

LITHIUM MASTER SERVICES AGREEMENT

THIS LITHIUM MASTER SERVICES AGREEMENT (“MSA”) SETS FORTH THE STANDARD TERMS APPLICABLE TO ALL SERVICES PROVIDED BY LITHIUM TECHNOLOGIES, LLC AND ITS SUBSIDIARIES (“LITHIUM”). CUSTOMER’S AUTHORIZED REPRESENTATIVE SHOULD CAREFULLY READ THE TERMS OF THE MSA BEFORE SIGNING A SERVICE ORDER. BY SIGNING A SERVICE ORDER, CUSTOMER’S AUTHORIZED REPRESENTATIVE CONFIRMS THAT HE OR SHE HAS READ THIS MSA, IS AUTHORIZED TO ENTER INTO THIS MSA AND ORDER FORMS ON BEHALF OF CUSTOMER, AND THAT CUSTOMER ACCEPTS AND AGREES TO ALL THE TERMS AND CONDITIONS SET FORTH IN THIS MSA. NOTWITHSTANDING ANY DIFFERENT OR ADDITIONAL TERMS CUSTOMER MAY REFERENCE OR PROVIDE, LITHIUM’S OFFER OR ACCEPTANCE (AS APPLICABLE) TO ENTER INTO AN AGREEMENT WITH CUSTOMER WITH RESPECT TO LITHIUM APPLICATIONS AND SERVICES IS EXPRESSLY LIMITED TO THIS MSA AND CONDITIONED ON CUSTOMER’S ASSENT HERETO.

1 Definitions

1.1 “Affiliate” means any entity owned or controlled by, owning or controlling, or under common ownership or control with Customer. “Control,” for purposes of this definition, means ownership or control, directly or indirectly, of more than 50% of the voting interests of the subject entity.

1.2 “Aggregated Data” means data cleansed of all personal data so that it no longer can identify Customer, any User, or any individual person.

1.3 “API” means application programming interface.

1.4 “Applicable Data Protection Law” or “ADPL” means Regulation 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, repealing Directive 95/46/EC (the “General Data Protection Regulation” or “GDPR”), or the California Consumer Data Privacy Act of 2018, as applicable given the nature and origin of the personal data. The terms “controller”, “processor”, “data subject”, “personal data”, “processing”, “process”, and “subprocessor” shall have the meanings given in the ADPL.

1.5 “Applications” mean the hosted software applications, user interfaces (other than Customer Interface Elements), platform, and related Documentation and programming, to which Lithium provides access pursuant to a Service Order, as part of the Subscription Services.

1.6 “Application Calls” is a Usage Limit metric applicable only to the Lithium Community Application which measures use of the Application via calls to the Application’s REST API and ActiveCast components.

1.7 “Content” means the data, information and materials processed and/or stored by the Applications hereunder (including certain of Customer’s Confidential Information and the personal data), other than information and materials provided by Lithium.

1.8 “Customer” means the legal entity signing this MSA, and any Affiliate entering into a Service Order pursuant to section 2.4 for purposes of such Service Order.

1.9 “Customer Community” means Customer’s online community hosted by Lithium as part of the Subscription Services to which Customer subscribes as described in a Service Order. Customer may use each single instance of the Lithium Community or Lithium JX Application to which Customer has subscribed (as part of the Lithium Community or Lithium JX Subscription Services purchased pursuant to a Service Order) to operate only one (1) Customer Community, unless otherwise agreed by Lithium in writing.

1.10 “Customer Interface Elements” means any Customer-provided software or other materials inserted in or added to the Application’s user interface, including but not limited to (i) header, footer, left and/or right sidebars and (ii) text, graphic files, and cascading style sheets.

1.11 “Customer Users” means the individuals authorized by Customer to access and/or use the Subscription Services on behalf of Customer. The rights of any Customer User to use the Subscription Services cannot be shared or used by more than one individual (unless such right is reassigned in its entirety to another authorized Customer User). Customer Users include the following types, further defined below, for purposes of calculating Usage Limits and related fees:

1.11.1 “Community Publisher Users” means, in relation to the Lithium Social Publishing Application, the individuals who can only author blog posts and other types of content as they become available on the Application, to the Customer Community. Each Community Publisher User has access only to the publisher view of the Lithium Social Publishing Application and access is limited to fifteen (15) hours per month.

1.11.2 “Operational Analytics Users” means, in relation to the Lithium Social Media Management Subscription Service, the individuals who have access to the feature called “My Dashboard”, the ability to see all out-of-the-box dashboards for operational data to which they have been granted access, and, when purchased by Customer in a Service Order, the ability to create and edit “Shared Dashboard” and/or “Monitor Wall” features of the Application in addition to Named Users permissions.

1.11.3 “Expert Users” is a Usage Limit metric applicable only to the Lithium Social Response Application, which means the individuals who may view and internally comment while using the Application but cannot respond to, publish to, or communicate with external End Users.

1.11.4 “Named Users” is a Usage Limit metric applicable only to the Lithium Social Media Management Applications, which means the individuals who have access to the Application for the purposes of communicating with both internal Customer Users and external End Users. Examples of Named User roles would include: Agent, Supervisor, Account Admin, Publisher, and/or Publisher Admin. Each Named User is permitted access to and use of the Lithium Social Response and Social Publishing Applications (that are included in the Lithium Social Media Management Subscription Services) (including the “Publishing” and “Listening and Responding” user profiles).

1.12 “Disabling Code” means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs, but excludes any mechanisms

that permit Lithium to suspend or terminate Customer access to the Applications as permitted under this MSA.

