



Last Updated: 03-31-2023

These General Terms and Conditions (these “**GTC**”) set forth the terms and conditions under which uberall Inc., a Delaware corporation, with its principal place of business at 19 Clifford Street, Detroit, Michigan 48226, USA, or an Affiliate (as defined below) of uberall Inc. (“**Uberall**”) will provide the customer (“**Customer**”) that executes an order form or other ordering document referencing the GTC (each, an “**Order**”) with: (a) access to those certain software-as-a-service products, including certain mobile application(s), ordered by Customer (the “**SaaS Product(s)**”); (b) use of any and all application programming interfaces, downloadable software, mobile software, agents, widgets, tools, SDKs, or other code and their associated Documentation (“**Software**”) provided by Uberall to enable integration with or otherwise use the SaaS Product(s); (c) those set-up and/or support services as described in an Order (“**Support Services**”); and (d) those certain professional services as described in an Order (“**Professional Services**”). If applicable, Uberall will perform the services and provide the results each as described in an applicable statement of work (“**SOW**”). Any additional scope or activities that extend beyond those set forth in the applicable SOW may require an additional SOW or change Order executed by the Parties. Uberall’s core SaaS Product is a location marketing Software platform that allows Customers to evaluate, publish and update Corporate Location Data on a number of different platforms (“**Publication Partners**”).

1. DEFINITIONS

1.1. For purposes of the GTC: “**Agreement**” means these GTC, any and all Orders, any and all supplements, schedules, exhibits, other attachments to the GTC and the Order(s), including any applicable product-specific terms (“**PST**”), and any and all Documentation, each as may be amended or modified from time to time according to the terms hereof; “**Documentation**” means the product service descriptions (“**Product Descriptions**”), additional product-specific terms for the SaaS Product(s) ordered by Customer, data sheets, product license information documents, Software documentation, notices file, DPA (as defined below), maintenance and support handbooks, and all other documents referenced in the foregoing, including references to information contained in a URL, as each of the foregoing may be updated by Uberall from time to time; “**Corporate Location Data**” means information or data regarding Customers’s Corporate Location(s), including company name, brand name, address, contact details, opening hours, service or good provided, service area, photos, and logo. Customer will use the SaaS Product(s) and/or API to transmit

all relevant Corporate Location Data in a format or in a channel (e.g. API) specified by Uberall in accordance with the terms and conditions set forth in this Agreement, as required for Uberall to fulfill the above purpose. “**Affiliate**” means any affiliated entity that controls, is controlled by, or is under common control with the applicable party; and “**control**” means the legal, beneficial, or equitable ownership, directly or indirectly, of outstanding securities or shares with sufficient voting power to elect a majority of the board of directors (or equivalent governing body).

2. RIGHT OF USE

2.1. **Use of SaaS Product(s) and Software.** Subject to the terms and conditions of the Agreement, including the payment of fees, Uberall grants Customer a subscription-based, non-exclusive, non-sublicensable, and nontransferable right to access and use the SaaS Product(s) identified in the Order and use the Software in connection with such SaaS Product(s) in accordance with the applicable Documentation, solely for the following purposes (collectively, “**Use**”): (a) to perform the functions described in the applicable Documentation, (b) for its internal business purposes, and (c) within the applicable standard

of measurement for determining the permitted use and calculating the fees due for a SaaS Product as set forth in the Agreement (“**Charge Metrics**”). Customer may (a) use the functionality provided by the SaaS Product(s) to download and print a reasonable number of copies of reports included in the SaaS Product(s) to which Customer has properly gained access; and (b) use and make a reasonable number of copies of the applicable Documentation for the SaaS Product(s) and Software, *provided* that Customer maintains all copyright or other proprietary notices on all such copies.

2.2. **SaaS Product(s) and Software from Apple App Store.** The following applies to any SaaS Product(s) constituting mobile applications and related Software Customer acquires from the Apple App Store (“**Apple-Sourced Software**”): Customer acknowledges and agrees that this Agreement is solely between Customer and Uberall, not Apple, Inc. (“**Apple**”) and that Apple has no responsibility for the Apple-Sourced Software or content thereof. Customer’s use of the Apple-Sourced Software must comply with the App Store Terms of Service. Customer acknowledges that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Apple-Sourced Software. In the event of any failure of the Apple-Sourced Software to conform to any applicable warranty, Customer may notify Apple, and Apple will refund the purchase price for the Apple-Sourced Software to Customer; to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the Apple-Sourced Software, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be solely governed by this Agreement and any law applicable to Uberall as provider of the software. Customer acknowledges that Apple is not responsible for addressing any claims of Customer or any third party relating to the Apple-Sourced Software or Customer’s possession and/or use of the Apple-Sourced Software, including: (a) product liability claims; (b) any claim that the Apple-Sourced Software fails to conform to any applicable legal or regulatory requirement; and (c) claims arising under consumer protection or

similar legislation; and all such claims are governed solely by this Agreement and any law applicable to Uberall as provider of the software. Customer acknowledges that, in the event of any third-party claim that the Apple-Sourced Software or Customer’s possession and use of that Apple-Sourced Software infringes that third party’s intellectual property rights, Uberall, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by this Agreement. Customer and Uberall acknowledge and agree that Apple, and Apple’s subsidiaries, are third-party beneficiaries of this Agreement as relates to Customer’s license of the Apple-Sourced Software, and that, upon Customer’s acceptance of the terms and conditions of this Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce this Agreement as relates to Customer’s license of the Apple-Sourced Software against Customer as a third-party beneficiary thereof, provided that Apple and Apple’s subsidiaries will not become a party to the Agreement.

