

LIVEBINDERS, INC.
SOFTWARE AS A SERVICE AGREEMENT

This Software as a Service Agreement (this “Agreement”) govern a customer’s (“Customer”) access and use of LiveBinders, Inc.’s (“LiveBinders”) Services.

1. Definitions.

1.1 “*Authorized User*” means Customer’s employees, consultants, contractors, and agents: (i) who are authorized by Customer to access and use the Services under the rights granted to Customer pursuant to this Agreement; and (ii) for whom access to the Services has been purchased hereunder.

1.2 “*Customer Data*” means, other than Usage Data, information, data, and other content, in any form or medium, that is submitted, posted, or otherwise transmitted by or on behalf of Customer or an Authorized User through the Services.

1.3 “*Documentation*” means LiveBinders’ user manuals, handbooks, and guides relating to the Services provided by LiveBinders to Customer either electronically or in hard copy form.

1.4 “*LiveBinders IP*” means the Services, the Documentation, and any and all intellectual property provided to Customer or any Authorized User in connection with the foregoing. For the avoidance of doubt, LiveBinders IP includes Usage Data and any information, data, or other content derived from LiveBinders’ monitoring of Customer’s access to or use of the Services, but does not include Customer Data.

1.5 “*Professional Services*” means any professional consulting, installation, or configuration services provided by LiveBinders identified in a separate SOW.

1.6 “*Services*” means the software-as-a-service offering described in an order form as updated from time-to-time by LiveBinders in its sole discretion.

1.7 “*SOW*” or “*Statement of Work*” means a document that describes specific Professional Services to be provided by LiveBinders to Customer.

1.8 “*Third-Party Products*” means any third-party products provided with or incorporated into the Services.

1.9 “*Usage Data*” means data and information related to Customer’s use of the Services that is used by LiveBinders in an aggregate and anonymized manner, including to compile statistical and performance information related to the provision and operation of the Services.

2. Access and Use.

2.1 Provision of Access. Subject to and conditioned on Customer’s payment of Fees and compliance with all the terms and conditions of this Agreement, LiveBinders hereby grants Customer a non-exclusive, non-transferable (except in compliance with Section 12.7) right to access and use the Services during the Term, solely for use by Authorized Users in accordance with the terms and conditions herein. Such use is limited to Customer’s internal use. LiveBinders shall provide to Customer the necessary passwords and network links or connections to allow Customer to access the Services.

2.2 Documentation License. Subject to the terms and conditions of this Agreement, LiveBinders hereby grants to Customer a non-exclusive, non-sublicenseable, non-transferable (except in compliance with Section 12.7) license to use the Documentation during the Term solely for Customer’s internal business purposes in connection with its use of the Services.

2.3 Use Restrictions. Customer shall not use the Services for any purposes beyond the scope of the access granted in this Agreement. Without limiting the generality of the foregoing, Customer shall not at any time, directly or indirectly, and shall not permit any Authorized Users to: (i) copy, modify, or create derivative works of the Services or Documentation, in whole or in part; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Services or Documentation; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Services, in whole or in part; (iv) remove any proprietary notices from the Services or Documentation; (v) use the Services or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or

other right of any person, or that violates any applicable law; (vi) publicly disclose the results of any benchmarking of the Services against any competing products or services; or (vii) use the Services for the purpose of developing a product or service that may be competitive with the Services.

2.4 Reservation of Rights. LiveBinders reserves all rights not expressly granted to Customer in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Customer or any third party any intellectual property rights or other right, title, or interest in or to the LiveBinders IP.

2.5 Suspension. Notwithstanding anything to the contrary in this Agreement, LiveBinders may temporarily suspend Customer's and any Authorized User's access to any portion or all of the Services if: (i) LiveBinders reasonably determines that (a) there is a threat or attack on any of the LiveBinders IP; (b) Customer's or any Authorized User's use of the LiveBinders IP disrupts or poses a security risk to the LiveBinders IP or to any other customer or vendor of LiveBinders ; (c) Customer, or any Authorized User, is using the LiveBinders IP for fraudulent or illegal activities; (d) subject to applicable law, Customer has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; or (e) LiveBinders' provision of the Services to Customer or any Authorized User is prohibited by applicable law; or (ii) any vendor of LiveBinders has suspended or terminated LiveBinders' access to or use of any third-party services or products required to enable Customer to access the Services (any such suspension described in subclause (i) or (ii), a "***Service Suspension***"). LiveBinders shall use commercially reasonable efforts to provide written notice of any Service Suspension to Customer and to provide updates regarding resumption of access to the Services following any Service Suspension. LiveBinders shall use commercially reasonable efforts to resume providing access to the Services as soon as reasonably possible after the event giving rise to the Service Suspension is cured. LiveBinders will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized User may incur as a result of a Service Suspension.

