

COMMERICAL TERMS

This Services Agreement (“Agreement”) governs your use of certain services (as defined below) that are ordered through an order and provided by CultureIQ, Inc. or PG CIQ UK Private Limited, as stipulated in the related order (“CultureIQ”). By executing an order that references this agreement, client and customer agree to the terms of this agreement. If entering into this agreement on behalf of a company or other legal entity, you represent that you have the authority to do so.

1. DEFINITIONS

- 1.1. **Affiliate.** Any entity that, directly or indirectly, Controls or is under common Control with another entity or in which such other entity has Control, and the term “Control” as used in this Section 1.1 whether used as a noun or a verb, means the possession, directly or indirectly, of the power to affirmatively direct or affirmatively cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by contract or otherwise.
- 1.2. **Benchmarking Data.** Aggregated data received, collected, analyzed and maintained by CultureIQ and its Affiliates to improve the Platform and Services. Benchmarking Data may be derived from public information, assessment responses, interviews, survey data and best practices information that CultureIQ and/or its Affiliates receive from their customers/clients, including Client.
- 1.3. **CultureIQ Intellectual Property Rights.** All Intellectual Property Rights (i) in and to the CultureIQ Property and the Services, or (ii) otherwise owned by or licensed to CultureIQ or its Affiliates by their respective licensors.
- 1.4. **CultureIQ Property.** All of the following, without limitation, directly or indirectly owned by CultureIQ or its Affiliates, whether pre-existing, or independently created: the Platform and Templates and all other materials, websites, software, tools, virtual learning content, research, publications, training manuals, report formats, technical reports, research data, assessment or survey content and supporting materials, technology and source code used to support the assessment or survey process, all accompanying materials, all portions, subsets or derivatives thereof, any improvements, modifications, upgrades or other changes thereto; and any and all derivative works of same created by CultureIQ or its Affiliates.
- 1.5. **Client.** Is an entity that purchases Services from CultureIQ. In the event an Order is extended to such Client’s Affiliates, the term “Client” shall include such Affiliates and the provisions of the Order, including the terms hereunder, shall also apply to Client’s Affiliates.
- 1.6. **Client Property.** Any data, information, or other material provided by or on behalf of Client directly to CultureIQ or indirectly through the Service. Client Property includes Customized Deliverables; provided, however, Client Property will never be deemed to include any CultureIQ Property or CultureIQ Intellectual Property Rights whether or not embedded in Customized Deliverables.

- 1.7. Confidential Information. In connection with this Agreement or any Order, all information, in whatever form, furnished by the Disclosing Party to the Receiving Party orally or in writing and identified as confidential, proprietary and/or trade secret information at the time of disclosure including, without limitation, a Disclosing Party's confidential business or technical information; data privacy, IT security and corporate policies and practices; financial information or data; marketing techniques and materials; business plans and strategies; business operation and systems; pricing policies; information concerning employees, Clients, and/or vendors; trade secrets; discoveries; improvements; research; development; know-how; designs; products and services; opportunities; methods and procedures; equipment, physical materials and manufacturing processes; non-public CultureIQ Property and any derivatives, portions or copies thereof. For the avoidance of doubt, the definition of Confidential Information shall include, without limitation, Confidential Information of each Party's Affiliates that may be disclosed in connection with this Agreement or any Order.
- 1.8. Disclosing Party. The Party, including its Affiliates, that is disclosing (directly or indirectly) Confidential Information to the Receiving Party.
- 1.9. Intellectual Property Rights. All patents (including all reissues, divisions, continuations, and extensions thereof) and patent applications, trade names, trademarks, service marks, logos, trade dress, copyrights, trade secrets, mask works, rights in technology, know-how, rights in content (including performance and synchronization rights), unregistered design or other intellectual property rights that are in each case protected under the laws of any governmental authority having jurisdiction whether or not registered and all application, renewals or extensions.
- 1.10. Order. Any document, including without limitation an order form, statement of work, or other instrument agreed by both parties to order Services. Any such Order must expressly state that the Services are being provided subject to this Agreement.
- 1.11. Personal Data. Any data or information relating to an identified or, when used in combination with other information, identifiable individual.
- 1.12. Platform. CultureIQ's web-based employee feedback platform used to author and deploy surveys to collect employee feedback, analyze the aggregated results, share results via reporting, and record action plans.
- 1.13. Professional Services. All implementation, training, configuration, data migration, consulting and professional services performed by or on behalf of CultureIQ for Client pursuant to this Agreement.
- 1.14. Receiving Party. The Party, including its Affiliates, that is receiving Confidential Information from the Disclosing Party.
- 1.15. Services. The specific services described in an Order subject to this Agreement subject to this Agreement, which may include providing access to the Platform and/or providing Professional Services.