2.3. **SaaS Product(s) and Software from Google Play Store.** The following applies to any SaaS Product(s) constituting mobile applications and related Software Customer acquires from the Google Play Store (“**Google-Sourced Software**”): (a) Customer acknowledges that the Agreement is between Customer and Uberall only, and not with Google, Inc. (“**Google**”); (b) Customer’s use of Google-Sourced Software must comply with Google’s then-current Google Play Store Terms of Service; (c) Google is only a provider of the Google Play Store where Customer obtained the Google-Sourced Software; (d) Uberall, and not Google, is solely responsible for its Google-Sourced Software; (e) Google has no obligation or liability to Customer with respect to Google-Sourced Software or the Agreement; and (f) Customer acknowledges and agrees that Google is a third-party beneficiary to the Agreement as it relates to Uberall’s Google-Sourced Software, provided that Apple and Apple’s subsidiaries will not become a party to the Agreement.

2.4. **Additional Restrictions.** Customer will not use the SaaS Product(s) or Software in any manner

not expressly and specifically authorized by the Agreement and will not cause or permit either its employees or its third-party contractors who are not competitors of Uberall (“collectively, **Authorized Users**”) to use the SaaS Product(s) or Software in any such manner. In particular, and without limitation, Customer will not, and will not cause or permit others to, except as the Agreement expressly permits: (a) access, use, copy, modify, or create derivative works or improvements of the SaaS Product(s) or Software; (b) reproduce, rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available any of the SaaS Product(s) or Software to any Affiliate of Customer or other person or entity or in connection with the internet or any time-sharing, service bureau, software as a service, cloud, or other technology or service; (c) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source code of the SaaS Product(s) or Software in whole or in part; (d) bypass or breach any security device or protection used by the SaaS Product(s) or Software or access or use the SaaS Product(s) or Software other than by an Authorized User (as defined above); (e) input, upload, transmit, or otherwise provide to or through the SaaS Product(s) or Software any information or materials that are unlawful, infringing or injurious, or contain, transmit, or activate any Malware (as defined below); (f) damage, destroy, disrupt, disable, impair, interfere with, or otherwise impede or harm in any manner the SaaS Product(s) or Software or Uberall’s provision of services to any person or entity, in whole or in part; (g) remove, delete, alter, or obscure any trademarks, warranties, or disclaimers, or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from any SaaS Product(s), Software, or Documentation, including any copy thereof; (h) access or use the SaaS Product(s) or Software in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person or entity (including by any unauthorized access to, misappropriation, use, alteration, destruction, or disclosure of the data of any other Uberall Customer), or that violates any federal, state, provincial, regional, territorial

and local laws, international treaties, statutes, statutory instruments, ordinances, by-laws, regulations, rules, executive orders, supervisory requirements, directives, circulars, opinions, interpretive letters and other office releases, guidelines, and policies with the force of law, of or by any government, or any governmental authority, department, or agency thereof (including all federal, state, provincial, regional, territorial and local banking laws, regulations, guidance, and policies), or any court of competent jurisdiction (“**Law**”); (i) access or use the SaaS Product(s) or Software for purposes of competitive analysis of the SaaS Product(s) or Software for development, provision, or use of a competing software service or product or any other purpose that is to Uberall’s detriment or commercial disadvantage; (j) access or use the SaaS Product(s) or Software in, or in association with, the design, construction, maintenance, or operation of any hazardous environments, systems, or applications, any safety response systems or other safety-critical applications, or any other use or application in which the use or failure of the SaaS Product(s) or Software could lead to personal injury or severe physical, property or environmental damage; or (k) otherwise access or use the SaaS Product(s) or Software beyond the scope of the Use granted under this Section 2 (**Right of Use**). Customer will abide by Uberall’s policies and procedures in effect from time to time as may be communicated to Customer.

2.5. **Enabling Software.** The SaaS Product(s) may require the use of enabling software that Customer downloads to Customer systems to facilitate use of the SaaS Product(s). Customer may use enabling software only in connection with use of the SaaS Product(s) as specified in the service description or Documentation. Enabling software is provided “AS-IS.” Terms and conditions related to such enabling software, if any, can be accessed in the applicable service description or Documentation.

2.6. **Authorized Use.** Subject to the terms and conditions of the Agreement, Customer may permit its Authorized Users to Use the applicable SaaS Product(s), Software, and Documentation. Authorized Users may Use the SaaS Product(s), Software, and/or Documentation only for Customer’s business

purposes and benefit. Customer is fully liable for the breach of the Agreement by, and the acts and omissions of, Authorized Users (including any usage charges or overage charges) under the Agreement.

2.7. **Monitoring of Use.** Customer will monitor its own use of the SaaS Product(s) and report all use in excess of the Charge Metrics. Uberall may continuously monitor the SaaS Product(s) and any other services it provides, including monitoring to verify Customer's use thereof is in compliance with the Agreement.