1.13 “Documentation” means Lithium’s online user guides, documentation, and help and training materials, as updated from time to time, accessible via Lithium’s support portal lithosphere.lithium.com or its website lithium.com.

1.14 “End Users” means individuals or third parties, other than Customer Users, who access and/or interact with Customer using the Applications.

1.15 “include/including” means including but not limited to / including without limitation.

1.16 “Professional Services” means configuration, training and other services as described in an SO and/or SOW and provided to Customer on a one-time basis (rather than on a continuing or recurring basis).

1.17 “Services” means, collectively, Subscription Services and Professional Services.

1.18 “SLA” means the Spredfast or Lithium Service Level Agreement, as applicable, incorporated by reference into this MSA and/or attached to the applicable Service Order.

1.19 “Service Order”, “Order Form”, “SO” or “OF” means the order issued by Customer and is signed by Customer and Lithium for Subscription Services and/or Professional Services, subject to the terms and conditions set forth in this MSA.

1.20 “Social Media Network” means websites such as Twitter, Facebook, Google, or other websites that solicit content from users, make such content available for re-syndication and/or publication via an API, and are utilized by Customer via the Applications.

1.21 “Social Media Content” means any and all content originally posted by third parties to a Social Media Network.

1.22 “Social Media Network TOS” means the terms of service, rules, guidelines, and any applicable requirements or terms and conditions of any Social Media Network with respect to access and use of, or other rights with respect to, a Social Media Network or Social Media Network Content.

1.23 “SOW” means a statement of work attached to a Service Order, or signed separately by both parties but referencing this MSA.

1.24 “Subscription Duration” or “Subscription Term” is the period specified in the applicable Service Order during which Lithium shall provide the Subscription Services and/or Professional Services.

1.25 “Subscription Start Date” shall be defined in the applicable SO.

1.26 “Subscription Services” or “SaaS Platform” means a predefined combination of access to Applications, and/or support provided by Lithium to its customers on a subscription basis for recurring fees as documented in a Service Order.

1.27 “Total Visits” means the maximum number of Visits specified in the applicable Service Order.

1.28 “Usage Limit” means the maximum number of relevant units of service volume, as specified in the applicable Service Order.

1.29 “User(s)” means collectively End Users and Customer Users.

1.30 “Visit(s)” means an interaction, by a User, consisting of one or more requests for a unit of content (such as a page view). If a User has not taken another action (such as, for example, additional page views) on the site within 30 minutes, the visit session will terminate, and the next action on the site by the individual, if any, will constitute a new Visit. The parties agree that the Lithium Applications shall be used to measure number of Visits for purposes of assessing Customer’s compliance with applicable Usage Limits, if Visits are specified as a Usage Limit in the applicable Service Order.

2 Services

2.1 Subscription Services. Lithium shall provide Customer with access to the Subscription Services listed in a Service Order in compliance with the Lithium Service Level Agreement located at <https://www.lithium.com/service-level-agreement> or the Spredfast Service Level Agreement located at <https://www.spredfast.com/sites/default/files/Spredfast-SLA---March-2017.pdf>, as applicable (the “SLA”) during the Subscription Duration and any renewals thereof.

2.2 Professional Services. Lithium shall perform the Professional Services purchased by Customer in a Service Order and/or SOW during the time period stated therein.

2.3 Customer Duties. Customer shall comply with the following in its access to and use of the Services, and shall be responsible for compliance with the following by its employees, contractors and agents. If Customer delays or fails to perform any of the following, Lithium’s obligations shall be excused to the extent and/or for the duration such obligations are dependent upon such Customer performance.

2.3.1 Customer Administration, Access and Use. Customer shall be solely responsible and manage the Content and administer the Applications using the interfaces thereof in a lawful manner and without infringing the rights of any person, including intellectual property and privacy rights. Customer shall: (a) take reasonable efforts to prevent unauthorized access to or use of Subscription Services, (b) notify Lithium promptly in writing of any such unauthorized access or use, (c) use Subscription Services only in accordance with the Documentation and as instructed by Lithium Support and Information Security representatives, (d) utilize a standard Lithium SAN SSL certificate, (e) obtain and maintain during the Term all necessary consents, agreements and approvals from individuals or any other third parties for all actual or intended uses of information, data, personal data, and any other content Customer will use in connection with the Services, and, (f) abide by all Applicable Data Protection Law and any other applicable laws and government regulations in relation to its access and use of the Subscription Services. Customer shall be solely responsible for compliance with the terms of this Agreement by Customer Users and for any failure of the Subscription Services, including without limitation any security breach thereof, that results from Customer’s actions or omissions with respect to systems or processes under Customer’s control.

2.3.2 Cooperation. Customer shall provide Lithium with all information, access, and full good faith cooperation reasonably necessary to facilitate the provision of the Services, and, without limiting the generality of the foregoing, shall perform any obligation identified in a Service Order or SOW as Customer’s responsibility.

2.3.3 Customer Notices and User Consents. To the extent required by applicable law including ADPL, Customer will make appropriate privacy notices available to Users with whom it interacts over the Subscription Services, and will, to the extent required as a result of Customer's activities on and use of the Subscription Services, obtain any necessary User consents. Customer shall take commercially reasonable steps to prohibit Users from entering any sensitive personal data (such as, for example, personal health information, financial account information, or other sensitive personal data defined under ADPL); provided, both parties recognize that Customer has limited control over Social Media Content as initially imported into the Applications. Customer shall itself comply at all times with its own terms of service and privacy notice.