2.6 Usage Data. Notwithstanding anything to the contrary in this Agreement, LiveBinders may monitor Customer's use of the Services and collect and compile Usage Data. As between LiveBinders and Customer, all right, title, and interest in Usage Data, and all intellectual property rights therein, belong to and are retained solely by LiveBinders. Customer acknowledges that LiveBinders may compile Usage Data based on Customer Data input into the Services. Customer agrees that LiveBinders may: (i) make Usage Data publicly available in compliance with applicable law; and (ii) use Usage Data to the extent and in the manner permitted under applicable law; provided that such Usage Data do not identify Customer or Customer's Confidential Information.

3. Customer Responsibilities. Customer is responsible and liable for all uses of the Services and Documentation resulting from access provided by Customer, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement. Without limiting the generality of the foregoing, Customer is responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User that would constitute a breach of this Agreement if taken by Customer will be deemed a breach of this Agreement by Customer. Customer shall use reasonable efforts to make all Authorized Users aware of this Agreement's provisions as applicable to such Authorized User's use of the Services and shall cause Authorized Users to comply with such provisions. LiveBinders may from time-to-time make Third-Party Products available to Customer. For purposes of this Agreement, such Third-Party Products are subject to their own terms and conditions.

4. Support; Professional Services.

4.1 Support. Subject to payment of the corresponding fees, LiveBinders will provide its standard support and maintenance services and associated service level agreements specified in the applicable order form subject to LiveBinders' then current terms and conditions.

4.2 Professional Services. If LiveBinders provides Professional Services to Customer under this Agreement, then LiveBinders will comply with the terms and conditions set forth in the applicable statement of work.

5. Fees and Audit.

5.1 Fees. Customer shall pay LiveBinders the fees ("***Fees***") as set forth in the applicable order form and any SOW without offset or deduction. All Fees are non-refundable and non-cancelable. All Fees and other amounts payable by Customer under this Agreement are exclusive of taxes and similar assessments. Customer is 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 or regulatory authority on any amounts payable by Customer hereunder, other than any taxes imposed on LiveBinders' income.

5.2 Auditing Rights and Required Records. Customer agrees to maintain complete and accurate records in accordance with generally accepted accounting principles during the Term and for a period of two (2) years after the termination or expiration of this Agreement with respect to matters necessary for accurately determining amounts due hereunder. LiveBinders may, at its own expense, on reasonable prior notice, periodically inspect and audit Customer's records to evaluate Customer's compliance with this Agreement, including without limitation Customer's payment of all amounts due hereunder. If such inspection and audit reveal that Customer has underpaid LiveBinders with respect to any amounts due and payable during the Term, Customer shall promptly pay the amounts necessary to rectify such underpayment, together with interest, if applicable. Customer shall pay for the costs of the audit if the audit determines that Customer's underpayment equals or exceeds five percent (5%) for any quarter or if the audit discovers a material breach of this Agreement. Such inspection and auditing rights will extend throughout the Term of this Agreement and for a period of two (2) years after the termination or expiration of this Agreement.

6. Confidential Information. From time to time during the Term, either Party may disclose or make available to the other Party information about its business affairs, products, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information, whether orally or in written, electronic, or other form or media/in written or electronic form or media that is marked or otherwise designated as "confidential", "proprietary", or something similar at the time of disclosure or within a reasonable period of time thereafter and/or would be considered confidential or proprietary by a reasonable person given the nature of the information or the circumstances of its disclosure (collectively, "**Confidential Information**"). Confidential Information does not include information that, at the time of disclosure is: (i) in the public domain; (ii) known to the receiving Party at the time of disclosure; (iii) rightfully obtained by the receiving Party on a non-confidential basis from a third party; or (iv) independently developed by the receiving Party. The receiving Party shall not disclose the disclosing Party's Confidential Information to any person or entity, except to the receiving Party's employees who have a need to know the Confidential Information for the receiving Party to exercise its rights or perform its obligations hereunder. Notwithstanding the foregoing, each Party may disclose Confidential Information to the limited extent required (a) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the Party making the disclosure pursuant to the order shall first have given written notice to the other Party and made a reasonable effort to obtain a protective order; or (b) to establish a Party's rights under this Agreement, including to make required court filings. On the expiration or termination 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. Each Party's obligations of non-disclosure with regard to Confidential Information are effective as of the Effective Date and will expire five (5) years from the date first disclosed to the receiving Party; provided, however, with respect to any Confidential Information that constitutes a trade secret (as determined under applicable law), such obligations of non-disclosure will survive the termination or expiration of this Agreement for as long as such Confidential Information remains subject to trade secret protection under applicable law.

