



## Special Terms and Conditions for InSight Services

These Special Terms and Conditions apply to InSight services provided by Iron Mountain under the Agreement, and have precedence over any different or conflicting terms or conditions of the Iron Mountain General Terms and Conditions.

**1. DEFINITIONS.** Capitalized terms shall have the meanings set forth in this section, or in the section where they are first used.

**1.1 “Access Protocols”** means the usernames, passwords, access codes, encryption keys, service accounts, technical specifications, connectivity standards or protocols, or other relevant procedures, as may be necessary to allow Customer to access the Services.

**1.2 “Affiliates”** means those entities controlling, controlled by, under common control with, or having a common parent with, either Iron Mountain or Customer as applicable. For purposes of the foregoing definition, “control” (including “controlling”, “controlled by” and “under common control with”) shall mean direct or indirect ownership of: (a) not less than fifty percent (50%) of the voting stock of a corporation; (b) the right to vote not less than fifty percent (50%) of the voting stock of a corporation; or (c) not less than fifty percent (50%) ownership interest in a partnership or other business entity. If the Parties wish to add Customer’s Affiliate to receive Services under this Agreement, such Affiliate and Iron Mountain shall execute a Statement of Work, which will be subject to the terms and conditions of this Agreement. Upon execution of a Statement of Work by Customer’s Affiliate, any reference to “Customer” within this Agreement shall be deemed to include Customer’s Affiliate.

**1.3 “Authorized User”** means any individual who is an employee of Customer or such other person or entity as may be authorized by Customer to access the InSight Services pursuant to Customer’s rights under this Agreement. An authorized user is granted access using the Customer owned Identity Provider (“IDP”) or through an Iron Mountain managed IDP.

**1.4 “AUP”** means the acceptable use policy for Iron Mountain’s hosting provider, currently found at: <https://cloud.google.com/terms/aup>, which may be updated from time to time by the Host (as defined in Section 6.7).

**1.5 “Customer Data”** means all content, data and information provided by, or on behalf of, Customer to Iron Mountain through the Services under this Agreement. For the avoidance of doubt, Customer Data does not include Usage Data or any other information reflecting the access or use of the InSight Services by or on behalf of Customer or any Authorized User.

**1.6 “Documentation”** means the user manuals, training materials, reference guides, instruction materials, help files and similar documentation provided by Iron Mountain or its suppliers to Customer in hard copy or electronic form or available on Iron Mountain’s online portal describing the use, operations, features, functionalities, user responsibilities, procedures, commands, requirements, limitations and capabilities of and/or similar information about the Services.

**1.7 “Encrypted” or “encrypted”** shall mean data that has been rendered through algorithmic transformation or any other means available into an unrecognizable form in which meaning cannot be understood



without the use of a confidential process or key.

**1.8 “High Risk Activities”** means uses such as the operation of nuclear facilities, air traffic control, or life support systems, where the use or failure of the Services could lead to death, personal injury, or environmental damage.

**1.9 “InSight Services”** means the hosting of the Customer Data on the Iron Mountain InSight platform, the classification and extraction of relevant metadata using machine learning (“ML”) and artificial intelligence (“AI”) models, and integration APIs, and the access and search capabilities available through the Iron Mountain InSight platform.

**1.10 “Intellectual Property Rights”** means any and all now known or hereafter existing (a) rights associated with works of authorship, including copyrights, mask work rights, and moral rights; (b) trademark or service mark rights; (c) trade secret rights; (d) patents, patent rights, and industrial property rights; (e) layout design rights, design rights, and other proprietary rights of every kind and nature other than trademarks, service marks, trade dress, and similar rights; and (f) all registrations, applications, renewals, extensions, or reissues of the foregoing, in each case in any jurisdiction throughout the world.

**1.11 “Implementation Services”** means the services documented in an SOW, including service details related to IDP integration, security controls and special accommodations which require Iron Mountain assistance to implement.

**1.12 “Professional Services”** means the training, customization, Implementation Services, data ingestion, consulting or other services Iron Mountain or its suppliers may perform for the benefit of Customer in connection with the InSight Services as set forth in a Statement of Work.

**1.13 “Usage Data”** means the data and information related to Customer’s use, patterns, trends, and other statistical data derived from the InSight Services that is used by Iron Mountain in an aggregate and anonymized manner to provide, operate, maintain, and improve Iron Mountain products and services.

