructional presentations, any downloadable Tools (defined below), as well as all improvements, modifications, and derivative works thereto (collectively “**Courseware**”) and all applicable documentation provided by Plus Delta (“**Documentation**”), together with all related cloud software, interfaces, functionality, web-services, supplements, add-on components, corrections, bug fixes, modifications, enhancements, updates, new versions or releases (collectively, “**Software**”).

For purposes of these Terms and Conditions, reference to the Services shall be deemed to include the Programs and/or AGYL depending on the Services purchased by the Client in the applicable SOW.

1.2 Users.

(a) When a Program is purchased, the applicable SOW will specify the number of program participants, integrated auditors, and observers (each, a “**Client Participant**”) that will participate in the Program.

(b) When AGYL is purchased, the applicable SOW will specify the number of Client Participants entitled to access and use of AGYL (each, in such capacity, an “**Authorized User**”).

2. Fees.

2.1 In consideration of the provision of the Services by Plus Delta and the rights granted to Client under the Agreement, Client shall pay the Total Fees and travel expenses set out in an applicable SOW (collectively, “**Fees**”), on the invoice schedule set forth therein. Unless otherwise provided in the applicable SOW, Plus Delta will invoice Client for the Fees on the first of each month, and all payments to Plus Delta shall be payable within fifteen (15) days of receipt of invoice by the Client.

2.2 Except for amounts that Client has successfully disputed, Plus Delta reserves the right, in its sole discretion, to charge interest on past due payments at the lesser of (a) the rate of 1% per month and (b) the highest rate permissible under applicable law, calculated daily and compounded monthly. Plus Delta may also seek reimbursement from Client for all reasonable costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under the Agreement or at law (which Plus Delta does not waive by the exercise of any rights hereunder), Plus Delta shall be entitled to suspend the provision of or access to any Services (until all past due amounts and interest thereon has been paid) if the Client fails to pay any amounts when due and such failure continues for thirty (30) days following written notice thereof.

2.3 All Fees associated with AGYL are based on the access purchased and not actual use by a Client's Authorized Users.

2.4 All amounts payable to Plus Delta under the Agreement shall be paid by Client to Plus Delta in full without any setoff, recoupment, counterclaim, deduction, debit, or withholding for any reason (other than any deduction or withholding of tax as may be required by applicable Law).

3. Taxes. Unless a valid tax exemption certificate authorized by the appropriate taxing authority is provided annually to Plus Delta, Client shall be responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental entity on any amounts payable by Client hereunder (collectively, “**Taxes**”). To the extent Plus Delta is required to pay any such Taxes, Client shall reimburse Plus Delta in connection with its payment of fees and expenses as set forth in Section 2 above. Notwithstanding anything to the contrary herein, in no event shall Client pay or be responsible for any taxes imposed on, or regarding, Plus Delta's income, revenues, gross receipts, personnel, or real or personal property or other assets.

4. Independent Contractor Relationship. Plus Delta is an independent contractor and not an employee of Client. Nothing in this Agreement is intended to, or should be construed to, create a partnership, agency, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

5. Representations and Warranties; Limitations.

5.1 Mutual. Each Party represents and warrants to the other Party that:

(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 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 the Agreement.

(c) the execution of the Agreement by its authorized Representative (defined below) whose signature is set forth at the end of the Agreement has been duly authorized by all necessary corporate or organizational action of such Party.

(d) when executed and delivered by both parties, the Agreement will constitute the legal, valid, and binding obligation of such Party, enforceable against such party in accordance with its terms.

5.2 Client further represents and warrants to Plus Delta that Client owns or otherwise has and will have the necessary rights and consents in and relating to the Client Data so that, as received by Plus Delta and Processed in accordance with the Agreement, they do not and will not infringe, misappropriate, or otherwise violate any intellectual property, privacy, or other rights of any third party or violate any applicable law.

5.3 Plus Delta further warrants that it shall perform the Services:

(a) in accordance with and subject to the terms and conditions of the Agreement and, with respect to AGYL, to provide the general business functionality as described in the Documentation;

(b) using personnel of commercially reasonable and required skill, experience, and qualifications; and

(c) in a timely, workmanlike, and professional manner in accordance with generally recognized industry standards for similar services.

5.4 EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED IN SECTION 5.1 AND 5.3 ABOVE, ALL SERVICES AND PLUS DELTA PROPERTY ARE PROVIDED "AS IS." PLUS DELTA HEREBY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. PLUS DELTA SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. PLUS DELTA MAKES NO WARRANTY OF ANY KIND THAT THE SERVICES, PLUS DELTA PROPERTY, OR RESULTS OF THE USE THEREOF, WILL MEET CLIENT'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.

6. Data Protection

6.1 General. During the course of providing the Services, Plus Delta may collect Personal Data as defined in Plus Delta's Privacy Policy available at <https://www.plusdeltapartners.com/privacy> ("**Privacy Policy**"), and incorporated herein by reference. The Data Processing Agreement available at <https://www.plusdeltapartners.com/data-processing>, and incorporated herein by reference (the "**DPA**"), sets out how Plus Delta will Process Personal Data on Client's behalf in connection with the Services. Except as otherwise set forth in this Section 6.1, capitalized terms used but not defined in this Section 6 shall have the meanings given to such terms in the DPA.