- 1.16. Templates. Documents, tools, presentations or templates provided by CultureIQ through the Platform or other electronic means.
- 1.17. Term. The term of this Agreement as defined in Article 8.
- 1.18. Third Party. Any person or entity other than Client, CultureIQ or a CultureIQ Affiliate.

2. ORDERING

- 2.1. Services. During the Term of this Agreement, Client may purchase Services, as mutually agreed by the Parties pursuant to an Order. The Order is subject to this Agreement and include: (i) the Services to be performed; (ii) any CultureIQ Property to be provided to Client; (iv) the fees and payment schedule with respect to such Services; and (v) any additional provisions.
- 2.2. Fees. Client shall pay all fees (“Fees”) specified in an Order. Unless otherwise stated in an Order, all Fees are quoted and payable in United States Dollars. All Fees are based on Services ordered and not actual usage. With the exception of termination for Cause by Client pursuant to Article 8, all Fees are non-cancellable and non-refundable.
- 2.3. Invoicing. Unless otherwise stated in an Order, immediately upon execution of an Order, CultureIQ will deliver an invoice to Client for the full amount of the Fees and such invoice shall be due and payable by Client within thirty (30) days of receipt by Client. If any portion of any invoice is disputed in good faith, Client shall notify CultureIQ in writing within ten (10) business days and shall set forth the basis or reason for the dispute in reasonable detail, Client will pay the undisputed amounts as set forth in the preceding sentence, and the Parties will use good faith efforts to reconcile the disputed amount as soon as possible. Late payments will bear interest at a rate of 1.5% per month, or if lower, the maximum rate allowed by law.
- 2.4. Taxes. All fees are exclusive of taxes, levies, and duties imposed by any governmental or taxing authorities. Client shall pay all sales, use, duties, and other taxes including, without limitation, Value Added Taxes (VAT) or Goods and Services Taxes (GST) that are lawfully imposed (and for which no exemption is available) and if CultureIQ pays any such taxes on behalf of Client, then Client shall reimburse CultureIQ for such payments. CultureIQ shall pay all taxes that are based on, or measured by, CultureIQ’s net income. If Client is required to withhold and pay any withholding tax on any amount payable to CultureIQ under this Agreement, then Client will deliver to CultureIQ the original tax receipt or other proof of payment. Upon request, each Party shall provide reasonable support and shall execute and deliver any documents that the other Party deems necessary or desirable in connection with any exemption or reduction of, or the contestation of or the defense against, any taxes.
- 2.5. Travel Expenses. CultureIQ agrees that to the extent any travel expenses will be incurred related to the Services provided hereunder; CultureIQ shall comply with

its Global Travel Meetings and Expense Reimbursement Policy unless otherwise agreed to by the parties in the Order.

3. GENERAL SUPPORT AND SERVICE LEVELS

- 3.1. CultureIQ will use commercially reasonable efforts to make the CultureIQ survey administration and reporting systems that provide certain Services available 24 hours a day, 7 days a week, except for: (i) planned downtime (of which CultureIQ will give at least 8 hours' notice for maintenance outside of standard window) and which CultureIQ will schedule to the extent practical during evening hours from 8:00 p.m. Eastern Standard Time to 6:00 a.m. Eastern Standard Time or on weekends); or (ii) any unavailability caused by a force majeure event.
- 3.2. Help desk support (in English) will be provided through an email account staffed by CultureIQ account managers during CultureIQ business hours, defined as 8:30 AM to 5:00 PM CST. We respond to Major issues no later than start of next business day, Minor within 2 business days, and Cosmetic within 3 business days.
- 3.3. CultureIQ's platform can be used with current versions of Safari, Firefox, Google Chrome, and Microsoft Edge and Internet Explorer (versions 9.0, 10.0 and 11.0).
- 3.4. CultureIQ assumes that standard system instructions will be utilized without modification.
- 3.5. CultureIQ Online User Guides will be provided in English.