7. Intellectual Property Ownership; Feedback.

7.1 LiveBinders IP. Customer acknowledges that, as between Customer and LiveBinders, LiveBinders owns all right, title, and interest, including all intellectual property rights, in and to the LiveBinders IP and, with respect to Third-Party Products, the applicable third-party providers own all right, title, and interest, including all intellectual property rights, in and to the Third-Party Products.

7.2 Customer Data. LiveBinders acknowledges that, as between LiveBinders and Customer, Customer owns all right, title, and interest, including all intellectual property rights, in and to the Customer Data. Customer hereby grants, and hereby represents, warrants, and covenants that it has all rights necessary to grant, to LiveBinders a non-exclusive, royalty-free, worldwide license to reproduce, distribute, and otherwise use and display the Customer Data and perform all acts with respect to the Customer Data as may be necessary for LiveBinders to provide the Services and any Professional Services to Customer, and a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to reproduce, distribute, modify, and otherwise use and display Customer Data incorporated within the Usage Data.

7.3 Feedback. If Customer or any of its employees or contractors sends or transmits any communications or materials to LiveBinders by mail, email, telephone, or otherwise, suggesting or recommending changes to the LiveBinders IP, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like ("**Feedback**"), LiveBinders is free to use such Feedback irrespective of any other obligation or limitation between the Parties governing such Feedback. Customer hereby assigns to LiveBinders on Customer's behalf, and on behalf of its employees, contractors and/or agents, all right, title, and interest in, and LiveBinders is free to use, without any attribution or compensation to any party, any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the Feedback, for any purpose whatsoever, although LiveBinders is not required to use any Feedback.

8. Warranty Disclaimer. ALL LIVEBINDERS IP PROVIDED HEREUNDER, INCLUDING WITHOUT LIMITATION THE SERVICES, IS PROVIDED "AS IS" AND LIVEBINDERS HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. LIVEBINDERS 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. LIVEBINDERS MAKES NO WARRANTY OF ANY KIND THAT THE LIVEBINDERS IP, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'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.

9. Indemnification. Customer shall indemnify and, at LiveBinders' option, defend LiveBinders and its affiliates, and its and their respective employees, contractors, agents, representatives, successors, and assigns from and against any damages and costs resulting from a third-party claim that the Customer Data, or any use of the Customer Data in accordance with this Agreement, infringes or misappropriates such third party's rights and any third-party claims based on Customer's or any Authorized User's (i) negligence or willful misconduct; (ii) use of the Services in a manner not authorized by this Agreement; or (iii) use of the Services in combination with data, software, hardware, equipment, or technology not provided or authorized by LiveBinders in writing.

10. Limitations of Liability. IN NO EVENT WILL LIVEBINDERS BE LIABLE TO THE CUSTOMER UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (i) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (ii) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (iii) LOSS OF GOODWILL OR REPUTATION; (iv) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY DATA, OR BREACH OF DATA OR SYSTEM SECURITY; OR (v) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER CUSTOMER WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE.

11. Term and Termination. The term of this Agreement begins on the Effective Date and, unless terminated earlier pursuant to this Agreement's express provisions, will continue in effect for the period set forth on the applicable order form (the "**Term**"). LiveBinders may terminate this Agreement, effective on written notice to Customer. Upon expiration or earlier termination of this Agreement, Customer shall immediately discontinue use of the LiveBinders IP and, without limiting Customer's obligations under Section 6, Customer shall delete, destroy, or return all copies of the LiveBinders IP and certify in writing to the LiveBinders that the LiveBinders IP has been deleted or destroyed. No expiration or termination will affect Customer's obligation to pay all Fees that may have become due before such expiration or termination. This Section 11 and Sections 1, 4.2, 6, 7, 8, 9, 10, and 12 survive any termination or expiration of this Agreement. No other provisions of this Agreement survive the expiration or earlier termination of this Agreement.