2.8. **Customer License Grant.** Customer grants to Uberall a non-exclusive, royalty-free right to access, use, process, reproduce, modify, perform, display, distribute, sell, advertise, let, sublet, market, license or sub-license any and all information, data, and other content, in any form or medium, that is collected, submitted, posted, displayed, downloaded, or otherwise received from or provided, directly or indirectly, by Customer or an Authorized User by or through the SaaS Product(s) or Software, including any Corporate Location Data ("**Customer Data**") as is reasonable or necessary for Uberall to perform or provide the SaaS Product(s), Software, Support Services, Professional Services and Deliverables (as defined in Section 4.4).

2.9. **Modifications.** The SaaS Product(s), Software, Support Services, Professional Services, and Documentation may be modified by Uberall. Uberall will inform Customer of material modifications through its customer support, the SaaS Product(s) or the release notes on the Apple App Store or Google Play Store. Whereby Uberall will consider Customer's needs, but it will still be to Uberall's sole discretion to effect any change. Any change of Publication Partner(s) shall not be regarded as a modification, as Customer is aware that the Publication Partners are not part of the SaaS Product(s), Software, Support Services or Professional Services and may change over the Term of this Agreement. Uberall may unilaterally change these GTC by notifying Customer in text or written form at least 1 month before the respective change takes effect, in the event that such change is necessary (a) to adapt to developments that were not foreseeable prior to the conclusion of the Agreement and that were not caused or cannot

be influenced by Uberall and the non-consideration of which would disturb the balance of the contractual relationship to a not insignificant extent or (b) to ensure the continuity, development and security of the SaaS Products, Software, Support Services and/or Professional Services or (c) to eliminate not insignificant difficulties in the performance of the Agreement due to regulatory gaps that have arisen after the conclusion of the Agreement and to the extent that (i) the essential provisions of the contractual relationship regarding its term, termination and type and scope of the agreed services are not affected thereby or (ii) if and to the extent that the contractual services are changed, this change does not shift the balance between performance and counter-performance to the disadvantage of the Customer so that the change is not to be deemed unreasonable for the Customer. In the event that a change is not only to the advantage of Customer, Customer has the right to object to the change in text or written form before its effective date. In the event of an objection, Uberall shall have the right to terminate the Agreement, provided that Uberall cannot reasonably be expected to continue the Agreement. If Customer does not object to the change before its effective date, the change shall be deemed approved by Customer.

2.10. **Third-Party Components.** The SaaS Product(s) may include integrations with services, applications, content and data made available by third parties ("**Third-Party Components**") that are accessed through the SaaS Product(s) and are subject to the terms and conditions of those third parties. The Agreement does not apply to those Third-Party Components, and they are not part of the SaaS Product(s).

2.11. **Publication Partner Accounts.** Certain Publication Partners require the creation of accounts for individual or all Corporate Locations. Customer hereby authorizes Uberall to create and manage any such account on behalf of the Customer in order to provide the services of the applicable SaaS Product(s) and/or Professional Services and, as needed, terminate any such account upon termination or cancellation of the Agreement. If the Customer has an existing account with a Publication Partner, the Authorized User will provide Uberall

appropriate, lawful access and credentials to access the account in order for Uberall to provide the SaaS Product(s) and/or Professional Services. In certain instances, Customer may be required to register an account with a Publication Partner prior to providing access and credentials to Uberall.

3. PAYMENT

3.1. **Fees.** Customer will pay Uberall the fees indicated on the Order based upon the Charge Metric for the applicable SaaS Product(s). The fees are non-refundable and, unless otherwise specified in an applicable Order, will include (a) an annual subscription fee payable upfront (b) a one-time set-up fee payable upfront, and (c) such other fees as per the Charge Metrics in the applicable Order. All fees are payable in advance unless such Order sets forth different payment terms. Fees for Support Services and Professional Services will be set forth in the Order and will be billed in accordance with such Order. Uberall reserves the right to adjust fees annually by the greater of: (i) the annual average percentage change of the Consumer Price Index (“CPI”) for the U.S., not seasonally adjusted, as published by the U.S. Department of Labor, Bureau of Labor Statistics at <https://www.data.bls.gov/cpi/>, or the successor index which the parties mutually agree to if such index is discontinued; or (ii) five percent (5%). Unless otherwise provided in an Order, all fees are to be paid to Uberall within thirty (30) days of the date of invoice. Any late payment will be subject to any costs of collection (including reasonable legal fees) and will bear interest at the rate of one percent (1%) per month (prorated for partial periods) or at the maximum rate permitted by law, whichever is less. If Customer fails to make timely payment, Uberall may suspend access to the SaaS Product(s) and Software or suspend performance of the Support Services or Professional Services. Customer must notify Uberall of any fees that it wishes to dispute within thirty (30) days from the date of the invoice. Disputed fees must still be paid to Uberall in accordance with this Section 3 (**Payment**), but such payments may be refunded depending on the outcome of the dispute. Invoices will be sent by electronic delivery to the e-mail address provided by the Customer. Uberall will not provide invoices through any accounting or billing systems of the Customer.