4. INTELLECTUAL PROPERTY

- 4.1. Client Property. Client shall retain exclusive ownership rights in and to all Client Property provided to CultureIQ under this Agreement. Client grants CultureIQ a limited, non-exclusive, royalty-free, irrevocable, world-wide license to use Client Property as necessary to provide, improve, monitor and develop the Services for the duration of the Agreement.
- 4.2. CultureIQ Property. Client acknowledges and agrees that CultureIQ and its Affiliates, as the case may be, have and own, and shall have and own, all rights, title and interest in and to the CultureIQ Property and CultureIQ Intellectual Property Rights. Client acknowledges that its use of the CultureIQ Property and CultureIQ Intellectual Property Rights will not vest in the Client any right, title or interest in or to the CultureIQ Property or CultureIQ Intellectual Property Rights other than the limited license rights granted under this Agreement or an Order and all Intellectual Property Rights arising from such uses will inure to the benefit of CultureIQ and its Affiliates. The Client warrants and represents that: it will not at any time (a) challenge (i) CultureIQ's and its Affiliates', rights, title or interests in and to the CultureIQ Property or the CultureIQ Intellectual Property Rights or (ii) the validity of any CultureIQ Intellectual Property Rights; or (b) take any action or engage in any inaction which would impair or tend to impair the CultureIQ Intellectual Property Rights.

- 4.3. **Configured Deliverables.** CultureIQ or its Affiliates may create and/or provide deliverables to Client pursuant to the specific requirements set forth in the Letter of Agreement and are for Client's sole use and are not for use by any other CultureIQ client ("Configured Deliverables"). Upon full and final payment of any Fees, Client will own Configured Deliverables subject to the following: (i) CultureIQ shall retain exclusive ownership of all rights, title and interest in and to all CultureIQ Property and CultureIQ intellectual property rights incorporated in the Configured Deliverables, and (ii) unless otherwise agreed to in the Order or Additional Provisions, the Configured Deliverables shall be used for Client's internal business use only and may not be shared with any third party without CultureIQ's prior written consent. CultureIQ grants to Client a perpetual, non-exclusive, royalty-free, worldwide, non-transferable and non-assignable license to use the CultureIQ Property and CultureIQ intellectual property rights incorporated into any Configured Deliverables to the extent necessary to allow the Client to enjoy the benefit of the Configured Deliverables.
- 4.4. **Knowledge Capital.** CultureIQ shall retain all right, title and interest in all of CultureIQ's ideas, know-how, approaches, methodologies, concepts, skills, tools, techniques, expressions, and processes, irrespective of whether possessed by CultureIQ prior to, or acquired, developed, or refined by CultureIQ (either independently or in concert with Client but excluding Client's proprietary ideas, know-how, approaches, methodologies, concepts, skills, tools, techniques, expressions, and processes identified in writing in advance to CultureIQ) during the course of its performance under this Agreement. It is agreed and understood that CultureIQ is in the business of providing services to third parties which are or may be substantially similar to the Customized Deliverables being developed for Client. It is not the intent of this Agreement to prevent CultureIQ from pursuing its stated business by independently creating such original but similar works for the benefit of third parties.
- 4.5. **License to CultureIQ Property.** CultureIQ grants to Client a perpetual, non-exclusive, royalty-free, worldwide, non-transferable and non-assignable license to use the CultureIQ Property incorporated into any Customized Deliverables to the extent necessary to allow the Client to enjoy the benefit of the Customized Deliverables.
- If an Order includes a subscription to the Platform, then CultureIQ further grants to Client a non-exclusive, royalty-free, worldwide, non-transferable and non-assignable license to use the Templates provided by CultureIQ during the term of the applicable Order for Client's internal business purposes, provided, however, that Company acknowledges that its access to any online systems on which Configured Deliverables are delivered is limited to the Term of Agreement or such other term agreed to in the Order.
- 4.6. **Client Responsibilities.**
- (a) **Restrictions.** Neither Client nor any individual user may sublicense, sell, transfer, assign to, display or otherwise make available the CultureIQ