6.2 Data Transfer. Client acknowledges and agrees that Plus Delta and its Sub-Processors may access and Process Personal Data on a global basis and that Plus Delta and its Affiliates may transfer data (including Personal Data of Client Participants) to the United States in connection with providing the Services. To the extent Plus Delta processes Personal Data from the European Economic Area, the United Kingdom and/or Switzerland or Personal Data that is subject to the protection of European Data Protection Laws, the applicable

Standard Contractual Clauses will apply, as set out in the DPA. With respect to the foregoing, Client or its Affiliates, as applicable, is the Controller of Personal Data Processed pursuant to the Services and Plus Delta is the Processor.

6.3 Third Parties. Plus Delta may disclose Personal Data to third parties if Plus Delta: (a) is party to a merger or other business combination or separation; (b) contracts with a third party to provide certain services on behalf of Plus Delta or its Affiliate; or (c) is required to disclose Personal Data to comply with any legal obligation. Under (a) and (b) above, Plus Delta shall contractually require such third party to provide the same level of protection for Personal Data required under these Terms and Conditions and any applicable data protection laws.

6.4 Data Breach. Plus Delta shall: (a) notify Client of any unauthorized access to or misuse of Personal Data (a “**Personal Data Breach**”) within forty-eight (48) hours after discovery of the Data Breach; and (b) not notify any third parties of the involvement of Client’s Personal Data in the Personal Data Breach without Client’s prior written permission, not to be unreasonably withheld. Plus Delta’s notice will include the details set forth in the DPA. Plus Delta shall immediately investigate and take appropriate remedial actions to mitigate the effects of the Personal Data Breach in accordance with applicable laws, regulations, and industry standards. Upon request, Plus Delta shall provide Client with a summary report of its investigation and remediation activities.

6.5 Usage Data. Notwithstanding anything to the contrary in the Agreement, Plus Delta may collect and use Usage Data to develop, improve, operate, and support its products and services. Plus Delta will not share any Usage Data that includes Client identifiable information or information that can be identified to an Authorized User except to the extent that such Usage Data is anonymized and aggregated such that it does not identify such Client or Authorized User. For purposes of these Terms and Conditions, “**Usage Data**” means any and all information reflecting the access or use of AGYL by or on behalf of Client or any Authorized User, including any end user profile-, visit-, session-, impression-, click through-, or click stream-data, and any statistical or other analysis, information, or data based on or derived from any of the foregoing/technical information and metrics about Client’s and its Authorized Users’ access to or use of AGYL, such as end user profile-, visit-, session-, impression-, click through-, or click stream-data.

7. Ownership and Licenses.

7.1 Client Data.

(a) As between Plus Delta and Client, Client shall retain exclusive ownership of all right, title, and interest in and to all Client Data, subject to the permissions granted to Plus Delta in subsection (b) below. For purposes of the Agreement, “**Client Data**” means data, information, or other content, including donor data, in any form or medium, provided by or on behalf of Client to Plus Delta (through software or other data collection activities) or otherwise disclosed through the Services, including all patent, copyright, trademark, trade secret and other intellectual property rights (“**Intellectual Property Rights**”) therein; provided, that Client Data does not include any Usage Data (defined below), Feedback, or User Contributions (as defined in the Website Terms of Use).

(b) Client hereby grants all such rights and permissions in or relating to Client Data as are necessary or useful to Plus Delta to enforce this Agreement and exercise Plus Delta’s rights and perform Plus Delta’s obligations hereunder.

7.2 Upon full payment of Fees, Plus Delta grants Client (i) ownership of any tangible final version of the copyrightable works specifically identified in an applicable SOW as a Deliverable (collectively, the “**Deliverables**”), subject to Plus Delta retaining ownership of all underlying Plus Delta Property, including the Intellectual Property Rights (defined below), in the Deliverables; and (ii) a non-exclusive, non-transferable, perpetual license to use the Plus Delta Property contained in the Deliverables; provided that Client is not permitted to use the Deliverables for any fundraising training purposes separate from the Plus Delta-provided Services. Plus Delta reserves all rights not expressly granted hereunder. For avoidance of doubt, Deliverables do not include any other component of the Program, including the Tools (defined below), or AGYL and all components thereof.

7.3 Plus Delta and its affiliates retain all right, title, and interest in and to the Plus Delta Property, including all Intellectual Property Rights therein. For purposes of the Agreement, “**Plus Delta Property**” means, without limitation, the Services, including AGYL and all components thereof (AGYL, AGYL Workflow, Courseware, Documentation, Software, and AI Features); any third-party materials included in the Services; and with respect to the Programs, the templates, formulas, engagement processes, frameworks, tools, curriculum, training binders, reports, presentations, scripts, and any other materials, as well as all of Plus Delta’s ideas, concepts, feedback, techniques, methodologies, and know-how reflected in any of the foregoing, or that are used in performing the Services, as well as all improvements, modifications, and derivative works thereto (collectively, the “**Tools**”). For avoidance of doubt, Plus Delta Property includes Usage Data and any information, data, or other content derived from Plus Delta’s monitoring of Client’s access or use of AGYL but does not include Client Data.

Client has no right, license or authorization with respect to any of the Plus Delta Property except as expressly set forth in this Section 7. Plus Delta reserves all rights not expressly granted hereunder.