**1.14 “Services”** means the InSight Services, Professional Services and Support Services, as may be set forth in one or more Statement(s) of Work.

**1.15 “Services Technology”** means the software, databases, platforms and other technologies used by or on behalf of Iron Mountain in performing the Services, whether operated directly by Iron Mountain or through the use of third-party services.

**1.16 “Statement of Work” or “SOW”** means a document that (a) contains details regarding the Services to be performed or provided, including pricing and other specifics, (b) is mutually agreed upon and executed by the Parties, and (c) is incorporated into this Agreement.

**1.17 “Support Services”** means the support services and related maintenance for the InSight Services purchased by Customer as described in a Statement of Work.

## **2. PROVISION OF SERVICES**

**2.1 Services Use.** Subject to and conditioned on Customer’s and its Authorized Users’ compliance with the terms and conditions of this Agreement, Iron Mountain hereby grants Customer a non-exclusive, non-transferable right, during the Term of this Agreement, solely for Customer’s internal business purposes and in accordance with



the limitations and restrictions contained herein, (a) to access and use the Services in accordance with this Agreement and the Documentation; and (b) to use the Documentation solely to support Customer's use of the Services. Iron Mountain may change or modify the Documentation and Services, including adding or removing features and functions, from time to time, provided that in no event will such modifications materially reduce the functionality provided to Customer during the Term.

**2.2 Access Protocols.** Iron Mountain will provide the Services to Customer at the rates and charges set forth in the applicable Statement(s) of Work. Iron Mountain will work with the Customer to provide access through the mutually agreed Access Protocol implementation process, including providing Customer with training on user account setup and access control implementation with the applicable IDP. Customer is solely responsible for obtaining and maintaining its equipment, computers, networks, and communications, including Internet access, required to access and utilize the Services and for all expenses related thereto. Iron Mountain is not responsible for any issues relating to access attributable to Customer or any third party. Customer agrees to maintain and update an industry leading anti-virus program within its computer systems that are used in connection with the Services.

**2.3 Authorized Users.** Customer may designate its Authorized Users and their access rights to the features and functions of the InSight Services. Usernames and passwords ("User IDs") cannot be shared or used by more than one Authorized User at a time. Depending on the agreed login and authorization implementation, Iron Mountain may assist the Customer with establishing User IDs for Customer's Authorized User who has been designated as a "User Manager" and provide such User Manager with rights to create, control and manage its portfolio of Authorized Users, including, but not limited to, the number of Authorized Users and all User IDs, in accordance with the Access Protocols. Customer shall not disclose or make available User IDs or other Access Protocols other than to Customer's Authorized Users and shall prevent unauthorized access to, or use of, the InSight Services, and will notify Iron Mountain promptly of any actual or suspected unauthorized use. Customer is solely responsible for managing the User IDs and access rights of its Authorized Users, including, but not limited to, terminating an Authorized User's access if such individual is no longer employed by Customer or otherwise authorized to have access. Customer is responsible for ensuring all Authorized Users comply with Customer's obligations under this Agreement. Iron Mountain reserves the right (a) to track and review user profiles, access and activity at any time, and (b) to terminate any User ID that it reasonably determines may have been used in a way that breaches this Section 3.3.

**2.4 Professional Services.** Iron Mountain will provide Professional Services as may be mutually agreed to by the Parties from time to time and set forth in one or more Statement(s) of Work. Each Statement of Work will be subject to the terms and conditions of this Agreement.

**2.5 Other Services.** Iron Mountain's services outside the scope of this Agreement, if any, shall be provided pursuant to Iron Mountain's then-current applicable services policies and procedures, including, at a minimum, negotiation and execution of Iron Mountain's then-current agreement for such service and payment of Iron Mountain's then-current fees for such services, plus Iron Mountain's reasonable costs and expenses incurred in providing such services.

### **3.0 INTELLECTUAL PROPERTY**

**3.1 Ownership.** The Services, Documentation, Usage Data and all other materials provided by Iron Mountain hereunder, including but not limited to all manuals, reports, records, programs, data and other materials, and all worldwide Intellectual Property Rights in each of the foregoing, are the exclusive property of Iron Mountain and its suppliers. All rights in and to the Services, Documentation and Usage Data not expressly granted to Customer in this Agreement are reserved by Iron Mountain and its suppliers. Except as expressly set forth herein, no express or implied license or right of any kind is granted to Customer regarding the Services, Documentation, Usage Data or



any part thereof, including any right to obtain possession of any source code, data or other technical material related to the Services. In furtherance of the foregoing, Customer hereby unconditionally and irrevocably grants to Iron Mountain an assignment of all its right, title and interest in and to the Usage Data, including all Intellectual Property Rights relating thereto.