Property or Services to any third party (including (i) a Client service provider, independent contractor, consultant or subcontractor, or any (ii) other Client divisions or Client Affiliates to which the license has not been extended under the Order) without CultureIQ's written permission, and any attempted sublicense, sale, transfer or assignment shall be void

- (b) **User Compliance.** Client is responsible for the compliance of those individuals allowed to access the CultureIQ Property or Services under this Agreement or Order. Client shall use commercially reasonable efforts to prevent unauthorized access to, or use of CultureIQ Property, and notify CultureIQ promptly of any such unauthorized access to or use of the Services, and comply with all applicable local, state, federal, and foreign laws in using the CultureIQ Property
- (c) **Feedback.** Client acknowledges and agrees that any suggestions, enhancement requests, recommendations, or other feedback (collectively, "Feedback") provided by Client or any of its users to CultureIQ may be incorporated by CultureIQ into the Services and CultureIQ Property, and all such Feedback shall be considered CultureIQ Property. Client agrees to assign, and hereby assigns to CultureIQ all right, title and interest throughout the world in and to all such Intellectual Property Rights, and shall assist CultureIQ, at no cost to Client, to obtain and maintain for CultureIQ such Intellectual Property Rights. Client shall sign or, as applicable, cause its users and related persons to sign such instruments as CultureIQ deems reasonably necessary for CultureIQ to obtain and maintain such Intellectual Property Rights.
- (d) **Research Data and Benchmarking.** Notwithstanding anything in these Terms or any Order to the contrary, Client authorizes CultureIQ and its Affiliates to use Client Property disclosed through surveys, assessments, or provided by Client to CultureIQ or its Affiliates (through software or other data collection activities) for assessment validation, research and benchmarking purposes and product development (collectively "Research Data") including creating or updating Benchmarks. CultureIQ or its Affiliates will (i) only use, aggregate and present the Research Data or Benchmarks in an anonymous form and (ii) not include (directly or by inference) any information identifying Client or any identifiable individual as the source of such data in the Research Data or Benchmarks. CultureIQ and its Affiliates are bound by ethical guidelines and data protection laws in the use of all data. Access to any Research Data will be restricted to only those individuals directly involved in research supporting CultureIQ products and services.
- (e) **License to Client Property.** If and only if Client discloses Client Property to CultureIQ specifically for inclusion in publications, surveys, studies or other materials, Client grants CultureIQ an irrevocable, perpetual, worldwide, freely assignable and transferable, royalty-free license to such Client Property. Such license includes, without limitation, the right to display,

perform, sublicense, distribute (internally and externally), prepare derivative works based upon, copy, and use such information, including any portions, subsets and derivatives thereof. This license will apply to the distribution of Client Property in any form, medium, or technology now known or later developed. Any derivative works prepared or created by CultureIQ shall be owned by CultureIQ.