7.4 Plus Delta grants to Client on behalf of each individual Client Participant and each Authorized User a limited, royalty-free, paid-up, non-exclusive, non-transferable, non-sublicensable license to use those copyrighted works identified as “Tools” in the applicable SOW and, with respect to Authorized Users, AGYL within Client’s enterprise only and solely for Client’s internal fundraising purposes. Client and individual Client Participants and Authorized Users shall not copy, repurpose, or make derivative works of, in any form, any such Tools; provided however, (i) to the extent that such Tool is a template designed for the insertion of Client specific information, such information may be inserted and (ii) individual Client Participants may use Tools with other individuals employed by Client, provided such use is for internal fundraising collaboration purposes and not for fundraising training purposes.

7.5 Client acknowledges that as part of the Services, Plus Delta may provide a limited number of copies of its program reference materials or training workbooks (each of which are Tools) to Client solely for use during the term of Services by the specific number of Client Participants. Client further acknowledges that such program reference materials or training workbooks may not be used by Client or by Client Participants for use at any other time, including any fundraising training purposes separate from the Plus Delta-provided Services. Additional or replacement materials and behavioral profiles are available at cost in limited numbers and upon execution of a new SOW or an addendum to an existing SOW by both Parties. In addition, Client acknowledges that any recording, rebroadcast, reproduction or other use of any Program materials, including workshop content or virtual or telephonic meetings without the express prior written consent of Plus Delta is strictly prohibited.

7.6 Prohibition on Use in Artificial Intelligence. Notwithstanding any other provision of this Agreement, Client shall not, and shall cause its Client Participants, Authorized Users, and any other personnel or agents

acting on Client's behalf not to, input, upload, submit, or otherwise make available any Deliverables, Tools, Plus Delta Property, or any other Program materials (including, without limitation, workshop content, training workbooks, program reference materials, reports, presentations, scripts, curriculum, and any component of AGYL or the Services) to any Artificial Intelligence platform, tool, model, database, or system (that is not a Plus Delta AI Feature (as defined in Section 8.6 below)), whether publicly available or provided as a professional, enterprise, or proprietary solution used within Client's business, for any purpose whatsoever, including, without limitation, for purposes of training, fine-tuning, prompting, data analysis, content generation, or any other processing by such Artificial Intelligence platform. For purposes of this Section 7.6, "**Artificial Intelligence**" means any machine learning, deep learning, natural language processing, large language model, generative AI, or other artificial intelligence technology, regardless of the form in which it is accessed or deployed, whether available for use now or available as technology evolves. Any use in violation of this Section 7.6 shall constitute a material breach of this Agreement. Client acknowledges that any unauthorized disclosure or use of Plus Delta Property through an Artificial Intelligence platform may result in irreparable harm to Plus Delta for which monetary damages would be inadequate, and that Plus Delta shall be entitled to seek equitable relief, including injunctive relief, in addition to all other remedies available at law or in equity. This restriction shall survive the expiration or termination of this Agreement.

7.7 Feedback. Client, Client Participants, and its Authorized Users are under no duty to provide any suggestions, enhancement requests, or other feedback regarding the Services ("**Feedback**"). If such Feedback is provided, Client, Client Participants, or the Authorized User, if applicable, hereby grants Plus Delta a perpetual, irrevocable, non-exclusive, worldwide, fully-paid, sub-licensable, assignable license to incorporate into the Services (including AGYL) or otherwise use any Feedback solely to improve Plus Delta products and services, provided that such Feedback is used in a manner that is not attributable to the Client or the Authorized User, if applicable.

8. AGYL Service Access and Support.

8.1 If Client has elected to subscribe to AGYL or otherwise has access to and use of AGYL as part of a Program, then during the applicable term, in either case, and subject to the terms and conditions of the Agreement, including the timely payment of Fees, and the [Website Terms of Use, available at <https://www.plusdeltapartners.com/terms> which is incorporated herein by reference ("**Website Terms of Use**")], Plus Delta will make AGYL available to Client and its Authorized Users via the Internet and in accordance with the standard access protocol of Plus Delta. Client acknowledges that AGYL is provided in a multi-tenant environment and that the cloud infrastructure is shared among multiple clients or accounts. No single client has control over how resources are allocated or consumed.

In the event of any conflicts or inconsistencies between the Website Terms of Use and the Agreement, the Agreement controls for purposes of the Services.

8.2 Plus Delta may, directly or indirectly, and by use of a disabling device or any other lawful means, suspend, terminate, or otherwise deny Client's, any Authorized User's, or any third party's access to or use of all or any part of AGYL or Plus Delta Property, without incurring any resulting liability or obligation, if: (a) Plus Delta receives a judicial or other governmental demand or order, subpoena, or law enforcement request that expressly or by reasonable implication requires Plus Delta to do so; or (b) Plus Delta believes, in its sole discretion, that: (i) Client or any Authorized User has failed to comply with any term of the Agreement, or accessed or used AGYL beyond the scope of the rights granted or for a purpose not authorized under the Agreement or in any manner that does not comply with any provided instructions; (ii) Client or any Authorized User is, has been, or is likely to be involved in any fraudulent, misleading, or unlawful activities relating to or in

connection with any of the Services; or (iii) this Agreement expires or is terminated. This section does not limit any of Plus Delta's other rights or remedies, whether at law, in equity, or under the Agreement.