In the event and to the extent that an invoice is sent by both electronic delivery and any other form of delivery, solely the date of receipt of the invoice sent by electronic delivery shall be regarded as the date of receipt of such invoice. In the event and to the extent that Customer requires a reference to a purchase order number to be included in an invoice, Customer shall notify Uberall thereof in due time, but no later than 30 days prior to the due date of the respective fees which are to be subject of such invoice. The due date of the fees shall remain unaffected by any failure to provide such notification.

3.2. **Taxes.** Unless otherwise specified in an applicable Order, the fees and other amounts required to be paid hereunder do not include any amount for taxes or levy (including interest and penalties). Customer will reimburse Uberall and hold Uberall harmless for all sales, use, VAT, excise, property or other taxes or levies which Uberall is required to collect or remit to applicable tax authorities. This provision does not apply to Uberall's income or franchise taxes, or any taxes for which Customer is exempt, provided Customer has furnished Uberall with a valid tax exemption certificate.

3.3. **Overage Charges.** If the actual usage of the SaaS Product(s) during the applicable measurement period exceeds the permitted Charge Metric limitations, Customer will be charged for the overage as set forth in the Order.

4. SAAS PRODUCTS/ SOFTWARE/ SUPPORT SERVICES/ PROFESSIONAL SERVICES

4.1. **Service Description.** The SaaS Product(s), Software and Professional Services are described in the applicable Documentation.

4.2. **Service Availability.** Uberall will make the SaaS Product(s) available for Customer to Use as described in the Agreement. Uberall will use commercially reasonable efforts to achieve Uberall's availability goals (if any) as described in the applicable service descriptions.

4.3. **Support Services.** Upon Customer's payment of the relevant fees set forth in the Order, Uberall will use commercially reasonable efforts to provide the Support Services for the SaaS Product(s) pursuant to the support plan selected by Customer as described in the then-current version of the Uberall maintenance and support handbook.

4.4. **Professional Services.** Uberall will perform the Professional Services and will provide the deliverables described in the Order (“**Deliverables**”). Any additional scope or activities that extend beyond those set forth in the Order will require an additional Order or a change order executed by the parties.

5. OWNERSHIP

5.1. **Reservation of Rights.** Customer acknowledges that, subject to the rights granted herein, Customer has no ownership interest in the SaaS Product(s), Software, Deliverables, Confidential Information (as defined below) or any other materials provided to Customer.

5.2. Marks and Publicity.

(a) The trademarks, trade names, service marks, and logos, whether or not registered (“**Marks**”) of Uberall and the Marks of Customer are the sole and exclusive property of the respective owning party.

(b) In recognition of the pricing provided under the Agreement, Customer will: (i) allow Uberall to refer to Customer as a reference, in particular in sales presentations, on Uberall’s website(s), social media activities, product literature and any other promotional, sales and/or event material, (ii) subject to Customer’s prior written approval (email sufficient), allow Uberall to include a brief description of the SaaS Product(s), Support Services, Professional Services, Deliverables, and/or other services provided to Customer in Uberall promotional materials, (iii) subject to Customer’s prior written approval (email sufficient), allow Uberall to make reference to Customer in case studies, ROI analyses, white papers and related marketing materials, including but not limited to Uberall’s website, press releases, social media activities and any other promotional, sales and event material and (iv) allow Uberall to use the Customer’s brand name and company logo for the purpose(s) allowed under (i) to (iii). Customer hereby consents to the receipt of marketing communications from Uberall. Customer will not use Uberall’s Marks without obtaining the prior written consent of Uberall.

5.3. **Deliverables.** All Deliverables produced by Uberall under the Agreement will not be considered to be works made for hire and will be exclusively owned by Uberall. Uberall hereby grants to Customer a worldwide, nonexclusive, limited right to reproduce, distribute, perform,

and display (publicly or otherwise), the Deliverables solely in connection with Customer’s Use of the SaaS Product(s) or Software, as applicable, during the term of the Agreement and as permitted by this Agreement; *provided, however*, that a grant of rights in the Deliverables to the Customer by Uberall in any separately executed Product- or Professional Services-specific agreements will take precedence over, nullify and void the grant of rights in this Section 5.3 (Deliverables).

5.4. **Feedback.** If Customer submits, orally or in writing, feedback, suggestions, or recommended changes to any of Uberall’s products and services, including new features or functionality relating thereto, or any comments, questions, suggestions, or the like (“**Feedback**”), then Customer will assign and hereby assigns to Uberall all right, title, and interest in and to the Feedback, including any ideas, know-how, concepts, techniques, or other intellectual property rights contained therein, and agrees that Uberall is free to use such Feedback, without any attribution or compensation to Customer, for any purpose whatsoever.

6. CONFIDENTIALITY

6.1. **Definition. “Confidential Information”** means all information disclosed by the Discloser or its Representatives that is generally not publicly known, whether tangible or intangible and in whatever form or medium provided and that is (a) marked as “Confidential” or the like or (b) should reasonably be understood to be confidential given the nature of the information and the circumstances surrounding its disclosure.

6.2. **Ownership of Confidential Information.** Nothing in the Agreement will be construed to convey any title or ownership rights: (a) to the SaaS Product(s), Software, Documentation, Deliverables or to any patent, copyright, trademark, or trade secret or other intellectual property right or proprietary right embodied therein to Customer, or (b) of a party’s Confidential Information to the other party.