**3.2 License; Ownership.** Customer grants Iron Mountain and its suppliers a non-exclusive, worldwide, royalty-free and fully paid license to access, use, reproduce, modify, display, process and store the Customer Data and any metadata extracted from such data as necessary for purposes of providing the Services for the Customer and building, training and maintaining its machine learning models. All data resulting from ML and AI processing, including classification and extracted metadata (“**Derivative Data**”), are property of the Customer and the Customer shall be provided access to Derivative Data, subject to the terms contained herein governing the destruction of such data upon termination of this Agreement. Iron Mountain will not retain Customer Data or Derivative Data in ML and AI models or otherwise to use or share with other customers. The Customer Data hosted by Iron Mountain as part of the Services, and all worldwide Intellectual Property Rights in it, are the exclusive property of Customer. All rights in and to the Customer Data and any Derivative Data not expressly granted to Iron Mountain in this Agreement are reserved by Customer. Under this Agreement, the Parties acknowledge and agree that Iron Mountain is a data processor.

**3.3 Restrictions on Use.** Customer shall not permit any party to access or use the Services, Services Technology or Documentation, other than the Authorized Users. Customer agrees that it will not, and will not permit any Authorized User or other party to: (a) copy, modify, adapt, alter or translate, in whole or in part, the Services Technology, Documentation or any component thereof; (b) license, sublicense, sell, resell, lease, rent, loan, transfer, assign, distribute, or otherwise commercially exploit or make available, in whole or in part, the Services, Services Technology or Documentation to any third party; (c) reverse engineer, decompile, disassemble, decode, adapt or otherwise derive or determine or attempt to derive, determine or gain access to the source code (or the underlying ideas, algorithms, structure or organization) of or make derivative works based upon the Services Technology, Documentation or any component thereof, in whole or in part; (d) disclose or transmit any information regarding the Services, Services Technology or Documentation to any individual other than an Authorized User, except as expressly allowed herein; (e) use or access the Services, Services Technology or Documentation to build a similar product; (f) use the Services, Services Technology or any component thereof (I) to send or store infringing, threatening, harassing, defamatory, libelous, obscene, pornographic, indecent or otherwise unlawful or tortious material, including material harmful to children or violating third party privacy rights, (II) to send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs, (III) for High Risk Activities, or (IV) in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Rights or other right of any person or that violates any applicable law; (g) disclose the results of any benchmark test of Services, Services Technology or Documentation to any third party; (h) interfere with or disrupt the integrity or performance of the Services, Services Technology or the data contained therein; or (i) bypass or breach any security device or protection used for or contained in the Services or Services Technology or otherwise attempt to gain unauthorized access to the Services, Services Technology or its related systems or networks. Unless otherwise specified in writing by Iron Mountain, Iron Mountain does not intend use of the Services to create obligations under the Health Insurance Portability and Accountability Act of 1996 as it may be amended from time to time and any regulations issued under it (“**HIPAA**”), and Iron Mountain makes no representations that the Services satisfy HIPAA requirements. Customer shall not provide Iron Mountain access to, nor use the Services for any purpose or in any manner involving Protected Health Information (as defined in HIPAA) unless specifically agreed to in writing by the Parties (including through the signing of a Business Associate Agreement).

**3.4 Open Source Software.** Certain items of software may be provided to Customer with the Services and are subject to “open source” or “free software” licenses (“**Open Source Software**”). Some of the Open Source Software is owned by third parties. The Open Source Software is not subject to the terms and conditions of the



section titled *Indemnification* or the subsection titled *Services Use*. Instead, each item of Open Source Software is licensed under the terms of the end-user license that accompanies such Open Source Software. Nothing in this Agreement limits Customer's rights under, or grants Customer rights that supersede, the terms and conditions of any applicable end user license for the Open Source Software.

**3.5 Feedback.** If Customer provides Iron Mountain any feedback or suggestions about the Services or Documentation (the "**Feedback**"), then Iron Mountain may use that information without obligation to Customer, and Customer hereby irrevocably assigns all rights, title and interest in the Feedback to Iron Mountain.