2.4 Affiliates. Any Affiliate may enter into a Service Order with Lithium which references this MSA. In such case, for purposes of any such Service Order, "Customer" as used in this MSA shall be understood to mean the Affiliate signing the respective Service Order.

2.5 Third Party Applications. Lithium may offer Customer the ability to use third-party applications in combination with the Subscription Services provided by third-parties who are not subcontractors to Lithium. Any such third-party application will be subject to acceptance by Customer. In connection with any such third-party application agreed to by Customer, Customer acknowledges and agrees that Lithium may allow the third-party providers access to Customer Data as required for the interoperation of such third-party application with the SaaS Platform. The use of a third-party application with the SaaS Platform may also require Customer to agree to a separate agreement or terms and conditions with the provider of the third-party application, which will govern Customer's use of such third-party application.

3 Ownership; Grant of Rights; Social Media Networks

3.1 No Intellectual Property Assignment or Implied Licenses. The parties acknowledge and agree that no ownership interest in intellectual property or other rights is assigned or otherwise transferred under this MSA, and disclaim any and all implied licenses. Except for the licenses expressly granted in this Section 3 and Section 5, as between the parties, Customer retains all rights, title and interest in the Content and Customer Interface Elements, and Lithium retains all rights, title and interest in the Applications and Services, including any intellectual property rights therein or thereto.

3.2 Content and Customer Interface Elements. Subject to the terms and conditions of this MSA, and solely for the purposes stated in this MSA, including without limitation section 10 below, Customer grants to Lithium a temporary, limited, non-exclusive, world-wide, royalty-free license to copy, create derivative works, and display Customer Interface Elements and Content.

3.3 Subscription Services. Subject to the terms and conditions of this MSA and the applicable Service Order, including the Subscription Duration and the Usage Limits stated in the applicable Service Order: (a) Lithium grants to Customer a temporary, limited, non-exclusive, non-transferable, world-wide right to access and use the Subscription Services and the administration, Content management, and end user interfaces of the Applications included in the Subscription Services listed in the applicable Service Order; and, (b) Lithium shall provide Customer with access to the Subscription Services listed in the applicable Service Order in accordance with the terms and conditions of this MSA, the applicable Service Order and the SLA. Lithium reserves the right to update the Subscriptions Services (including the implementation of new Application versions which may contain new product enhancements or features) at any time in its sole discretion. Lithium may, at its option, grant Customer access to a stage/development instance(s) and/or other non-production instance of the Application(s) for collaborative activities in connection with Lithium's provision of Professional Services to Customer and/or Customer's internal testing purposes. Such access and use by Customer shall be subject to all of the provisions of the MSA in regards to Applications, except that Customer's use and access to such stage/development instance(s) shall be restricted solely to development and testing activities as directed by Lithium, and the warranty, support and SLA provisions of the MSA shall not apply to such stage/development instance(s).

Customer is not required to provide any suggestions, ideas, enhancement requests, recommendations or other feedback ("Feedback") related to the Services or any test features, services or products to which Customer is given access. If Customer does so, Customer hereby relinquishes and disclaims any and all rights, interest and title in and to any Feedback, and understands and agrees that Lithium may use and/or incorporate into its Services any Feedback free of any obligation to Customer.

3.4 Restrictions. Customer shall not copy, distribute, modify, reverse engineer, decompile, attempt to obtain the source code or algorithms of, sell, rent, lease, license, sublicense, resell, disclose, or transfer any Subscription Service except as expressly permitted by this MSA. Customer shall not use the Subscription Services to spam, send unsolicited e-mail, or conceal the identity of an e-mail sender. Customer shall not use Subscription Services for the benefit of any third party other than its authorized End Users, whether on a paid or unpaid basis. Customer shall not store, distribute, or transmit through the Subscription Services any material that is unlawful, obscene, defamatory, threatening or harassing or that infringes any privacy or proprietary rights, and shall not allow or authorize anyone to do any of the foregoing. Customer shall not interfere with or disrupt the integrity or performance of the Subscription Services or any third-party application or third-party data or content contained therein.

3.5 Social Media Networks.

3.5.1 Social Media Network Terms of Service. Customer understands and agrees that upon authentication of a Social Media Network account through the Subscription Services, Customer is subject to compliance with the applicable Social Media Network TOS. Customer acknowledges that the Social Media Network TOS govern the collection and use of information submitted by individuals through Social Media Networks and Customer shall comply with all Social Media Network TOS. The Social Media Network TOS may change or include new terms and conditions from time to time and Customer shall be bound by any such changes or new terms and conditions.

3.5.2 No Liability for Social Media Networks or Content. Lithium does not control the Social Media Networks and Social Media Content is not created or edited by Lithium (unless done on behalf of Customer as a part of negotiated Professional Services). As such, Lithium expressly disclaims and has no responsibility or liability for Social Media Network or Social Media Content (provided that, if applicable, Lithium will have the responsibility that Lithium agrees to for any Professional Services which involve the creation of such content).

4 Payment of Fees.

4.1 Fees. During the term of this MSA, Customer shall pay Lithium the fees set forth in the applicable Service Order. Professional Services and other non-recurring fees shall be invoiced upon execution of the Service Order for such Services. Recurring fees for the first year of the initial Subscription Duration of a valid Service Order shall be invoiced upon execution of such Service Order. Subsequent recurring fees shall be invoiced in annual installments in advance of each anniversary of the Subscription Start Date and payment shall be due on or prior to each anniversary of the Subscription Start Date based on payment terms set forth herein. Lithium reserves the right to adjust fees by any amount for any renewal term.