8.3 Client Use Restrictions. Client agrees that it will not, and will not allow its Authorized Users to:

- (a) reverse assemble, reverse engineer, decompile or otherwise attempt to derive source code from AGYL or any component thereof;
- (b) copy, reproduce, modify, sell, lease, sub-license, market or commercially exploit in any way AGYL, or any component of AGYL (including the further distribution of blank forms or templates) other than as expressly agreed to in the Agreement;
- (c) use, or permit the use of, AGYL (including the Courseware, Software any other component of AGYL) for any reason other than for Client's internal fundraising purposes;
- (d) provide access to or perform services for third parties using AGYL, or any part thereof, including, but not limited to, any service bureau, time-sharing, lease, distribution or re-sale, rental, application service provider arrangement, or any other arrangement;
- (e) disclose, resell, or grant access to any Access Credentials (defined below) to AGYL or any component thereof to any third party not affiliated with Plus Delta; or
- (f) utilize AGYL or any part thereof for any malicious, libelous, or unlawful manner or in a manner which could in any way harm either Party's name, reputation, or goodwill or the name, reputation, or goodwill of any third-party donor.

8.4 Responsibility for Authorized Users. Client is responsible for all activity occurring under its account and will comply with all applicable local, state, national and foreign laws, treaties, and regulations in connection with its access or use of AGYL, including those related to data privacy, data security, Artificial Intelligence, international communications, and the transmission of technical or Personal Data. Client will be solely responsible for ensuring that its Authorized Users receive sufficient training to enable proper access or use of AGYL. Client will be solely responsible for, and will bear the cost of, providing all equipment, facilities, and connectivity, including without limitation any Internet access or telecommunications services, necessary to use and access AGYL.

8.5 Access Credentials. As part of the registration and account creation process, each of Client's Authorized Users will be prompted to create a unique username (email) and password (together, along with any other security key, token, code, or PIN, used alone or in combination, to verify an individual's identity and authorization to access and use the Services (the "**Access Credentials**")). Authorized Users may not select a username that is identical to that used by another person or use a username that, in the sole opinion of Plus Delta, is offensive or inappropriate. Client shall be solely responsible for its Authorized Users' maintaining the confidentiality of their Access Credentials. Client is solely responsible for all usage or activity on Client's account, including but not limited to use of Client's account and Client's Access Credentials by any third party.

8.6. AI Features

(a) Plus Delta may provide Client access to certain features, functionality, or component within AGYL that incorporates, uses, depends on, or employs Artificial Intelligence (each, an "**AI Feature**"), each such AI Feature to be identified in the applicable SOW. You may interact with the AI Features through prompts and other data inputs ("**Inputs**") and you will receive outputs generated and returned by the AI Features based on your Inputs and the data used to train the AI Features ("**AI Outputs**"). For purposes of this Agreement, Inputs are Client Data and AI Outputs are Deliverables subject to the rights and restrictions herein.

(b) Client represents, warrants, and covenants that: Client has and will maintain all necessary rights and permissions required to enter or submit its Inputs (including with respect to any Personal Data contained therein) to or through the AI Features, including for the purpose of generating AI Outputs in response to such Input, so that, as processed in accordance with the Agreement, it does not and will not infringe, misappropriate, or otherwise violate any Intellectual Property Rights, or any privacy or other rights, of any third party or violate any applicable Law.

(c) The AI Features are intended for your internal business use only as part of AGYL and are Plus Delta Property. Client hereby grants Plus Delta a royalty-free, fully paid-up, non-exclusive, transferable, and sublicensable license, exercisable by and through its Personnel, to process the Input and AI Outputs as may be necessary for Plus Delta to provide the Services to Client. Except as expressly set out in this Section 8.6(c), Plus Delta will not use Client Data or AI Output to train, develop, or improve any Artificial Intelligence.

(d) In addition to the use restrictions set out in Section 7.6 and Section 8.3 above, Client shall not, directly or indirectly, and shall not permit any Authorized Users to: (a) access or use the AI Features or any AI Output to develop, train, or improve any other Artificial Intelligence or competing or similar product or service; (b) use web scraping, web harvesting, web data extraction, or any other method to extract data from the AI Features or any AI Output; (c) engage in model extraction, or otherwise attempt to derive or gain access to any source code, algorithm, model, model weights and parameters, or any other underlying component of the AI Features, in whole or in part; or (d) use the AI Features to create or generate AI Output or use AI Output in a manner that Client knows or should know infringes, misappropriates, or otherwise violates any intellectual property right or other right of any Person or violates any applicable Law.

(e) Plus Delta makes no representations whatsoever as to AI Outputs, including without limitation legality, distinctiveness, accuracy, completeness, consistency, or ability to be protected under intellectual property laws. Client is solely responsible for: (i) evaluating suitability of the AI Features for Client's intended use; (ii) Client's and its Authorized Users' use and operation of the AI Features in accordance with relevant standards, including ensuring human oversight and monitoring; (iii) evaluating (including by human review) AI Output for accuracy, completeness, and other factors relevant to Client's use before using or relying on the AI Output; and (iv) Client's decisions, actions, and omissions in reliance or based on the AI Output. FURTHER, AI OUTPUT IS PROVIDED "AS IS," AND PLUS DELTA SPECIFICALLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. CLIENT ACKNOWLEDGES THAT, GIVEN THE NATURE OF THE SERVICES AND AI FEATURES, AI OUTPUT: (A) MAY BE INACCURATE OR MISLEADING; (B) MAY BE THE SAME AS OR SIMILAR TO OUTPUT THE SERVICES GENERATE FOR OTHER CLIENTS; (C) MAY NOT QUALIFY FOR INTELLECTUAL PROPERTY PROTECTION; (D) MAY BE SUBJECT TO THIRD-PARTY TERMS, INCLUDING, AS APPLICABLE, OPEN SOURCE LICENSES; AND (E) DO NOT NECESSARILY REFLECT, AND MAY BE INCONSISTENT WITH, PLUS DELTA'S AND THIRD-PARTY PROVIDERS' VIEWS.