#### **4. FEES AND EXPENSES; PAYMENTS**

**4.1 Fees.** In consideration for the access rights granted to Customer and the Services performed by Iron Mountain under this Agreement, Customer will pay to Iron Mountain the fees set forth in the applicable Statement(s) of Work. Fees and charges during the Initial Term shall be as set forth in the applicable Statement(s) of Work.

**4.2 RESERVED.**

**4.3 Taxes.** The fees are exclusive of all applicable sales, use, value-added and other taxes, and all applicable duties, tariffs, assessments, export and import fees, or other similar charges, and Customer will be responsible for payment of all such taxes (other than taxes based on Iron Mountain's income), fees, duties, and charges and any related penalties and interest, arising from the payment of the fees and the delivery of the Services to Customer under this Agreement. Customer shall not be responsible for any federal or state income taxes, franchise taxes, excess profits taxes, gift taxes, capital stock taxes, or inheritance, succession or estate taxes imposed on Iron Mountain.

#### **5. CUSTOMER RESPONSIBILITIES**

**5.1 Customer Warranty.** Customer represents and warrants that (a) it is the owner or legal custodian of the Customer Data; (b) it has all necessary consents, authorizations and/or legal permissions required to direct and enable Iron Mountain and its suppliers to access, use and process the Customer Data as set forth in this Agreement; and (c) any Customer Data hosted by Iron Mountain as part of the Services shall not (i) infringe any copyright, trademark, or patent; (ii) misappropriate any trade secret; (iii) be defamatory, obscene, pornographic or unlawful; (iv) contain any viruses, worms or other malicious computer programming codes intended to damage Iron Mountain's systems or data; or (v) otherwise violate the rights of a third party or violate any applicable law. Iron Mountain is not obligated to back up any Customer Data. Customer agrees that any use of the Services contrary to or in violation of the representations and warranties of Customer in this Section constitutes unauthorized and improper use of the Services. Customer will immediately notify Iron Mountain of any issues of which it becomes aware that could negatively impact Iron Mountain's use of the Customer Data in accordance with the terms of this Agreement.

**5.2 Customer Responsibility for Data and Security.** Customer and its Authorized Users shall have access to the Customer Data and shall be responsible for (a) all changes to and/or deletions of Customer Data, the maintaining security and confidentiality of all User IDs and other Access Protocols required in order to use and access the InSight Services, and (b) all activities that occur in connection with such use and access. Iron Mountain and its suppliers are not responsible or liable for the deletion of or failure to store any Customer Data; Customer is responsible for securing and backing up the Customer Data that is provided to Iron Mountain. Iron Mountain shall maintain service accounts and encryption keys on behalf of the Customer necessary to perform the Services. Iron Mountain shall not be liable to Customer for its inability to perform the Services due to Customer's failure to provide such access. Customer shall have the sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data, and for ensuring that it complies with the AUP. Iron Mountain and its suppliers reserve the right



to review the Customer Data for compliance with the AUP. In no event will Iron Mountain be liable for any loss of Customer Data or other claims arising out of or in connection with the unauthorized acquisition or use of Access Protocols.

**5.3 Cooperation.** Customer agrees to provide Iron Mountain with such cooperation, materials, information, access and support which Iron Mountain deems reasonably required to allow Iron Mountain to successfully provide the Services. Customer understands and agrees that the success of the Services is contingent upon Customer providing such cooperation, materials, information, access and support.

**5.4 Data Transmittal.** Customer shall transmit any Customer Data to Iron Mountain in accordance with the acceptable methods and requirements for data transmittal set forth in a Statement of Work or Documentation. All Customer Data transmitted must use secure and encrypted protocols. Customer assumes full responsibility to safeguard against unauthorized access and to encrypt its electronic Customer Data prior to and during the transmission and transfer of its electronic Customer Data to Iron Mountain. With respect to physical and tangible Customer Data, the terms and conditions of this Agreement shall apply only to physical and tangible Customer Data that is in Iron Mountain's possession in the performance of the Services. Physical and tangible Customer Data shall only be deemed to be in Iron Mountain's possession while in an Iron Mountain facility, in an Iron Mountain vehicle or in the custody of an Iron Mountain employee. Customer shall have the ability to export Customer Data hosted by Iron Mountain as part of the Services out of the Host's (as defined below) platform.