6.3. **Non-Disclosure.** Each party may disclose Confidential Information (“**Discloser**”) to the other party (“**Recipient**”) in connection with its performance under the Agreement (the “**Purpose**”). Recipient must: (a) hold in confidence and safeguard the Confidential

Information of the Discloser from unauthorized use, access or disclosure using no less than a commercially reasonable degree of care; (b) not use or exploit the Confidential Information in any way except for the Purpose; and (c) not disclose or make available such Confidential Information (in whole or in part) to any person or entity other than to its Affiliates and its or their employees, consultants, and advisors (collectively, “**Representatives**”) who: (i) need access to such Confidential Information for the Purpose; and (ii) are bound by obligations with respect to Confidential Information consistent with, and no less protective than, the Agreement. Recipient is responsible for any and all breaches of the Agreement caused by its Representatives. Recipient must promptly report to Discloser any actual or suspected violation of the terms of the Agreement and take all reasonable further steps to prevent, control or remedy any such violation.

6.4. **Exclusions.** Confidential Information does not include any information that: (a) is or becomes generally available to the public other than as a result of Recipient’s or its Representatives’ breach of the Agreement; (b) is obtained by Recipient or its Representatives on a non-confidential basis from a third-party that, to Recipient’s knowledge, was not legally or contractually restricted from disclosing such information; or (c) Recipient establishes, by documentary evidence, (i) was in Recipient’s or its Representatives’ possession prior to Discloser’s disclosure hereunder; or (ii) was or is independently developed by Recipient or its Representatives without using any Confidential Information of the Discloser.

6.5. **Injunctive Relief.** A party may seek injunctive or other equitable relief for an actual or threatened breach of this Section 6 (Confidentiality).

7. DATA PROTECTION

7.1. **Data Privacy.** Uberall’s current Data Processing Addendum, which Uberall will provide upon request (“**DPA**”) shall be applicable to the processing of any personal data by Uberall on behalf of the Customer under the Agreement, unless the parties have agreed otherwise in writing.

7.2. **Customer Data Protection.** Customer will at all times be the sole owner of Customer Data. Customer has sole responsibility for the accuracy, quality, integrity, legality, reliability, and

appropriateness of Customer Data, and for obtaining all rights and permissions related to Customer Data and Customer’s third-party accounts required by Uberall to provide the SaaS Product(s) and Deliverables and to perform the Support Services, Professional Services, and other services ordered by Customer. Customer warrants it has obtained and will maintain all such rights and that Customer Data is free from errors. Uberall will not process any Customer Data that it knows to be unlawful. Customer is responsible for taking necessary actions to order, enable, or use available data protection features for the SaaS Product(s) as set forth in the applicable Documentation and accepts responsibility for use of the SaaS Product(s) if Customer fails to take such actions, including meeting any requirement of Law. Uberall is not responsible for any backup, recovery or other steps required to ensure that Customer Data is recoverable in the case of data loss. Customer is solely responsible for backing up Customer Data on a regular basis and taking appropriate steps to safeguard and ensure the integrity of Customer Data.

7.3. **Statistical Information.** Uberall may (a) compile statistical and other information related to the performance, operation and use of the SaaS Product(s), Software and other services, and (b) use data from the SaaS Product(s), Software and other services, including Customer’s use thereof and Customer Data, in aggregated, anonymized form for security and operations management, to compile statistical and performance information which Uberall may use, market, distribute or sell on a commercial basis, conduct analysis, and for research and development purposes. Uberall may make such information publicly available, *provided* that such information does not incorporate Customer Data and/or identify Customer’s Confidential Information. Uberall retains all rights in such information.

8. WARRANTY

8.1. **No Malware.** Uberall applies processes and technologies to prevent the SaaS Product(s) from containing any viruses or any other contaminants (including codes, commands, instructions, devices, techniques, bugs, web bugs, or design flaws) that access (without authorization), alter, delete, threaten, infect,

assault, vandalize, defraud, disrupt, damage, disable, inhibit, or shut down computer systems, networks, infrastructures, devices, websites, databases, software or other data or property (“**Malware**”). Uberall warrants that it will apply the above preventative processes and technologies and will not knowingly insert any such Malware into the SaaS Product(s).

8.2. **Services Warranty.** Uberall warrants that the Professional Services performed hereunder will be performed in a professional and workmanlike manner.

8.3. **Disclaimer of Warranties.** ANY AND ALL SAAS PRODUCT(S), SOFTWARE, SUPPORT SERVICES, PROFESSIONAL SERVICES, DELIVERABLES, CONFIDENTIAL INFORMATION, THIRD-PARTY COMPONENTS, UBERALL OPEN SOURCE AND ALL OTHER TECHNOLOGY, SOFTWARE, SERVICES, CONTENT, DATA AND MATERIALS PROVIDED BY UBERALL ARE PROVIDED “AS IS”, “WHERE IS”, AND “AS AVAILABLE” AND WITHOUT WARRANTY OF ANY KIND. EXCEPT AS OTHERWISE EXPRESSLY STATED IN THIS SECTION OR ELSEWHERE IN THE AGREEMENT, UBERALL MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR RESULTS TO BE DERIVED FROM THE USE OF OR INTEGRATION WITH ANY SAAS PRODUCT(S), SOFTWARE, SUPPORT SERVICES, PROFESSIONAL SERVICES, DELIVERABLES, CONFIDENTIAL INFORMATION, THIRD-PARTY COMPONENTS, UBERALL OPEN SOURCE COMPONENTS OR ANY OTHER TECHNOLOGY, SOFTWARE, SERVICES, DATA OR MATERIALS PROVIDED BY UBERALL. NEITHER UBERALL (NOR ANY OF ITS SUBSIDIARIES, AFFILIATES, SUPPLIERS OR LICENSORS) WARRANTS OR REPRESENTS THAT THE SAAS PRODUCT(S), SOFTWARE, SUPPORT SERVICES, PROFESSIONAL SERVICES, DELIVERABLES, CONFIDENTIAL INFORMATION, THIRD-PARTY COMPONENTS, UBERALL OPEN-SOURCE COMPONENTS OR ANY OTHER