4.2 Payment and Invoicing. Customer shall pay Lithium all amounts due pursuant to this MSA and the applicable Service Order(s) within 30 days from date of invoice. If Customer requires the issuance of a purchase order to make payment to Lithium, then Customer shall issue a purchase order to Lithium for the amounts due under the applicable Order Form in sufficient time for Customer to meet its payment obligations described herein. Customer shall reimburse Lithium for reasonable expenses that are pre-approved by Customer. All payment obligations are non-cancelable and all amounts paid are non-refundable except as otherwise expressly stated in this MSA or the applicable Service Order.

4.3 Overdue Fees. Non-payment or late payment of undisputed fees is a material breach of this MSA. If fees are past due more than 15 days and Customer has been notified of the past due status, Customer shall pay interest on the overdue balance at the rate of 1% per month or the maximum permitted by law, whichever is less, plus all expenses of collection. Further, Lithium may, in its sole discretion, terminate any outstanding SO for Customer's material breach or suspend Customer's access to the Subscription Services until past due amounts are paid.

4.4 Taxes. All taxes and other governmental charges including but not limited to value-added, sales and use, or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (except for income taxes), if any, imposed on Customer payments hereunder shall be deemed to be in addition to the fees charged, and borne solely by Customer. To the extent applicable, Customer shall provide and Lithium shall honor tax exemption certificates, and other appropriate documents, which Customer may submit, pursuant to relevant tax provisions of the taxing jurisdiction providing the exemption.

4.5 Payment Disputes. If the accuracy of an invoice or portion of an invoice is disputed in good faith by Customer, Customer must notify Lithium in writing and provide sufficiently detailed support of any invoice dispute within ten (10) business days of Customer's receipt of invoice. If Customer fails to do so, Customer is deemed to have waived its right to dispute that invoice and the invoice will be deemed accurate and valid. Nothing in this section shall be deemed to waive Customer's obligation to pay any undisputed amounts in accordance with this Section 4 (Payment of Fees).

4.6 Certification of Users. Upon reasonable request based on a good faith concern of Lithium, Customer shall certify compliance for any particular Order Form that the Services are only being utilized by/for the Users, groups and networks as provided in the particular Order Form, and subject to any applicable Usage Limits. Any such certification will be in writing by a duly authorized officer of Customer. If, through this certification process or otherwise, Lithium determines that Customer has allowed access to the Services in excess of the Usage Limits, and/or to any entity not authorized for such access, and as a result additional Fees are owed to Lithium, then Lithium shall invoice Customer for such excess access and/or usage and such Fees shall be payable pursuant to the terms of this MSA.

5 Marketing. Each page served by the Subscription Services shall contain a link identified by the Lithium logo and trademark. Lithium may use Customer's name and logo on Customer's Subscription Services deployment and identify Customer as a Lithium customer. Subject to Customer's prior approval, Lithium may issue a press release and case study about Customer's selection and use of the Subscription Services.

6 Term and termination

6.1 Term and termination of the MSA. This MSA may be terminated for convenience by either party upon 90 days' prior written notice to the other, except that it shall remain in effect past such termination for the remaining Subscription Duration or then-current renewal term of any Service Order already in effect at the time of the notice.

6.2 Term of a Service Order. The initial term of a Service Order shall start on its Subscription Start Date, as indicated in such Service Order, and end on the last day of its Subscription Duration. A Service Order shall automatically renew for subsequent terms equal to the Subscription Duration unless either party notifies the other in writing of its intent not to renew at least 90 days prior to the expiration of the then current term.

6.3 Termination for breach. Either party may immediately terminate this MSA and all Service Orders for material breach of the terms and conditions of this MSA by the other party if such breach is not cured within 30 days after receipt of written notice thereof (including details sufficient to identify the material breach). Either party may immediately terminate a Service Order for material breach by the other party of the specific terms of such Service Order if such breach is not cured within 30 days after receipt of written notice thereof.

6.4 Termination for insolvency. Either party may terminate this MSA and all Service Orders upon notice to the other if the other party ceases to conduct business in the ordinary course without a successor.

6.5 Consequences of termination. Immediately upon termination, the license grants to either party shall immediately terminate; each party shall destroy or return to the other party any and all Confidential Information received from the other party; Customer shall cease to use the Subscription Services and Lithium shall cease: (i) providing the Services to Customer, and (ii) allowing Customer access to the Subscription Services. If only one or more Service Orders are terminated but the MSA and other Service Orders remain in effect, the foregoing shall only apply with respect to the Services purchased under the Service Order(s) being terminated.

6.6 **Refund or Payment upon Termination.** Upon any termination for cause by Customer, Lithium will refund Customer a pro-rata portion of any prepaid Subscription Services fees that cover the remainder of the Subscription Duration after the effective date of termination and a pro-rata portion of any prepaid Professional Services fees that cover Professional Services that have not been delivered as of the effective date of termination. Upon any termination for cause by Lithium, Customer will pay all unpaid fees for any period of the Subscription Duration, including the remainder of the Subscription Duration following termination, for all Subscription Services to which Customer subscribed under the Service Order(s) being terminated, and for any Professional Services provided up to the date of termination, and Customer shall not be entitled to any refund. Termination shall not relieve Customer's obligation to pay all undisputed charges accrued before the effective date of termination.