**5.5 Host.** Iron Mountain will store the Customer Data on a hosting service provided by a third party ("Host"), which as of the Effective Date shall be the Google Cloud Platform ("GCP"), pursuant to Iron Mountain's agreement with Google, during which time it will be maintained in accordance with Google's Cloud Platform terms, which can be found at <https://cloud.google.com/terms>. Iron Mountain may change the Host upon notice to Customer, at which time it will be maintained in accordance with the then-current terms of the new Host.

## 6. CONFIDENTIALITY

**6.1 Confidential Information.** During the Term of this Agreement, each Party (the "Disclosing Party") may provide the other Party (the "Receiving Party") with certain information regarding the Disclosing Party's business, technology, products, or services or other confidential or proprietary information, and which is marked as "confidential" or "proprietary" or would normally under the circumstances be considered confidential information (collectively, "Confidential Information"). Customer Data will be considered Confidential Information of Customer, and the Services, Services Technology, Documentation, Usage Data and all enhancements and improvements thereto will be considered Confidential Information of Iron Mountain.

**6.2 Protection of Confidential Information.** The Receiving Party agrees that it will (a) not disclose to any third party any Confidential Information of the Disclosing Party, except (i) to its Affiliates, directors, employees, agents, suppliers or subcontractors to the extent such disclosure is necessary for the performance of this Agreement and who have agreed to restrictions similar to those set forth in this Section 7 or (ii) as may be required by law; (b) not use any Confidential Information of the Disclosing Party except for the purposes contemplated by this Agreement; and (c) protect the Disclosing Party's Confidential Information from unauthorized use, access, or disclosure in the same manner that it protects its own confidential and proprietary information of a similar nature, but in no event with less than reasonable care.

**6.3 Exceptions.** The confidentiality obligations set forth in this section will not apply to any information that (a) becomes generally available to the public through no fault of the Receiving Party; (b) is lawfully provided to the Receiving Party by a third party free of any confidentiality duties or obligations; (c) was already known to the Receiving Party at the time of disclosure; or (d) the Receiving Party can prove, by clear and convincing evidence, was independently developed by employees and contractors of the Receiving Party who had no access to the



Confidential Information. In addition, the Receiving Party may disclose Confidential Information to the extent that such disclosure is necessary for the Receiving Party to enforce its rights under this Agreement or is required by law, governmental regulation, court order, subpoena, warrant, governmental regulatory or agency request, or other valid legal authority, legal procedure or similar process (“**Legal Process**”), provided that the Receiving Party uses commercially reasonable efforts to promptly notify the Disclosing Party in writing of such required disclosure unless the Receiving Party is informed that (i) it is legally prohibited from giving notice or (ii) the Legal Process relates to exceptional circumstances involving danger of death or serious physical injury to any person. The Receiving Party will cooperate with the Disclosing Party if the Disclosing Party seeks an appropriate protective order.



## 7. WARRANTIES AND DISCLAIMERS

**7.1 Limited Warranty for Professional Services.** Iron Mountain warrants to Customer that it will perform the Professional Services using reasonable care and skill.

**7.2 Disclaimer.** THE LIMITED WARRANTY SET FORTH IN SECTION 8.1 IS MADE FOR THE BENEFIT OF CUSTOMER ONLY. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 8.1 AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IRON MOUNTAIN AND ITS SUPPLIERS MAKE NO (AND HEREBY DISCLAIM ALL) OTHER WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF SATISFACTORY QUALITY, COURSE OF DEALING, TRADE USAGE OR PRACTICE, MERCHANTABILITY, NONINFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. INSIGHT SERVICES ARE PROVIDED "AS IS" AND NEITHER IRON MOUNTAIN NOR ITS SUPPLIERS WARRANT THAT ALL ERRORS OR DEFECTS CAN BE CORRECTED, OR THAT OPERATION OF THE SERVICES SHALL BE UNINTERRUPTED OR ERROR-FREE. THE SERVICES ARE NOT DESIGNATED OR INTENDED FOR HIGH RISK ACTIVITIES.