(f) In addition to Plus Delta's rights under Section 11.3 and Section 12 of the Agreement, Plus Delta may suspend or terminate Client's or any Authorized User's access to or use of all or any part of the AI Features, without incurring any resulting obligation or liability, if Plus Delta believes, in its good faith and sole discretion, that such suspension or termination is necessary or required due to a change in applicable law.

(g) To the extent that Inputs or AI Outputs contain Personal Data, such Personal Data shall be Processed in accordance with Section 6 (Data Protection), the Privacy Policy, and the DPA. Client shall not submit to the AI Features any Personal Data that Client is not authorized to Process or that is not necessary for Client's intended use of the AI Features. Upon expiration or termination of the Agreement, Plus Delta shall delete or return any Personal Data contained in Inputs and AI Outputs in accordance with the DPA and applicable law.

9. Confidentiality.

9.1 Confidential Information. "Confidential Information" means any business or technical information disclosed by either Party to the other that is designated as confidential or proprietary, including information consisting of or relating to the disclosing Party's technology, trade secrets, know-how, business operations, plans, strategies, customers, and pricing, at the time of disclosure or that, under the circumstances, a person exercising reasonable business judgment would understand to be confidential or proprietary. Without limiting the foregoing, all non-public elements of the Services are Plus Delta Confidential Information. Confidential Information will not include information that the receiving Party can demonstrate (i) is or becomes publicly known through no fault of the receiving Party, (ii) is, when it is supplied, already known to whoever it is disclosed to in circumstances in which they are not prevented from disclosing it to others, (iii) is independently obtained by whoever it is disclosed to in circumstances in which they are not prevented from disclosing it to others, or (iv) was independently developed by the receiving Party without use of or reference to the Confidential Information.

9.2 Confidentiality. A receiving Party will not use the disclosing Party's Confidential Information except as permitted under these Terms and Conditions or to enforce its rights under these Terms and Conditions and will not disclose such Confidential Information to any third party except to those of its Representatives who have a bona fide need to know such Confidential Information for the performance or enforcement of the Services described herein. Each receiving Party will protect the disclosing Party's Confidential Information from unauthorized use and disclosure using efforts equivalent to those that the receiving Party ordinarily uses with respect to its own Confidential Information of similar nature and in no event using less than a reasonable standard of care; provided, however, that a Party may disclose such Confidential Information as required by applicable laws, subject to the Party required to make such disclosure giving reasonable notice (to the extent legally permissible) to the other Party to enable it to contest such order or requirement or limit the scope of such request.

9.3 The obligations of confidentiality set forth in this section shall commence on the Effective Date of the Agreement and shall remain in effect for a period of three (3) years from the termination or expiration of the Agreement. At the disclosing Party's written request upon termination or expiration of the Agreement, the receiving Party shall promptly return to the disclosing Party all copies, whether in written, electronic, or other form or media, of the disclosing Party's Confidential Information, or destroy all such copies and certify in writing to the disclosing Party that such Confidential Information has been destroyed. Notwithstanding the foregoing, the receiving Party may retain copies of Confidential Information that are stored on its routine back-up computer systems, provided that such retained information remains subject to the confidentiality obligations herein.

9.4 Trade Secrets. Notwithstanding any other provision in the Agreement, the Receiving Party's obligations under this **Error! Bookmark not defined.** and Conditions with respect to any Confidential Information that constitutes a trade secret under any applicable Law will continue until such time, if ever, as such Confidential Information ceases to qualify for trade secret protection under one or more such applicable laws other than as a result of any act or omission of the receiving Party or any of its Representatives.

10. Indemnification.

10.1 Client Indemnification. Client will indemnify and hold Plus Delta, its affiliates, and their respective directors, officers, employees, contractors, and agents ("**Plus Delta Representatives**") and, together with

Client Representatives, “**Representatives**”) harmless from any and all damages, claims, actions, liability and expenses (including costs of judgments, settlements, court costs, and reasonable attorney’s fees) (each and collectively, “**Claims**”), regardless of the outcome of such Claims, brought by a third party and arising out of or relating in any way to any Client Data or any other materials or information provided by or on behalf of Client or an Authorized User; any allegedly negligent or wrongful act or omission of the Client or its Client Representatives; or any failure to perform any obligation undertaken by the Client Representatives hereunder. Upon notice from Plus Delta of a Claim, the Client will promptly resist and defend at its own expense, with legal counsel reasonably satisfactory to Plus Delta, any such Claims. Plus Delta may participate in and observe the proceedings at its own expense with legal counsel of its own choosing. Client shall not settle any Claim on any terms or in any manner that adversely affects the rights of Plus Delta without the Plus Delta's prior written consent, which shall not be unreasonably withheld or delayed.