6.7 **Survival.** The parties' rights and obligations under this Section 6, and under Sections 3.1 (No Intellectual Property Assignment or Implied Licenses), 3.4 (Restrictions), 4 (Payment of Fees)(solely to the extent the payment obligation arose prior to termination), 8 (Indemnification), 9 (Limitation of liability), 10 (Confidentiality; Privacy), 10.4 (Aggregated Data), 13 (Governing Law and Jurisdiction), 14 (Binding Arbitration) and 15 (General Provisions) shall survive.

6.8 **Transition Assistance.** Within thirty (30) days of expiration or termination of the applicable Service Order (or such other schedule mutually agreed by the parties), Lithium shall either (a) provide to Customer the Content of the Customer Community(ies) in standard industry format (XML or equivalent) free of charge or (b) Customer may download the Content used in connection with the Service Order in comma separated value (.csv) format. Lithium may, at its option, choose to provide the Content in a single data extraction, or multiple data extractions, but is not obligated to provide any more than one data extraction of the Content, one time only, unless otherwise agreed by the parties in writing, and is not obligated to provide any data extraction if Lithium has made self-service downloading by Customer available. The availability of Content for extraction or downloading from certain Applications may be limited to the most recent 24 months. Thereafter, Lithium shall destroy all personal data in its possession or control, except as otherwise described in section 10.5 or to the extent required by applicable law, and except for data, including personal data, in encrypted format held on back up media or other back up storage for disaster recovery purposes which may be held for up to 90 days pending routine erasure cycles, and log files held for security reasons which may be retained for up to twelve months. Lithium shall provide additional reasonable assistance for Customer's transition from its hosted environment, at Lithium's standard Professional Services rates.

7 Limited warranties

7.1 **Non-Infringement.** Lithium warrants to Customer that it can grant the rights set forth in Section 3.3 with respect to the Applications. In the event any Application is held or believed by Lithium to infringe or misappropriate the intellectual property rights of a third party, or its provision is enjoined, Lithium shall have the option, at its expense, to (a) modify the Application, without materially degrading performance, so that it no longer infringes or misappropriates, (b) obtain for Customer the right to continue accessing the appropriate interfaces of the Application, (c) substitute the Application with another, substantially comparable application, or (d) if none of the foregoing remedies are commercially feasible, terminate Customer's subscription and access to the Subscription Service (including the license granted to Customer for the included Application(s)) and refund Customer any recurring fees prepaid for the portion of the Subscription Duration subsequent to termination. Together with Section 8.1 (Indemnification by Lithium), this section states Lithium's entire liability and Customer's exclusive remedy for infringement and misappropriation.

7.2 **Subscription Services and Professional Services.** Lithium warrants to Customer that the Applications shall substantially perform according to the relevant specifications set forth in the applicable online Documentation, and that the Professional Services work product shall substantially conform to the applicable SO and/or SOW, as applicable. If, after the Subscription Start Date, an Application fails to substantially perform according to relevant specifications in the Documentation, and Customer timely notifies Lithium of such failure in writing, Lithium shall promptly modify the Applications to conform, or shall refund or credit Customer the fees paid for the Subscription Services that include the affected Application for the duration of such failure, prorated to reflect the number and importance of the failed or materially underperforming functionality relative to the total set of functions, options and configurations provided by the Subscription Services. Regarding Professional Services, if work product resulting from Professional Services does not conform to the applicable SO and/or SOW and Lithium is not able to cure per the applicable SO and/or SOW, Lithium shall fully refund the amounts received for such deficient work product, provided that Customer notifies Lithium in writing of its warranty claim within sixty (60) days of completion of Professional Services or delivery of the deficient work product, whichever is earlier. This section states Lithium's entire liability and Customer's sole remedy for any Subscription Services or Professional Services performance failures. Further, Lithium's entire liability and Customer's sole remedy for any failure to meet the service levels specified in the SLA are the remedies expressly stated in the SLA. Notwithstanding the foregoing, in the event Lithium or any of its licensors materially change or cease offering any material element of the Services, Lithium may effect such change or cessation following reasonable notice thereof to Customer and the relevant Order Form shall be amended to reflect such change.

7.3 **Mutual Warranties.** Mutual Warranties. Each Party represents and warrants that (a) it has the legal power to enter into this Agreement, (b) it will use commercially reasonable efforts through the use of anti-virus protection to not transmit to the other Party any Disabling Code, and (c) it will comply with all applicable laws with respect to its rights and obligations pursuant to this MSA.

7.4 **DISCLAIMER.** EXCEPT AS EXPRESSLY SET FORTH ABOVE IN THIS SECTION 7, LITHIUM MAKES NO OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, LITHIUM DOES NOT WARRANT THAT THE APPLICATIONS OR SERVICES SHALL BE UNINTERRUPTED OR ERROR-FREE. Customer acknowledges that the architecture and the security algorithms implemented by the Subscription Services have inherent limitations

and Customer is solely responsible for determining that the Subscription Services and Professional Services reasonably meet Customer's functionality, security, confidentiality and operational needs.

IN ADDITION, CUSTOMER ACKNOWLEDGES THAT SERVICE FEATURES THAT INTEROPERATE WITH SOCIAL MEDIA NETWORKS DEPEND ON THE CONTINUING AVAILABILITY OF THOSE SOCIAL MEDIA NETWORKS' API AND PROGRAM FOR USE WITH THE APPLICATIONS AND SERVICES. SERVICES MAY BE IMPACTED, INTERRUPTED OR MAY CEASE IF ANY SOCIAL MEDIA NETWORK CEASES TO MAKE ITS API OR PROGRAM AVAILABLE ON REASONABLE TERMS OR IF ANY SOCIAL MEDIA NETWORK EXPERIENCES AN OUTAGE, ANY MALFUNCTIONS OR ANY CHANGE IN THEIR SERVICES, PRACTICES OR FUNCTIONALITY.