## 8. LIMITATION OF LIABILITY

**8.1 Types of Damages.** TO THE MAXIMUM EXTENT LEGALLY PERMITTED UNDER APPLICABLE LAW, NEITHER PARTY NOR IRON MOUNTAIN'S SUPPLIERS SHALL BE LIABLE FOR ANY SPECIAL, INDIRECT, EXEMPLARY, PUNITIVE, INCIDENTAL, CONSEQUENTIAL OR SIMILAR LOSSES OR DAMAGES OF ANY NATURE INCLUDING, BUT NOT LIMITED TO, DAMAGES OR COSTS DUE TO LOSS OF PROFITS, REVENUE, GOODWILL, PRODUCTION OR USE, BUSINESS INTERRUPTION, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR THE LOSS OR COST OF RECREATING ANY DATA, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF THE CAUSE OF ACTION OR THE THEORY OF LIABILITY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, EVEN IF A PARTY WAS ADVISED OF, KNEW OF OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.

**8.2 Amount of Damages.** TO THE MAXIMUM EXTENT LEGALLY PERMITTED UNDER APPLICABLE LAW, THE MAXIMUM LIABILITY OF IRON MOUNTAIN AND ITS SUPPLIERS ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT SHALL NOT EXCEED THE FEES PAID BY CUSTOMER TO IRON MOUNTAIN UNDER THIS AGREEMENT DURING THE SIX (6) MONTHS PRECEDING THE ACT, OMISSION OR OCCURRENCE GIVING RISE TO SUCH LIABILITY.

**8.3 Exceptions to Limitations.** NOTHING IN THIS AGREEMENT SHALL LIMIT OR EXCLUDE EITHER PARTY'S LIABILITY FOR: (A) GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT; (B) DEATH OR BODILY INJURY RESULTING FROM ITS NEGLIGENCE OR THE NEGLIGENCE OF ITS EMPLOYEES OR AGENTS; (C) FRAUD OR FRAUDULENT MISREPRESENTATION; (D) MISAPPROPRIATION OR INFRINGEMENT OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS; (E) OBLIGATIONS UNDER SECTION 10; (F) CUSTOMER'S PAYMENT OBLIGATIONS; OR (G) MATTERS FOR WHICH LIABILITY CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.



## **9. INDEMNIFICATION**

**9.1 By Iron Mountain.** Iron Mountain will defend at its expense any suit brought against Customer, and will pay any settlement Iron Mountain makes or approves, or any damages finally awarded in such suit, insofar as such suit is based on a claim by any third party alleging that the Services misappropriates any trade secret recognized under the Uniform Trade Secrets Act or infringes any copyright or United States patent issued as of the Effective Date. If any portion of the Services becomes, or in Iron Mountain's opinion is likely to become, the subject of a claim of infringement, Iron Mountain may, at Iron Mountain's option: (a) procure for Customer the right to continue using the Services; (b) replace the Services with non-infringing services which do not materially impair the functionality of the Services; (c) modify the Services so that it becomes non-infringing; or (d) terminate this Agreement and refund any fees actually paid by Customer to Iron Mountain for the remainder of the Term then in effect, and upon such termination, Customer will immediately cease all use of the Documentation and Services. Notwithstanding the foregoing, Iron Mountain shall have no obligation under this section or otherwise with respect to any infringement claim based upon (w) any use of the Services not in accordance with this Agreement or as specified in the Documentation; (x) any use of the Services in combination with other products, equipment, software or data not supplied by Iron Mountain; (y) any modification of the Services by any person other than Iron Mountain or its authorized agents or (z) Customer's breach of this Agreement. This subsection states the sole and exclusive remedy of Customer and the entire liability of Iron Mountain, or any of the officers, directors, employees, shareholders, contractors or representatives of the foregoing, for infringement claims and actions.

**9.2 Procedure.** The indemnifying Party's obligations as set forth above are expressly conditioned upon each of the foregoing: (a) the indemnified Party shall promptly notify the indemnifying Party in writing of any threatened or actual claim or suit; (b) the indemnifying Party shall have sole control of the defense or settlement of any claim or suit; and (c) the indemnified Party shall cooperate with the indemnifying Party to facilitate the settlement or defense of any claim or suit.

## **10. TERM AND TERMINATION**

### **10.1 RESERVE**

**10.2 Suspension of Services by Iron Mountain.** Iron Mountain may suspend or limit Customer's or any Authorized User's use of the Services provided under this Agreement (including, without limitation, its transmission or retrieval of Customer Data) immediately upon written notice to Customer, without liability, for any one of the following reasons: (a) Customer fails to pay any undisputed fees as and when due pursuant to this Agreement or the applicable Statement of Work and such failure continues for a period of thirty (30) days; (b) the Services are being used by Customer or any of its Authorized Users in violation of any applicable federal, state or local law, ordinance or regulation; (c) the Services are being used by Customer or any of its Authorized Users in an unauthorized manner; (d) Customer's or any of its Authorized User's use of the Services violates the AUP, adversely affects Iron Mountain's provision of services to other customers or poses a security risk to Iron Mountain's systems; or (e) a court or other governmental authority having jurisdiction issues an order prohibiting Iron Mountain from furnishing the Services to Customer. During any such suspension, Customer shall remain responsible and liable for all fees due for the suspended Services. If any of the foregoing grounds for suspension continues for more than fifteen (15) days, Iron Mountain shall have the right to terminate the Agreement for cause and without an opportunity to cure by Customer.