10.2 Plus Delta Indemnification.

(a) Plus Delta will indemnify and hold Client and its directors, officers, employees, business partners, contractors, or agents (“**Client Representatives**”) harmless from any and all Claims, regardless of the outcome of such Claims, brought by a third party and arising out of or relating in any way to any allegedly negligent or wrongful act or omission of any Plus Delta Representatives or any failure to perform any obligation undertaken by any Plus Delta Representatives hereunder. Upon notice from the Client of a Claim, Plus Delta will promptly resist and defend at its own expense, with legal counsel reasonably satisfactory to the Client, any such Claims. Client may participate in and observe the proceedings at its own expense with legal counsel of its own choosing. Plus Delta shall not settle any Claim on any terms or in any manner that adversely affects the rights of Client without the Client's prior written consent, which shall not be unreasonably withheld or delayed.

(b) Notwithstanding the foregoing, in the event of a third party Claim against Client asserting that Client’s use of the Services, or any part thereof, infringes upon or violates any U.S. patent, copyright, trade secret, or other proprietary right, or if in Plus Delta’s opinion the Services, or any part thereof, is likely to become the subject of such a Claim of infringement, Plus Delta will, at its option and its expense, and as Client’s sole and exclusive remedy: (i) procure for the Client the right to continue using the applicable Services; (ii) replace or modify the same so that it becomes non-infringing (such modification or replacement shall be functionally equivalent in all material respects to the original); or (iii) if neither (i) nor (ii) is practicable, immediately terminate the Agreement with respect to all or part of the Services and refund any prepaid Fees, on a pro-rated basis.

(c) Notwithstanding the foregoing, Plus Delta will not indemnify Client to the extent that the Claim arises because Client altered the Services, or any part thereof, or used the Service (or any component or feature thereof) outside the intended scope of use. In addition, Plus Delta will not indemnify Client to the extent that an infringement Claim is based upon (i) any information, design, specification, instruction, software, data, or material not furnished by Plus Delta, or (ii) any services or software from a third party portal or other external source that is accessible to Client within or from the Services (e.g., a third-party Web page accessed via a hyperlink (“**Third-Party Site**”)) or (iii) based upon the combination of any Services with any products or services not provided by Plus Delta. This section provides Client’s exclusive remedy for any infringement Claims.

10.3 Notice. The obligation of the indemnifying Party hereunder shall apply only if the indemnified Party provides prompt written notification upon receipt of notice of any Claim; permits the indemnifying Party and its attorneys and personnel to handle and control the defense of such Claims, including pretrial, trial or settlement; and the indemnified Party fully cooperates and assists in such defense. The indemnified Party

further agrees that if it settles or compromises any such Claim without the prior written consent of the indemnifying Party, the indemnified Party forfeits its right of indemnification.

10.4 Limitation of Liability.

(a) IN NO EVENT WILL EITHER PARTY OR ITS REPRESENTATIVES, OR IN THE CASE OF PLUS DELTA, ANY OF ITS LICENSORS, SERVICE PROVIDERS, OR SUPPLIERS, BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (i) LOSS OF PRODUCTION, USE, BUSINESS, REVENUE, OR PROFIT OR DIMINUTION IN VALUE; (ii) IMPAIRMENT, INABILITY TO USE OR LOSS, INTERRUPTION, OR DELAY OF THE SERVICES; (iii) LOSS, DAMAGE, CORRUPTION, OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY; (iv) COST OF REPLACEMENT GOODS OR SERVICES; (v) LOSS OF GOODWILL OR REPUTATION; OR (vi) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

(b) TO THE FULLEST EXTENT PERMITTED BY ANY APPLICABLE LAW AND EXCLUDING LIABILITY FOR (i) DEATH OR PERSONAL INJURY RESULTING FROM GROSS NEGLIGENCE OF PLUS DELTA, (ii) FRAUD OR FRAUDULENT MISREPRESENTATION, (iii) ANY INFRINGEMENT OR MISAPPROPRIATION OF A THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS, OR (iv) ANY OTHER MATTER FOR WHICH IT WOULD BE PROHIBITED BY APPLICABLE LAW TO LIMIT OR EXCLUDE OR TO ATTEMPT TO LIMIT OR EXCLUDE LIABILITY, THE MAXIMUM LIABILITY OF PLUS DELTA ARISING OUT OF OR FROM THE PROVISION OF SERVICES WHETHER BASED UPON WARRANTY, CONTRACT, TORT OR OTHERWISE, EVEN IF PLUS DELTA HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES, SHALL NOT EXCEED THE ACTUAL PAYMENT MADE BY CLIENT FOR THE APPLICABLE SERVICES, AND THE MAXIMUM LIABILITY OF PLUS DELTA ARISING OUT OF THE USE OF ANY SUCH SERVICES SHALL NOT EXCEED THE ACTUAL PAYMENT OF FEES FOR THE SAME IN THE CALENDAR YEAR IN WHICH THE CLAIM AROSE.

11. Term and Termination

11.1 Term. The initial term(s) of the Agreement commences as of the Effective Date set forth in the applicable SOW and, unless terminated earlier pursuant to any of the express provisions herein or therein, will continue in effect until the last date of expiration as set forth in the applicable SOW.