5. DATA PROTECTION

- 5.1. Compliance. Both Parties shall abide by applicable data protection and privacy laws when collecting, using or disclosing Personal Data pursuant to this Agreement. In the event Client provides Personal Data to CultureIQ, Client represents and warrants that it has obtained all necessary consents, approvals and authorizations to provide the Personal Data to CultureIQ, and it is not violating any laws, rules or regulations or the rights of any individual or entity, by providing such Personal Data to CultureIQ. Client understands and agrees that Personal Data provided by Client will be used in accordance with the CultureIQ Privacy Policy, available at <http://www.cultureiq.com/privacy>.
- 5.2. Confidentiality of Provided Responses. Notwithstanding anything to the contrary herein, Client and CultureIQ agree that neither Party will breach any promises of confidentiality made to any survey, assessment, or other services participant. Client shall not ask or induce others to ask CultureIQ to provide any data, including survey or assessment responses, to Client or any third parties in violation of confidentiality notices presented to participants.
- 5.3. CultureIQ offers three options for level of participant confidentiality, that can be selected and set on an individual survey basis. The standard “Confidential” level ensures that respondent data are only shared in aggregate (not fewer than a client-determined minimum). A “Confidential with Exceptions” level ensures respondent data are only shared in aggregate in our platform, but allows certain Client Administrators with permission to receive a raw data file, and only if communications to employees indicates that results may be shared in this manner. A “Personally Identifiable” option allows reporting and data exports to include personal identifiers.
- 5.4. If CultureIQ is analyzing participant comments and, during the course of such analysis, CultureIQ encounters a comment that reasonably indicates the life and/or safety of individuals may be at risk, then CultureIQ, in its sole discretion, may immediately report such information to Client, along with the identity of the individual author of the comment, notwithstanding any promises made in survey confidentiality statements.
- 5.5. If sensitive comment analysis is included, Client and CultureIQ shall work together to create search strategies. Both parties acknowledge and agree that CultureIQ cannot warrant that all sensitive comments of interest will be reported, but rather just those indicated by the search criteria.

- 5.6. Data Processing. Client agrees that CultureIQ or its Affiliates may transfer Personal Data outside the European Economic Area ("EEA") to the facilities of CultureIQ or CultureIQ Affiliates in order to provide Client with the Services. This may include processing Personal Data in countries in which data protection laws do not provide the same level of protection as those within the EEA. In such cases, CultureIQ and its Affiliates will take appropriate steps to protect Personal Data in accordance with these Terms and all applicable data protection laws. At Client's request, CultureIQ (and its appropriate Affiliates) will also enter into the Model Clauses for transferring Personal Data outside the EU.

Client is the Data Controller of Personal Data. "Data Controller" means a person/entity who determines the purposes for which and the manner in which any Personal Data is, or is to be, processed (collected, used, amended, retained, destroyed, etc.). CultureIQ or its Affiliates shall act as the Data Processor with respect to the Personal Data. "Data Processor" means a person/entity (other than an employee of the Data Controller) that processes Personal Data on behalf of the Data Controller. As the Data Processor, CultureIQ shall: (i) process Personal Data in accordance with Client's reasonable instructions or otherwise as permitted under these Terms and (ii) implement appropriate administrative, technical, and physical security controls to protect Personal Data from unauthorized access, use, or disclosure, unauthorized modification, or unlawful destruction or accidental loss. CultureIQ or its Affiliates shall cooperate with any Client request for Personal Data provided by or through Client to CultureIQ or its Affiliates, as applicable, provided that such request does not violate Section 4.2. CultureIQ shall notify Client of any unauthorized access to or misuse of Personal Data (a "Data Breach") as soon as reasonably possible after discovery of the Data Breach. CultureIQ shall not notify any Third Parties of the involvement of Client's Personal Data in the Data Breach other than Client, without Client's prior permission unless legally mandated to do so. CultureIQ shall immediately investigate and take appropriate remedial actions to mitigate the effects of the Data Breach. Such investigation and remediation activities shall be in accordance with applicable laws, regulations, industry standards, and industry best practices. Upon request, CultureIQ shall provide Customer with a summary report of its investigation and remediation activities.

- 5.7. Third Parties. CultureIQ may disclose Personal Data to a Third Party in the following limited circumstances: (i) if CultureIQ or its applicable Affiliate buys or sells any business assets, (ii) if CultureIQ contracts with Third Parties to perform or provide certain services on behalf of CultureIQ including the hosting, storage, or support of its systems, or (iii) if CultureIQ is under a duty to disclose or share Personal Data to comply with any legal obligation. CultureIQ or its applicable Affiliate shall contractually require any buyer of CultureIQ's assets that include Personal Data or any Third Party performing services on CultureIQ's behalf to provide the same level of protection for Personal Data required in this Agreement and under any applicable data protection laws. For purposes of this Article 4, Third Party does not include the Data Controller, or the Data Processor or other person authorized to process data for the Data Controller.