**10.3 Effect of Termination.** If this Agreement expires or is terminated for any reason, then: (a) Customer's rights to access and use the Services shall immediately terminate; (b) all fees owed by Customer to Iron Mountain will be immediately due upon receipt of the final invoice; (c) Iron Mountain and the Customer shall delete all Customer Data from the Host and InSight Services by the termination or expiration date of this Agreement; and

(d) upon request and subject to the Host's terms and policies to the extent applicable, each Party will use commercially reasonable efforts to return or delete all Confidential Information of the other Party, provided that, for clarity, Iron Mountain's obligations under this subsection (d) do not apply to any Usage Data. In the event that Customer Data remains on the Host after the expiration or termination of this Agreement, the terms of this Agreement

shall continue to apply until all Customer Data has been removed from the Host. The sections and subsections titled *Definitions, Restrictions on Use, Confidentiality, Warranties and Disclaimers, Limitation of Liability, Indemnification, Effect of Termination, and Miscellaneous* will survive expiration or termination of this Agreement for any reason.

## 11. MISCELLANEOUS

**11.1 Publicity.** Iron Mountain and Customer may issue joint external communications regarding the performance of the Services. Upon mutual agreement, Customer will speak to the press and a limited number of potential Iron Mountain customers as a reference customer. Upon Customer's prior written consent, Customer also agrees to allow Iron Mountain to use its name; trademarks, service marks, logos and other distinctive brand features of Customer; application; and non-competitive deployment details in both text and pictures in its various marketing communications and materials. Iron Mountain may verbally reference Customer as a customer of the Services. Neither Party needs approval if it is repeating a public statement that is substantially similar to a previously-approved public statement.

**11.2 Compliance.** Each Party shall comply with, and retain responsibility for its compliance with, all applicable export control laws and economic sanctions programs relating to its respective business, facilities, and the provision of services to third parties (collectively, "**Trade Control Laws**"). Iron Mountain shall not be required by the terms of this Agreement to be directly or indirectly involved in the provision of goods, software, services and/or technical data that may be prohibited by applicable Trade Control Laws if performed by Iron Mountain and it shall be in the sole discretion of Iron Mountain to refrain from being involved in such activities.

(a) **Export Laws.** Applicable Trade Control Laws may include U.S. export control laws such as the Export Administration Regulations ("**EAR**") and the International Traffic in Arms Regulations ("**ITAR**"), and U.S. economic sanctions programs that are or may be maintained by the U.S. Government, including sanctions and other controls currently imposed against Cuba, Iran, North Korea, Sudan, Syria and Crimea (territory of Ukraine) (collectively, "**Restricted Countries**"), as well as individuals and entities identified on, or owned or controlled by or acting on behalf of individual or entities identified on, applicable government restricted party lists such as the Specially Designated Nationals and Blocked Persons List, Sectoral Sanctions Identification List, Foreign Sanctions Evader List, Denied Persons List, Unverified List, Entity List and Debarred Parties List (collectively, "**Restricted Parties**").

(b) **Restricted Parties.** Customer represents that neither the Customer nor any of its end users

(i) is a Restricted Party; (ii) is located in, organized under the laws of or ordinarily resident in a Restricted Country;

(iii) will directly or indirectly export, re-export or otherwise transfer any goods, technology or Services covered by the Agreement to Restricted Countries or Restricted Parties; or (iv) will access or otherwise use the Services from or in a Restricted Country.