8.4. **Warranty Exclusions.** Notwithstanding anything to the contrary in the Agreement, any and all warranties are void if (a) Customer has made changes to the SaaS Product(s), Software, or Deliverables or has permitted any changes to be made other than by or with the express, written approval of Uberall; (b) the SaaS Product(s) and Software, as applicable, are not used in accordance with the Agreement, including the Documentation; (c) any non-conformity is caused by Customer or by any product or service not provided by Uberall; or (d) the SaaS Product(s) or Software is provided at no charge.

8.5. **Remedy.** Customer’s sole and exclusive remedies and Uberall’s entire liability for breach of the warranties under this Section 8 (**Warranty**) will be: (a) the re-performance of the deficient SaaS Product(s) or service, and (b) if Uberall fails to re-perform within thirty (30) days, Customer may terminate the Agreement for the affected SaaS Product(s). Any termination must occur within three (3) months of Uberall’s failure to re-perform.

9. INDEMNIFICATION

9.1. **Customer Indemnity.** Customer will defend at its expense any cause of action brought against Uberall, to the extent that such cause of action is based on any claim by a third party arising out of: (a) Customer Data, (b) breach of the Agreement by Customer or its Authorized Users, (c) violation of applicable Law, contractual obligations or privacy policies by Customer or its Authorized Users, or (d) any gross negligence, intentional misconduct or fraud of Customer. Customer will pay those costs and damages finally awarded against Uberall pursuant to any such claim or paid in settlement of any such claim if such settlement was approved in advance by Customer. Uberall

- may retain its own counsel at Uberall's own expense.
- 9.2. **Uberall Indemnity.** Uberall will defend at its expense any cause of action brought against Customer, to the extent that such cause of action is based on a claim by a third party that the SaaS Product(s) or Software as provided by Uberall to Customer, infringes a United States copyright, or United States trade secret of a third party. Uberall will pay those costs and damages finally awarded against Customer pursuant to any such claim or paid in settlement of any such claim, if such settlement was approved in advance by Uberall. Customer may retain its own counsel at Customer's own expense.
- 9.3. **No Liability.** Uberall will have no liability for any claim of infringement based on: (a) use of the SaaS Product(s) or Software as applicable, in combination with data, software, hardware, equipment, technology or other materials not provided by Uberall or authorized by Uberall in writing; (b) modifications to the SaaS Product(s), Software, or Deliverables not made by Uberall; (c) Customer Data; (d) Third-Party Components; or (e) Uberall open-source components.
- 9.4. **Remedies.** Should the SaaS Product(s) or Software become, or in Uberall's opinion is likely to become, the subject of a claim of infringement, Uberall may, at its option, (a) obtain the right for Customer to continue using the SaaS Product(s) or Software (b) replace or modify the SaaS Product(s) so it is no longer infringing or reduces the likelihood that it will be determined to be infringing, or (c) if neither of the foregoing options is commercially reasonable, terminate the access and Use of the SaaS Product(s) or Software as of and by notification of Customer in text or written form. Upon such termination, Customer will cease Using the SaaS Product(s) or Software, and Uberall will refund to Customer, as Customer's sole and exclusive remedy and Uberall's sole liability for such termination, the amount of the unused portion of prepaid fees (if any) for the terminated SaaS Product(s) or Software calculated as of the effective date of termination.
- 9.5. **Exclusive Remedy.** The provisions of this Section 9 (Indemnification) state the sole, exclusive, and entire liability of the parties, their Affiliates, and subcontractors to the other party, and is the other party's sole and exclusive remedy, with respect to covered third-party claims and to the infringement or misappropriation of third-party intellectual property rights.
- 9.6. **Indemnification Procedures.** Each party's obligations as set forth in this Section 9 (Indemnification) are subject to the indemnified party: (a) giving the other party prompt written notice of any such claim or the possibility thereof; (b) giving the other party sole control over the defense and settlement of any such claim (except that neither party will, without the prior written consent of the other party, agree to any settlement of any claim that does not include a complete release of the other party from all liability with respect thereto or that imposes any liability, obligation, or restriction on the other party); and (c) providing full cooperation in good faith in the defense of any such claim.
10. **LIMITATION OF LIABILITY**
- 10.1. **Liability Cap.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER ANY THEORY OF LIABILITY, WHETHER IN AN EQUITABLE, LEGAL, OR COMMON LAW ACTION ARISING HEREUNDER FOR CONTRACT, STRICT LIABILITY, INDEMNITY, TORT (INCLUDING NEGLIGENCE), ATTORNEY'S FEES AND COSTS, OR OTHERWISE, FOR DAMAGES WHICH, IN THE AGGREGATE, EXCEED THE AMOUNT OF THE FEES PAID BY CUSTOMER FOR THE SAAS PRODUCT(S), SOFTWARE, SUPPORT SERVICES, OR PROFESSIONAL SERVICES GIVING RISE TO SUCH DAMAGES IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT WHICH GAVE RISE TO THE CLAIM. THE LIMITATIONS SET FORTH IN THIS SECTION 10.1 (LIMITATION OF LIABILITY) WILL NOT APPLY TO CUSTOMER'S OBLIGATION TO PAY FOR FEES DUE UNDER THE AGREEMENT, CUSTOMER'S BREACH OF ITS OBLIGATIONS UNDER SECTION 5 (CONFIDENTIALITY), CUSTOMER'S INDEMNITY OBLIGATIONS UNDER SECTION 9.1(a) OR (d) (OR BREACH THEREOF), OR DAMAGES AVAILABLE UNDER APPLICABLE LAW FOR INFRINGEMENT OR MISAPPROPRIATION BY