6. INDEMNIFICATION

- 6.1. Indemnification by Parties. Client and CultureIQ (each, in such capacity, the “Indemnifying Party”) agree to indemnify, defend, and hold harmless the other party, and its respective Affiliates, directors and employees, (each, an “Indemnified Party”), from and against any and all damage, liability, and expense, including reasonable legal fees and expenses (“Losses”), awarded or paid in settlement of any claim, demand, action or proceeding by any third party brought against such Indemnified Party (“Claim”), in each case to the extent directly and proximately arising from or by reason of any actual or alleged infringement of any Intellectual Property Rights arising out of any materials supplied to the Indemnified Party by the Indemnifying Party.
- 6.2. Indemnification Procedure. To exercise the rights under this Article 5, the Indemnified Party must (i) give the Indemnifying Party prompt written notice of any Claim, or suspicion of a Claim, (ii) cooperate with the Indemnifying Party’s reasonable request for information or other assistance, (iii) grant control of the defense and settlement of the Claim to such Indemnifying Party, and (iv) not settle or make any offer to settle the Claim or make any admission of guilt or fault without first obtaining the Indemnifying Party’s prior written approval.
- 6.3. Obligation. At the Indemnifying Party’s election, the Indemnified Party will allow the Indemnifying Party to either obtain for the Indemnified Party the right to continue using the affected material, replace it, modify it so it becomes non-infringing, or, in the case of CultureIQ (and at CultureIQ’s sole discretion), require return of such infringing material and then refund to Client the amount(s) paid to CultureIQ for Services not yet rendered.
- 6.4. Sole Remedy. This Article shall constitute a Party’s sole and exclusive remedy at law hereunder in connection with any Claim brought against such Party by a third party alleging actual or alleged infringement of any Intellectual Property Rights.
- 6.5. Limitation of Indemnification. To the extent that CultureIQ is the Indemnifying Party under Section 5.1, such provision shall not apply to Client’s misuse of CultureIQ Property, or Customized Deliverables; Client’s use of CultureIQ Property, or Customized Deliverables in combination with any product or information not provided by CultureIQ; information, materials or specifications provided by or on behalf of Client, including, without limitation, Client Property; or Client’s utilization of the CultureIQ Property or Customized Deliverables in a manner not contemplated by this Agreement, in each case, whether or not with CultureIQ’s consent.

7. LIMITATION OF LIABILITY

- 7.1. Limitation of Liability. EXCEPT WITH RESPECT TO ITS OBLIGATIONS UNDER ARTICLE 5, A BREACH OF A PARTY’S INTELLECTUAL PROPERTY RIGHTS, OR A BREACH OF SECTION 7, NEITHER PARTY, ITS RESPECTIVE AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, CONSULTANTS AND AGENTS, SHALL HAVE ANY LIABILITY OF ANY TYPE (INCLUDING, BUT NOT

LIMITED TO, CONTRACT, NEGLIGENCE, AND TORT LIABILITY), FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO THE LOSS OF OPPORTUNITY, LOSS OF USE, OR LOSS OF REVENUE OR PROFIT, IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR ANY ORDER, EVEN IF SUCH DAMAGES MAY HAVE BEEN FORESEEABLE, EXCEPT AS MAY OTHERWISE ARISE UNDER APPLICABLE LAW. IN ADDITION, EXCEPT WITH RESPECT TO ITS OBLIGATIONS UNDER ARTICLE 5, A BREACH OF A PARTY'S INTELLECTUAL PROPERTY RIGHTS, OR A BREACH OF SECTION 7, THE COLLECTIVE, AGGREGATE LIABILITY (INCLUDING, BUT NOT LIMITED TO, CONTRACT, NEGLIGENCE AND TORT LIABILITY) OF EACH PARTY, TOGETHER WITH ITS AFFILIATES AND ITS AND THEIR DIRECTORS, OFFICERS, EMPLOYEES, CONSULTANTS AND AGENTS, UNDER THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT OF FEES PAID OR PAYABLE TO CULTUREIQ PURSUANT TO THE APPLICABLE ORDER IN THE PRECEDING TWELVE MONTHS.