(c) **Restricted Activities.** Customer will not directly or indirectly use or transfer the Services

(i) in violation of any Trade Control Laws; (ii) for activities directly or indirectly related to the design, development, production, stockpiling or use of nuclear explosive devices, missiles, chemical or biological weapons or other restricted end-uses; or (iii) for activities directly or indirectly related to Restricted Countries or Restricted Parties. Customer will not use the Services or any component thereof to process, export, re-export, store, host or otherwise transfer any Customer Data that is subject to the ITAR or subject to the EAR. Customer is solely responsible for compliance with Trade Control Laws in the use of the Services and in the use and processing of Customer Data or access to Customer Data by Customer. Customer is solely responsible for obtaining and complying with any required licenses or other authorizations under applicable Trade Control Laws for such activities.

**11.3 Remedies.** Except as provided in the sections titled *Limited Warranty for Professional Services* and *Indemnification*, the Parties' rights and remedies under this Agreement are cumulative. Customer acknowledges that the Services, Services Technology and Documentation contain valuable trade secrets and proprietary information of Iron Mountain and its suppliers, that any actual or threatened breach of the sections titled *Services Use*, *Intellectual Property* or *Confidentiality* or any other breach by Customer of its obligations with respect to Intellectual Property Rights of Iron Mountain or its suppliers will constitute immediate, irreparable harm to Iron Mountain and its suppliers for which monetary damages would be an inadequate remedy. In such case, Iron Mountain and its suppliers will be entitled to immediate injunctive relief without the requirement of posting bond. If any legal action is brought to enforce this Agreement, the prevailing Party will be entitled to receive its attorneys' fees, court costs, and other collection expenses, in addition to any other relief it may receive.

**11.4 No Assignment.** Neither Party shall assign or otherwise transfer this Agreement, or its rights and obligations herein, without obtaining the prior written consent of the other Party, which shall not be unreasonably withheld, and any attempted assignment or transfer in violation of the foregoing will be null and void; provided, however, that Iron Mountain may assign or transfer this Agreement to an Affiliate. In the event of a change of control (as defined in Section 2.2) of a Party, whether in connection with a merger, acquisition, reorganization or sale of all or substantially all of its assets, or other operation of law, such Party will provide written notice to the other Party at least (30) days prior to the change of control. The terms of this Agreement shall be binding upon the Parties and their respective successors and permitted assigns.

**11.5 Contract Terms and Conditions & Commercial Items Federal Acquisition Regulation 52.212-4.** To the extent not inconsistent with the terms provided herein, the provisions of FAR 52.212-4 are applicable to this Agreement.

**11.6 Independent Contractors.** Customer's relationship to Iron Mountain is that of an independent contractor, and neither Party is an agent or partner of the other. Customer will not have, and will not represent to any third party that it has, any authority to act on behalf of Iron Mountain.

**11.7 Third Parties.** Certain software vendors are intended third party beneficiaries of Section 4.2 of this Agreement for the purposes of protecting their Intellectual Property Rights and for no other purposes.



**11.8 Notices.** Each Party must deliver all notices or other communications required or permitted under this Agreement in writing to the other Party at the address listed below by courier, by certified or registered mail (postage prepaid and return receipt requested), by electronic mail or by a nationally-recognized overnight delivery service. If delivered by certified or registered mail, any such notice will be considered to have been given five (5) business days after it was mailed, as evidenced by the postmark. If delivered by courier, electronic mail or overnight delivery service, any such notice shall be considered to have been given on the delivery date. Each Party may change its address for receipt of notice by giving notice of such change to the other Party.

To Customer:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
Telephone: (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_  
FAX: (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_  
E-Mail: \_\_\_\_\_

To Iron Mountain:

Iron Mountain Information Management Services, Inc.  
One Federal Street  
Boston, MA 02110  
Attention: General Manager, GDS  
Telephone: (\_\_\_\_) \_\_\_\_ - \_\_\_\_  
Fax: (\_\_\_\_) \_\_\_\_ - \_\_\_\_  
E-Mail: \_\_\_\_\_

With a copy (which shall not constitute notice but which is nonetheless required for notice) to:

Iron Mountain Information Management Services, Inc.  
One Federal Street  
Boston, MA 02110 Attention: Legal  
Telephone: (617) 535-4766  
E-Mail: [Legal.Department@ironmountain.com](mailto:Legal.Department@ironmountain.com)

**11.9 Conflict of Terms; Purchase Orders.** In the event of a conflict or inconsistency between this text and the terms of any Statement of Work, this text shall govern and control. In the event that Customer issues a purchase order to Iron Mountain covering the Services, any terms and conditions set forth in the purchase order which are in addition to or establish conflicting terms and conditions to those set forth in this Agreement are expressly rejected by Iron Mountain.