11.2 AGYL Renewal. Unless specified otherwise in an applicable SOW, at the end of the initial term, the applicable SOW for AGYL shall automatically renew for subsequent terms equal to the length of the initial term. Client may cancel such automatic renewal by contacting Plus Delta in writing at least thirty (30) days prior to the applicable renewal.

11.3 Termination.

(a) In addition to any other express termination rights set forth in the applicable SOW, Client or Plus Delta may terminate a SOW:

(i) for any reason upon thirty (30) calendar days' written notice to the other Party;

(ii) if the other party materially breaches this Agreement, and such breach is incapable of cure or, being capable of cure, remains uncured for 10 days after the non-breaching Party provides the breaching Party written notice of such breach; or

(iii) effective immediately upon written notice to the other Party, if the other Party becomes insolvent or is generally unable to pay its debts, enters bankruptcy or insolvency proceedings (voluntarily or involuntarily); or has a receiver or trustee appointed.

(b) As of the date of expiration or termination, any and all Fees owed to Plus Delta for Services performed, delivered, or accessed before such expiration or termination will be immediately due and payable, and Client will promptly pay such Fees. With respect to any reasonably disputed amounts, the Parties agree to negotiate in good faith, and the Client will pay such amounts at the time of, and to the extent required by, resolution of the dispute.

(c) If a SOW is terminated by either Party pursuant to Section 11.3(a)(i) prior to the completion of [fifty percent (50%)] of the applicable Program (as measured by the scheduled duration of the Program or, if applicable, the number of scheduled sessions), Plus Delta may, in its sole discretion, issue Client a credit toward future Services or a refund of a *pro rata* portion of any prepaid Fees attributable to Services not yet performed as of the effective date of termination, less (i) any non-recoverable costs or expenses incurred by Plus Delta in preparation for such Services (including, without limitation, materials produced, travel arrangements made, or third-party commitments)[, and (ii) a reasonable administrative fee not to exceed ten percent (10%) of the total prepaid Fees]. For the avoidance of doubt, (A) Plus Delta shall have no obligation to provide any refund or credit for terminations occurring after the midway point of the Program, (B) no refund or credit shall be due for any termination by Plus Delta pursuant to Section 11.3(a)(ii) or (iii), and (C) the decision to issue a credit versus a refund, and the calculation of any such amount, shall be at Plus Delta's sole discretion.

(d) If Plus Delta terminates this Agreement pursuant to Section 11.3(a)(ii), all Fees that would have become payable had the Agreement remained in effect until expiration of the initial term will become immediately due and payable, and Client shall pay such Fees, together with all previously accrued but not yet paid Fees, on receipt of Plus Delta's invoice therefor.

(e) As of the date of expiration or termination, (i) all rights to access or use AGYL will immediately terminate, and Client and its Authorized Users will immediately cease accessing or using AGYL (Plus Delta may disable all Client and Authorized User access); (ii) Client shall within five (5) business days, return hard copies of any program reference materials or training workbooks; and (iii) each Party will return to the other Party, or destroy, all property (including without limitation any Confidential Information) of the other Party in its possession or control. Notwithstanding the foregoing, Client shall be entitled to retain tangible copies of any Tools or Deliverables that were delivered electronically by Plus Delta to Client prior to the date of termination; provided however, all licensing and use restrictions set forth in the Agreement shall continue to apply to such Tools and Deliverables.

11.4 Offboarding. Client may access and download its data from AGYL and, to the extent that Client requests the same within ten (10) days of the expiration or termination date, Plus Delta will, at Client's expense, assist Client in downloading Client's data in its then-current state but in a format reasonably acceptable to Client. Plus Delta will perform off-boarding activities in accordance with Plus Delta's standard procedures.

12. Updates and Modifications to Services.

(a) Plus Delta reserves the right, in its sole discretion and without notice to you, to make any changes to the Services that it deems necessary or useful to: (a) maintain or enhance: (i) the quality or delivery of Plus Delta's services to its clients; (ii) the competitive strength of or market for Plus Delta's services; or (iii) the Services' cost efficiency or performance; or (b) to comply with applicable law. Without limiting the foregoing, either Party may, at any time during the term, request in writing changes to the Services. The Parties shall evaluate and, if agreed, implement all such requested changes. No requested changes will be effective unless and until memorialized in a written change order signed by both parties.

(b) Further, Plus Delta may at any time and for any reason, without notice to you and in its sole discretion, (i) make available error corrections, bug fixes, modifications, or minor enhancements to AGYL that Plus Delta generally makes available to its Clients that subscribe to the same AGYL Services; (ii) modify AGYL, provided that such alterations do not materially reduce the functionality; and (iii) create new products and/or services based upon or incorporating the Courseware and Software, AGYL or elements thereof.

13. Miscellaneous.

13.1 Publicity. Neither Party shall issue or release any announcement, statement, press release, or other publicity or marketing materials relating to this Agreement or, unless expressly permitted under this Agreement, otherwise use the other Party's trademarks, service marks, trade names, logos, or domain names, in each case, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, provided, however, that Plus Delta may, without Client's consent, include Client's name and other indicia in its lists of Plus Delta's current or former customers in promotional and marketing materials.