12. Miscellaneous.

12.1 Entire Agreement. This Agreement, together with any other documents incorporated herein by reference, constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, and representations and warranties, both written and oral, with respect to such subject matter.

12.2 Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "**Notice**") must be in writing and addressed to the Parties at the addresses set forth in the applicable order form or to such other address that may be designated by the Party giving Notice from time to time in accordance with this Section. All Notices must be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), email (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage pre-paid). Except as otherwise provided in this Agreement, a Notice is effective only: (i) upon receipt by the receiving Party; and (ii) if the Party giving the Notice has complied with the requirements of this Section.

12.3 Force Majeure. In no event shall LiveBinders be liable to Customer, or be deemed to have breached this Agreement, for any failure or delay in performing its obligations under this Agreement (except for any obligations to make payments), if and to the extent such failure or delay is caused by any circumstances beyond LiveBinders' reasonable control, including but not limited to acts of God, flood, fire, earthquake, explosion, war, terrorism, invasion, riot or other civil unrest, strikes, labor stoppages or slowdowns or other industrial disturbances, or passage of law or any action taken by a governmental or public authority, including imposing an embargo.

12.4 Amendment and Modification; Waiver. No amendment to or modification of this Agreement is effective unless it is in writing and signed by an authorized representative of each Party. No waiver by any Party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement: (i) no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof; and (ii) no single or partial exercise of any right, remedy, power, or privilege hereunder will preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

12.5 Severability. If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect their original intent 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.

12.6 Governing Law; Submission to Jurisdiction. This Agreement is governed by and construed in accordance with the internal laws of the State of California without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of California. Any legal suit, action, or proceeding arising out of or related to this Agreement or the licenses granted hereunder will be instituted exclusively in the federal courts of the United States or the courts of the State of California in each case located in San Francisco County, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

12.7 Assignment. Customer may not assign any of its rights or delegate any of its obligations hereunder, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without the prior written consent of LiveBinders. LiveBinders may assign this Agreement freely without restriction. Any purported assignment or delegation in violation of this Section will be null and void. No assignment or delegation will relieve the assigning or delegating Party of any of its obligations hereunder. This Agreement is binding upon and inures to the benefit of the Parties and their respective permitted successors and assigns.

12.8 Export Regulation. The Services utilize software and technology that may be subject to US export control laws, including the US Export Administration Act and its associated regulations. Customer shall not, directly or indirectly, export, re-export, or release the Services or the underlying software or technology or make the Services or the underlying software or technology accessible from, any jurisdiction or country to which export, re-export, or release is prohibited by law, rule, or regulation. Customer shall comply with all applicable federal laws, regulations, and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing, or otherwise making the Services or the underlying software or technology available outside the US.

12.9 US Government Rights. Each of the Documentation and the software components that constitute the Services is a "commercial item" as that term is defined at 48 C.F.R. § 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. § 12.212. Accordingly, if Customer is an agency of the US Government or any contractor therefor, Customer only receives those rights with respect to the Services and Documentation as are granted to all other end users, in accordance with (i) 48 C.F.R. § 227.7201 through 48 C.F.R. § 227.7204, with respect to the Department of Defense and their contractors, or (ii) 48 C.F.R. § 12.212, with respect to all other US Government users and their contractors.

12.10 Equitable Relief. Customer acknowledges and agrees that a breach or threatened breach of any of its obligations under Section 6 or Section 2.3, would cause LiveBinders irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, LiveBinders will be entitled to equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.

12.11 Anticorruption Laws. Customer acknowledges that it is familiar with and understands the provisions of the U.S. Foreign Corrupt Practices Act (the "**FCPA**") and the U.K. Bribery Act of 2010 ("**UKBA**") and agrees to comply with its terms as well as any provisions of local law related thereto. Customer further understands the provisions relating to the FCPA and UKBA's prohibitions regarding the payment or giving of anything of value, including but not limited to payments, gifts, travel, entertainment and meals, either directly or indirectly, to an official of a foreign government or political party for the purpose of influencing an act or decision in his or her official capacity or inducing the official to use his or her party's influence with that government, to obtain or retain business involving the Deliverables. Customer agrees to not violate or knowingly let anyone violate the FCPA or UKBA, and Customer agrees that no payment it makes will constitute a bribe, influence payment, kickback, rebate, or other payment that violates the FCPA, the UKBA, or any other applicable anticorruption or antibribery law.