8 Indemnification

8.1 **Indemnification by Lithium.** Provided that Customer complies with the procedures set forth in 8.3, Lithium shall indemnify Customer as specified in Section 8.3 for any third party claims that (i) the Applications, used within the scope of this MSA in accordance with the applicable Documentation, infringe a U.S. copyright or patent or misappropriate a trade secret, except to the extent such claim is based on (a) specifications provided by Customer, or on Customer Interface Elements or Content, or (b) Customer's unauthorized modification or use of the Services or otherwise relating to Customer's acts or omissions not in accordance with the terms of this Agreement; or (ii) arise out of Lithium's material breach of Section 10 Confidentiality; Privacy.

8.2 **Indemnification by Customer.** Provided that Lithium complies with the procedures set forth in 8.3, Customer shall indemnify Lithium as specified in Section 8.3 for any third party claims (i) that arise out of Customer's use of Applications in an unlawful manner or in a manner inconsistent with the terms of this MSA, including without limitation Section 3.4 (Restrictions), Section 2.3.1 (Customer Administration, Access and Use), and Section 2.3.2 (Customer Notices and User Consents), or (ii) arising from or involving Content or Customer Interface Elements, or (iii) that arise out of Customer's material breach of Section 10 Confidentiality; Privacy.

8.3 **Scope and conditions of indemnification.** The indemnifying party shall defend at its expense the other party and its officers, directors, stockholders, employees, agents and affiliates, subsidiaries, successors and assigns against any third party claims, actions or demands, to the extent arising from a cause specified in Sections 8.1 or 8.2, respectively, and shall pay any resulting final judgment or arbitral award or any agreed to settlement. The indemnification obligations hereunder are subject to the following conditions to the extent failure to meet these conditions would be materially detrimental to the indemnifying party: (i) prompt written notice by the indemnified party to the indemnifying party of any claim, action or demand for which indemnity is claimed; (ii) complete control of the defense and settlement thereof by the indemnifying party (provided that indemnifying party may not settle any Claim without the indemnified party's written approval, which will not be unreasonably withheld or delayed, unless the settlement unconditionally releases the indemnified party of all liability); and (iii) such reasonable cooperation by the indemnified party in the defense as the indemnifying party may request.

8.4 **Exclusive Remedy.** This Section 8 (Indemnification) states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of claim described in this Section.

9 **LIMITATION OF LIABILITY.** EXCEPT FOR LIABILITY ARISING UNDER SECTIONS 3.4 (RESTRICTIONS), 4 (PAYMENT OF FEES), AND 8 (INDEMNIFICATION), OR FROM PERSONAL INJURY OR PHYSICAL DAMAGE CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE OTHER PARTY, NEITHER PARTY'S LIABILITY HEREUNDER SHALL EXCEED THE AMOUNT PAID BY CUSTOMER FOR THE SERVICE IMPLICATED DURING THE 12 MONTHS PRIOR TO THE EVENT TRIGGERING SUCH LIABILITY.

EXCEPT FOR LIABILITY ARISING UNDER SECTION 3.4 (RESTRICTIONS), NEITHER PARTY SHALL BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR COVER DAMAGES INCURRED BY THE OTHER PARTY OR BY ANY THIRD PARTY, INCLUDING DAMAGES BASED ON LOSS OF PROFITS, REVENUE, DATA, SERVICE OR USE, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS SECTION 9 REPRESENTS A REASONABLE ALLOCATION OF RISK AND AN IMPORTANT CONSIDERATION IN DETERMINING THE FEES PAYABLE HEREUNDER.

10 Confidentiality; Privacy

10.1 **Confidential Information.** "Confidential Information" means information, disclosed by a party to the other in connection to this MSA, which is either marked confidential or disclosed in circumstances in which a reasonable person would consider the information to be confidential. Without limiting the generality of the foregoing, the terms of this MSA, personal data, Applications, Services, the present or future functionality of the Applications, and all technical information underlying such functionality are Confidential Information. Confidential Information does not include information that the receiving party can demonstrate (i) was in receiving party's possession before receipt from the disclosing party, (ii) is or becomes publicly available other than through a breach of this MSA, or (iii) is rightfully received from a third party without a duty of confidentiality. If Confidential Information is required to be disclosed pursuant to applicable law, regulation or court order, the receiving party must provide prompt advance notice thereof (except to the extent otherwise prohibited by applicable law, regulation or court order) to enable the disclosing party to seek a protective order or otherwise prevent such disclosure.

10.2 **Protection of Confidential Information.** The receiving party shall use at least the same degree of care as it uses to protect its own confidential information of a like nature, but no less than a reasonable degree of care, to prevent (a) use of the disclosing party's Confidential Information for any purpose other than to carry out the terms of this MSA, and (b) disclosure of such Confidential Information to any person or party other than those who need to know such Confidential Information to carry out the terms of this MSA and who are bound by written confidentiality agreements, with terms no less restrictive than those included

in this MSA. This MSA may be disclosed in confidence to legal counsel or other professional advisors with a need to know in the context of a merger, financing or similar transaction or for securities or other regulatory filings. Each party acknowledges that unauthorized disclosure of the other party's Confidential Information would cause irreparable harm to the other party, and would entitle the other party to seek injunctive relief upon disclosure or threatened disclosure, without a requirement to prove irreparable harm or the posting of a bond.