13.2 Entire Agreement. This Agreement supersedes all earlier agreements between the Parties and contains the final and entire agreement between the Parties with respect to the subject matter hereof. Except for the Website Terms of Use, Privacy Policy, and an applicable DPA, the Parties shall not be bound by any terms, conditions, statements, or representations, oral or written, not herein contained, unless contained in a written executed amendment or addendum to this Agreement signed by all parties.

13.3 Amendment. Plus Delta can in writing modify, add, remove, or otherwise change any portion of these Terms and Conditions at any time in its reasonable discretion, provided such modifications, additions, removals, or changes do not materially reduce the rights accorded to the Client in the Agreement prior to such changes. Except as otherwise expressly provided in the Agreement, the changes will become effective and will be deemed to have been accepted by Client as of the date posted on the Website with an updated effective date.

13.4 Severability. Should any provision(s) of the Agreement be invalid, unlawful, or unenforceable, this shall not affect the validity of any other provision(s) of this Agreement or of this Agreement as a whole. Upon such determination that any provision is invalid, unlawful, or unenforceable, the Parties hereto shall negotiate in good faith to modify the Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

13.5 Governing Law/Choice of Forum. This Agreement shall be governed by and construed and enforced under the laws of the State of California, without giving effect to any choice or conflict of law provision. Any legal suit, action, or proceeding arising out of, or related to, the Agreement or the licenses granted hereunder shall be instituted in the federal courts of the United States or the courts of the State of California in each case

located in the County of San Diego, CA, and each Party irrevocably submits to the jurisdiction of such courts in any such suit, action, or proceeding.

13.6 Assignment. Neither Party may assign its rights and obligations under the Agreement without the prior written consent of the other Party, except in the case of merger, corporate reorganization, or acquisition of substantial amount or all of its assets. Any purported assignment in violation of this section is void. This Agreement is binding upon and inures to the benefit of Parties hereto and their respective successors and permitted assigns.

13.7 Force Majeure. No Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached the Agreement, for any failure or delay in fulfilling or performing any term of the Agreement (except for any obligations to make payments to the other Party hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the affected Party's reasonable control, including, without limitation: (a) government ordered quarantine or business closure; (b) acts of God; (c) flood, fire, earthquake, or explosion; (d) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (e) government order or law; (f) actions, embargoes, or blockades in effect on or after the date of the Agreement; and (g) national or regional emergency (each, a "**Force Majeure Event**"). The Party suffering a Force Majeure Event shall give written notice within ten (10) calendar days of the Force Majeure Event to the other Party, stating the period of time the occurrence is expected to continue and shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. If the Force Majeure Event continues for thirty (30) days after the date of such notice, either Party shall be entitled to terminate the Agreement.

13.8 Headings. Headings used in the Agreement are solely for the convenience of the Parties and shall be given no effect in the construction or interpretation of the Agreement.

13.9 Waiver. No waiver of any breach of the Agreement shall constitute or be deemed a waiver of any other or subsequent breach. All remedies afforded in the Agreement shall be taken and construed as cumulative to every other remedy provided hereby or at law.

13.10 Survival. The provisions contained in the Agreement that by their sense and context are intended to survive the expiration or termination of the Agreement will survive such expiration and termination, including without limitations, use restrictions, confidentiality, disclaimers, indemnification, and limitation of liability.

13.11 Equitable Relief. Each Party acknowledges and agrees that a breach or threatened breach by such Party of any of its confidentiality or intellectual property obligations in the Agreement would cause the non-breaching Party irreparable harm for which monetary damages alone would not fully compensate the non-breaching Party for such harm. Accordingly, each Party hereto hereby agrees that, in the event of such breach or threatened breach, the non-breaching Party will be entitled to seek injunctive relief to prevent or stop such breach, and to obtain specific enforcement thereof, without any requirement to post a bond or other security or to prove actual damages or that monetary damages are not an adequate remedy. Any such equitable remedies obtained will be in addition to, and not foreclose, any other remedies that may be available at law, in equity, or otherwise.

13.12 Subcontractors. Plus Delta may from time to time in its discretion engage third parties to perform services.

13.13 No Third-Party Beneficiaries. Except as otherwise expressly stated in an applicable SOW, the Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns

and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of the Agreement.

13.14 Dispute Resolution; Waiver of Jury Trial.

(a) In the event of any dispute between the Parties, prior to a Party commencing an action in court for damages, each Party shall designate a representative and the representatives shall meet in person or telephonically in a good faith attempt to resolve the dispute. Prior to such meeting, the complaining Party shall provide a detailed, written explanation of the dispute in order to facilitate the efforts to achieve mutually agreeable resolution. In the event that the Parties are unable to resolve their dispute in such meeting or such meeting does not occur within thirty (30) days of the initial notice being provided by the complaining Party, then either Party may pursue other available judicial remedies at law.

(B) EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY OR TO COMMENCE OR PARTICIPATE IN ANY CLASS ACTION LAWSUIT AGAINST THE OTHER PARTY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THE AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

13.15 Notices. Any notice required or permitted hereunder shall be in writing and shall be deemed to be given when delivered personally; or sent by certified mail, return receipt requested, postage prepaid, to the respective address set forth in the applicable SOW (or to such other address or e-mail address as either Party may specify in writing to the other Party).

13.16 Counterparts. This Agreement, including any SOW, may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be the same agreement. A signed copy of the Agreement delivered by email or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of the Agreement.