- CUSTOMER OF THE INTELLECTUAL PROPERTY RIGHTS OF UBERALL.
- 10.2. **Disclaimer of Damages.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND AND HOWEVER CAUSED INCLUDING, BUT NOT LIMITED TO, ATTORNEYS FEES AND COSTS, BUSINESS INTERRUPTION OR LOSS OF PROFITS, BUSINESS OPPORTUNITIES, OR GOODWILL. THE LIMITATIONS SET FORTH IN THIS SECTION 10.2 (DISCLAIMER OF DAMAGES) WILL NOT APPLY TO CUSTOMER'S INDEMNITY OBLIGATIONS UNDER SECTION 9.1(a) or (d) (OR BREACH THEREOF).
- 10.3. **Applicability of Limitations.** THE FOREGOING LIMITATIONS APPLY EVEN IF NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGE AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.
11. **TERM AND TERMINATION**
- 11.1. **Subscription Term.** This Agreement will commence on the effective date of the Order and will remain in effect for an initial period of three (3) years (the "**Initial Term**"), unless the parties have agreed upon another Initial Term in the Order. The Agreement will automatically renew for successive one (1) year renewal periods (each a "**Renewal Term**" and, together with the Initial Term, the "**Term**") unless either party notifies the other party in writing of its intent to not renew at least three (3) months prior to the expiration of the then-current Term.
- 11.2. **Termination.** Uberall may terminate this Agreement, effective immediately, if Customer fails to make any payments due hereunder within fifteen (15) days of the due date. Either party may terminate this Agreement and any or all applicable Orders, in each case, by written notice effective immediately: (a) in the event that the other party is in material breach of this Agreement or the applicable Order, which breach is incapable of cure or though capable of cure, remains uncured for thirty (30) days after receipt of written notice of default; (b) upon the other party's voluntary filing or having filed against it a petition under applicable bankruptcy or insolvency Laws which such party fails to have released within thirty (30) days after filing, suspension of business, assignment of assets for the benefit of creditors, or voluntary dissolution of the other party's assets; or (c) as otherwise expressly set forth in this Agreement.
- 11.3. **Suspension.** Uberall has the right to suspend Customer's Use of the SaaS Product(s), Software, Support Services, Professional Services, or other services or remove any data or content transmitted via the SaaS Product(s) or other services without liability (a) if there is a significant threat to the functionality, security, integrity, or availability of the SaaS Product(s), services or any content, data, or applications in the SaaS Product(s) or services; (b) if Uberall reasonably believes that the SaaS Product(s) or services are being used in violation of the Agreement or applicable Law; (c) if requested by a law enforcement or government agency or otherwise to comply with applicable Law; or (d) as otherwise specified in the Agreement. Information on Uberall's systems may be unavailable to Customer during a suspension. Uberall will use commercially reasonable efforts to give Customer notice of a suspension unless Uberall determines in its commercially reasonable judgment that a suspension on shorter or contemporaneous notice is necessary to protect Uberall or its Customers. Uberall will use commercially reasonable efforts to lift the suspension promptly after Uberall determines that the issue causing the suspension has been resolved. Any suspension under this Section will not excuse Customer from Customer's obligation to make payments under the Agreement; provided that if the events giving rise to the suspension are not substantiated, then such payments will be refunded to the Customer pro-rata.
- 11.4. **Effect of Termination.** Upon termination or expiration of the Agreement, Customer will no longer Use the SaaS Product(s) or Software and Customer's rights to the affected Documentation, Uberall's Confidential Information and any other Uberall materials (collectively, the "**Uberall Materials**") will cease. Customer will immediately stop using such Uberall Materials and will return such Uberall Materials to Uberall or destroy all copies thereof (except for any copies that Customer must keep complying with applicable Law).