10.3 Personal Data. Customer acknowledges that the Subscription Services are designed and provided for the purposes of sharing information and enabling public communications with and among Users, and not for the storage, management or processing of sensitive personally identifiable information. Some personal data is required to provide and use the Subscription Services such as email address, password, and a user name, and other similar non-sensitive personal information may be entered by Users in the form of tweets, posts, blogs and other electronic communications, all as part of the Content.

10.3.1 Processing. Except to the extent otherwise expressly stated in section 10.5 below, to which Customer expressly consents by signing this MSA: (i) Customer is the controller of personal data included in the Content; (ii) Customer hereby appoints Lithium as a processor to process the personal data included in the Content; (iii) Lithium shall process personal data as a processor as necessary to perform its obligations under this MSA and any Service Order and strictly in accordance with the instructions of Customer as documented in this MSA and any Service Order, except where otherwise required by any applicable law; and, Lithium shall comply with Applicable Data Protection Law in its processing of personal data of EEA data subjects.

10.3.2 Transfers. Lithium shall not transfer personal data of EEA data subjects outside of the EEA without Customer's prior consent. Customer hereby consents to the transfer of, and/or access to, personal data of EEA data subjects by Lithium and/or Lithium's subprocessors to (or from) areas outside of the European Economic Area ("EEA") provided that Lithium has taken measures to verify that such transfer/access is in compliance with ADPL and the EC Standard Contractual Clauses (controller to processor), which are hereby incorporated into this MSA by reference.

10.3.3 Confidentiality. Lithium shall require that any subprocessor or individual that access to personal data is subject to a strict duty of confidentiality, and prohibited from using the personal data for any purpose other than providing the Services.

10.3.4 Subprocessors. Lithium shall not subcontract any processing of personal data to a third party without Customer's prior written consent. Customer hereby consents to Lithium's engaging (and/or dismissing) subprocessors to process the personal data engaged as of the date of this MSA and engaged or dismissed in the future, provided that: (i) in relation to future subprocessors, Lithium provides at least 30 days prior notice by posting at <https://community.lithium.com/15/Policies-and-Guidelines/What-companies-are-subprocessors-to-Lithium/ta-p/207777>; (ii) Lithium shall require by written agreement the subprocessor's compliance with the terms of this MSA and, if the subprocessor is processing any EEA data subjects' personal data, compliance with ADPL; (iii) Lithium shall remain responsible for the subprocessor's performance under this MSA; and, (iv) Customer may object to the addition of a new subprocessor appointed by Lithium if Customer, in its reasonable discretion, believes that Lithium's use of such new subprocessor would result in a violation of ADPL, in which case the parties agree to negotiate in good faith a mutually agreeable alternative. If no such alternative is agreed within two months of the objection, Customer will have the right to terminate, without penalty, any services for which personal data would be processed by the new subprocessor against which the objection was raised.

10.3.5 Personal Data Security. Lithium shall maintain appropriate technical and organizational measures to protect the personal data from accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to the personal data ("Security Incident"). Lithium's security measures are further described in section 11 of this MSA.

10.3.6 Rights of EEA Data Subjects. Lithium shall provide reasonable and timely assistance to Customer to respond to any request from an EEA data subject for the correction, updating, or deletion of the EEA data subject's personal data. Lithium shall follow only Customer's instructions in this regard. Customer hereby instructs Lithium to delete all personal data, to the extent technically feasible, that has been deleted at the data subject's request from third party social media web sites from whom Lithium has obtained the personal data.

10.3.7 Data Impact Assessments. If Lithium believes that its processing of any EEA personal data is likely to result in a high risk to the data protection rights and freedoms of EEA data subjects, it shall promptly inform Customer and provide Customer with all such reasonable and timely assistance necessary to conduct a data protection impact assessment, and if necessary, consult with its relevant data protection authority.

10.4 Aggregated Data. Customer acknowledges and agrees that Lithium may both during and after the Subscription Duration, use and disclose Aggregated Data to determine and report Subscription Services usage patterns by customers and end users generally, and for any other legitimate purpose. Customer hereby waives any and all rights it might have to the Aggregated Data or any portion thereof.

11 Security.

11.1 Security Practices. Lithium shall adhere to security best practices in every aspect of its product development, deployment and operations life cycles. Security is incorporated into the design of the Lithium products and services and tested rigorously. Lithium conducts ongoing security vulnerability testing and regular security audits of its products and hosting environment to ensure continued compliance with its strict security standards. For additional information about the Lithium's commitment to security, visit www.lithium.com/security and www.spredfast.com/privacy-center

11.2 Audits. Lithium shall conduct annual SSAE 18 SOC 2 audit and/or maintain ISO 27001 certification during the term of this MSA. Lithium shall, upon request, provide

Customer a valid ISO 27001 certificate or SSAE 18 SOC 2 Type II audit report covering the Subscription Services. Customer agrees that the foregoing fulfills Lithium's audit obligations under ADPL, except for any additional audits required by an applicable data protection authority or regulatory body with authority over Lithium and/or Customer.

11.3 Security Incidents. In the event of a Security Incident, Lithium shall provide notice to Customer without undue delay after confirmation of a Security Incident that involves Customer's Confidential Information, and shall provide timely information and cooperation as required for Customer to fulfill its data breach reporting obligations under ADPL and other applicable law. Lithium shall further take all commercially reasonable measures to remedy or mitigate the effects of the Security Incident and shall keep Customer informed of all such activities in connection with the Security Incident.

12 Insurance. Lithium shall maintain at all times during the term of this MSA, at its own expense, the following minimum policies with insurance companies rated "A" or better by AM Best: (i) statutory workers compensation insurance in the states or jurisdictions in which its employees are located, with coverage limits no less than statutorily required; (ii) commercial general liability insurance with coverage limits for bodily injury and property damage liability of at least \$1,000,000 for each occurrence, and at least \$2,000,000 general aggregate, with umbrella liability coverage of \$4,000,000 per occurrence. Such coverage shall be primary and non-contributory, shall include premises/operations liability and broad form contractual liability; (iii) technology errors and omissions liability insurance with coverage limits of \$10,000,000 per claim and \$10,000,000 aggregate subject to \$100,000 retention; (iv) Network Security & Privacy Liability (Cyber Liability) insurance with coverage limit of \$5,000,000 per claim and \$5,000,000 total limit of coverage for development and online services; (v) employer's liability insurance as part of Lithium's umbrella policy with coverage limits of at least \$1,000,000 (a) for each accident and (b) for each employee for occupational disease. This coverage is afforded in Lithium's master workers' compensation program; and (vi) business automobile liability insurance with a single limit of at least \$1,000,000 per occurrence for bodily injury and property damage liability. Such automobile insurance does not cover independent contractors.

13 Governing Law and Jurisdiction. This MSA shall be governed by the laws of California without regard to its conflict of law principles. The state and federal courts located in San Francisco, California, shall have exclusive jurisdiction to adjudicate any dispute arising out of or relating to this Agreement. Each Party hereby consents to the exclusive jurisdiction of such courts. The losing party in any dispute shall pay all court costs, expenses and reasonable attorneys' fees of the prevailing party.

14 Binding Arbitration. Notwithstanding Section 15, and provided no claim has been properly filed already in accordance with Section 15 with respect to the same dispute, if Customer is a non-us entity, either party may, instead of filing its claim with a court as set forth in Section 15, following a good faith attempt at amicable resolution, submit any dispute hereunder for arbitration under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The other party shall thereafter submit to and cooperate in such arbitration as the sole resolution mechanism for the dispute. The place of arbitration shall be one of the following cities, which is the closest to an equally convenient location for both parties: San Francisco, New York, Honolulu, London, Geneva, Singapore, Hong Kong, Paris, Sao Paulo, or Zurich. The language of the arbitration shall be English and the award shall be final and binding on the parties, and each party hereby waives to the fullest extent permitted by law any right it may otherwise have under the laws of any jurisdiction to any form of appeal.

15 General Provisions.

15.1 Relationship of the Parties. The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the Parties.

15.2 Severability. In the event any provision of this MSA is held by a court of law or other governmental agency to be void or unenforceable, such provision shall be changed and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law, and the remaining provisions shall remain in full force and effect.

15.3 Assignment and Subcontractors. Neither party shall assign any of its rights or obligations hereunder without the other party's prior written consent, which shall not be unreasonably withheld. Notwithstanding the foregoing: i) either party may assign its rights and obligations hereunder pursuant to a merger, consolidation or sale of substantially all of its assets related to this MSA, provided however that Customer may not assign this Agreement to any of Lithium's competitors; and ii) Lithium may at its discretion subcontract a portion of the Services provided that Lithium remains primarily responsible for such subcontractor's performance under this MSA, and in regards to personal data, subject to the requirements of section 10.3.4 above. This MSA shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns.

15.4 Force Majeure. Neither party shall be deemed to be in breach of this MSA for any failure or delay in performance caused by reasons beyond its reasonable control, including acts of God, war, terrorism, strikes, failure of suppliers, failure of third-party networks or services or the public Internet, fires, floods, earthquakes or other force majeure.

15.5 Notice. Any notices required under this MSA shall be sent to the addresses of the parties stated below and shall be deemed to have been received if delivered personally, on the day of delivery; if sent by mail or courier three (3) days after dispatch; if sent by facsimile or electronic mail, upon successful completion of transmission or date sent:

- (a) to the Customer at the address listed in the applicable Service Order, Attention: General Counsel.
- (b) to Lithium:
 - (i) Attention to: General Counsel
 - (ii) Mailing address:
Lithium Technologies, LLC
Pier 1, Bay 1A
San Francisco, CA 94111
 - (iii) Email: Legal@lithium.com

15.6 No Dependence on Future Functionality. Customer agrees that Customer is not entering into this Agreement or any Service Order contingent on the provision of any future functionality relating in any way to the Services and no statement or other information made or provided orally or otherwise shall be binding unless specifically set forth in an Service Order.

15.7 Export Compliance. Each party represents that it is not named on any U.S. government list of persons or entities prohibited from receiving exports or otherwise restricted from doing business with any U.S. company, and Customer will not access or use the Services in violation of any U.S. or international export embargo, prohibition or restriction.

15.8 Waiver and Cumulative Remedies. No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a Party at law or in equity.

15.9 General. This MSA, together with the SLA, SOW and Service Orders, contains the entire agreement of the parties and supersedes any prior or present understanding or communications (including any previously signed non-disclosure or confidentiality agreement) regarding its subject matter, and may only be amended in writing and signed by both parties. This Agreement may be executed in counterparts, each of which, when so executed and delivered (including by electronic transmission), shall be deemed an original, and both of which shall constitute one and the same agreement.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS MSA EFFECTIVE AS OF THE DATE OF LAST SIGNATURE BELOW.

_____ (“Customer”)

By: _____

Name: _____

Title: _____

Date: _____

LITHIUM TECHNOLOGIES, LLC

By: _____

Name: _____

Title: _____

Date: _____