- 11.5. **Other Remedies.** Termination of the Agreement will not limit either party from pursuing other remedies available to it, including injunctive relief, nor will such termination relieve Customer's obligation to pay all fees that have accrued or are otherwise owed by Customer under the Agreement.
- 12. CUSTOMER OBLIGATIONS**
- 12.1. **Compliance.** Customer will comply with all applicable Laws, including all marketing, advertising and consumer protection Laws, in connection with (a) Customer's use of the SaaS Product(s) and Software and (b) Customer Data. Customer guarantees the absence of any third party right that would hinder the use of the Corporate Location Data for the purpose of this Agreement. Customer will not provide to Uberall any technical data as that term is defined in the International Traffic in Arms Regulations at 22 CFR 120.10.
- 12.2. **Secure Access.** Customer will keep the login names and the passwords required for the use of the SaaS Product(s) confidential, to keep it in a safe place, and to protect it against unauthorized access by third parties with appropriate precautions, and to instruct its Authorized Users to do the same.
- 12.3. **Customer Data.** Before entering Customer Data, the Customer will identify and remove all Malware. In addition, Customer is responsible for the entry, integrity, and the maintenance of Customer Data entered into the SaaS Product(s). Customer will ensure that all personal information is only entered and stored in the SaaS Product(s) data fields that are designed for such information.
- 13. MISCELLANEOUS**
- 13.1. **Assignment.** Neither party may assign the Agreement or otherwise transfer any right granted hereunder without the prior written consent of the non-assigning party, *provided, however,* that Uberall may assign this Agreement without prior written consent pursuant to a change of control enacted by merger, acquisition, sale of assets, sale of stock, whether by operation of law or otherwise. Any purported assignment of the Agreement (in full or in part) in violation of this Section will be deemed void.
- 13.2. **Subcontractors.** Uberall will have the right to use third parties, including Uberall's Affiliates ("Subcontractors") in performance of its obligations and services.
- 13.3. **Survival.** The provisions set forth in Sections 2.4 (Additional Restrictions), 3 (Payment), 5 (Ownership), 6 (Confidentiality), 9 (Indemnification), 10 (Limitation of Liability), 11.4 (Effect of Termination) and 13 (Miscellaneous) of these GTC will survive termination or expiration of the Agreement.
- 13.4. **Notices.** All notices required under the Agreement will be given in writing (email to suffice) and will be deemed effective upon delivery to the party to whom addressed at the address specified on the Order or to such other address as the parties may designate in writing.
- 13.5. **Force Majeure.** Neither party will be liable to the other for any delay or failure to perform its obligations hereunder (other than for the payment of amounts due) if such delay or failure arises from any cause or causes beyond the reasonable control of the affected party, including acts of God, flood, fire, loss of electricity or other utilities, epidemic, pandemic, act of a public enemy or terrorist, act of any military, civil, regulatory or governmental authority, change in law or regulation, labor problem or unavailability of supplies and any other cause, whether similar or dissimilar to any of the foregoing that could not have been prevented by such party with reasonable care.
- 13.6. **Amendments; Conflicts.** Except as provided in Section 2.9 (Modifications), the parties agree that the Agreement cannot be altered, amended or modified, except by a writing signed by an authorized representative of each party. In the event of a conflict between the terms and conditions of this GTC and an Order under this GTC, the terms of the Order will govern but only with respect to the specific conflict.
- 13.7. **Non-Solicitation.** During the term of this Agreement and for a period of one (1) year thereafter, Customer will not hire, solicit, nor attempt to solicit, the services of any employee of Uberall providing services to Customer under this Agreement without the prior written consent of Uberall. The foregoing limitation will not apply to a hiring pursuant to general solicitations for employment.
- 13.8. **Headings.** Headings are for reference purposes only, have no substantive effect, and will not enter into the interpretation hereof.

- 13.9. **No Waiver.** No failure or delay in enforcing any right or exercising any remedy will be deemed a waiver of any right or remedy.
- 13.10. **Severability and Reformation.** Each provision of the Agreement is a separately enforceable provision. If any provision of the Agreement is determined to be or becomes unenforceable or illegal, such provision will be reformed to the minimum extent necessary in order for the Agreement to remain in effect in accordance with its terms as modified by such reformation.
- 13.11. **Independent Contractor.** Uberall is an independent contractor and nothing in the Agreement will be deemed to make Uberall an agent, employee, partner, or joint venturer of Customer.
- 13.12. **Third-Party Beneficiaries.** Other than as provided in Section 2.2 (SaaS Product(s) and Software from Apple App Store) and Section 2.3 (SaaS Product(s) and Software from Google Play Store), nothing in the Agreement, express or implied, is intended to or will confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever, under or by reason of the Agreement.
- 13.13. **Governing Law; Venue.** The laws of the State of California will govern the interpretation of the Agreement, regardless of conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods (1980) and the Uniform Computer Information Transactions Act are hereby excluded in their entirety from application to the Agreement. The parties agree that the federal and state courts located in San Francisco County, California will have exclusive jurisdiction for any dispute arising under, out of, or relating to the Agreement. Uberall shall also be entitled to bring an action at the general place of jurisdiction of the Customer.
- 13.14. **Electronic Signatures.** Electronic signatures that comply with applicable Law are deemed original signatures.
- 13.15. **Interpretation.** References to “include” and “including” means including without limiting the generality of any description preceding such term and “or” or “and/or” is not exclusive.
- 13.16. **Entire Agreement.** The Agreement constitutes the entire agreement between the parties regarding the subject matter thereof. Any pre-printed terms in a Customer purchase order or similar document are null and void.