- 7.2. Equitable Relief. Notwithstanding the foregoing, each Party agrees that a breach of any obligations hereunder may result in irreparable harm to the non-breaching Party for which money damages would not be inadequate. Consequently, in the event of a breach or threatened breach by a Party, the non-breaching Party shall be entitled, without the requirement of posting a bond or other security, to seek equitable relief, including injunctive relief and specific performance. The Parties agree that any such equitable relief is in addition to all other available remedies set forth herein and shall not preclude the non-breaching Party from seeking other available remedies set forth herein.
- 7.3. Unlimited Liability. Nothing contained in this Agreement or any Order shall exclude or limit either Party's liability for (i) death or personal injury caused by its or its Affiliate's negligence, (ii) fraud or fraudulent misrepresentation, or (iii) any other matter for which it would be illegal to limit or exclude or attempt to limit or exclude liability.

8. CONFIDENTIAL INFORMATION

- 8.1. Confidential Information. The Receiving Party shall maintain Confidential Information of the Disclosing Party in confidence using at least the same degree of care as it employs in maintaining in confidence its own proprietary and confidential information, but in no event less than a reasonable degree of care and shall not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement. CultureIQ shall be allowed to disclose Confidential Information to its Affiliates, consultants, vendors or subcontractors who are necessary to provide Services to Client, provided that any such Affiliates, consultants, vendors or subcontractors are bound by confidentiality obligations at least as restrictive as those contained in this Agreement.

- 8.2. Confidential Information Exclusions. Confidential Information shall not include information which (i) was already known by the Receiving Party at the time of the disclosure by the Disclosing Party; (ii) is, was or becomes publicly available other than as a result of disclosure by the Receiving Party in breach hereof; (iii) was disclosed to the Receiving Party on a non-confidential basis from a third party source other than the Disclosing Party, which the Receiving Party reasonably believes is not prohibited from disclosing such information as a result of an obligation in favor of the Disclosing Party; (iv) is developed by the Receiving Party independently of any disclosure of such information made by the Disclosing Party; or (v) is required to be disclosed by order of a court of competent jurisdiction, administrative agency or governmental body, or by any law, rule or regulation, or by subpoena, summons or any other administrative or legal process, or by applicable regulatory or professional standards; provided, that, in the event that the Receiving Party is ordered by a court of competent jurisdiction, administrative agency or governmental body to disclose any Confidential Information, the Receiving Party shall (i) promptly notify the Disclosing Party of such order; (ii) at the written request of the Disclosing Party, diligently contest such order at the sole expense of the Disclosing Party as expenses occur; and (iii) at the written request of Disclosing Party, seek to obtain at the sole expense of the Disclosing Party such confidential treatment as may be available under applicable laws for any information disclosed under such order.
- 8.3. Return or Destruction of Confidential Information. Upon written request after termination or expiration of this Agreement or an applicable Order, subject to Sections 3.4, 3.6(d), 3.6(e) and 4.1 of this Agreement, each Party shall promptly return by commercially reasonable means or destroy all tangible Confidential Information that was disclosed to it by the other Party; provided, that neither Party will be required to return or destroy Confidential Information stored as part of a routine disaster recovery backup of its computer network applications; and provided, further, that the Receiving Party may retain one copy of the Confidential Information in its legal files solely for archival purposes.
- 8.4. Survival. The obligations of each Party under Section 7.1 shall continue in force and survive the longer of the termination or expiration of this Agreement or any applicable Order for a period of five (5) years following such termination or expiration. The confidentiality obligations with respect to any Confidential Information subject to trade secret protection will continue indefinitely.
- 8.5. No License. The Disclosing Party grants no license under any copyright, patent, trademark or trade secret by the disclosure of the Confidential Information. The Parties understand and acknowledge that any and all Confidential Information is being provided by the Disclosing Party without any representation or warranty, express or implied, as to the accuracy or completeness of such Confidential Information.

9. TERM AND TERMINATION

- 9.1. Term of Agreement. This Agreement becomes effective when the parties enter into an Order and will remain in effect so long as such Order remains in effect, unless otherwise terminated as provided herein.
- 9.2. Term of Order. The term for each Order shall commence on the effective date of the applicable Order (or, if no effective date is specified, on the date the Order has been executed by both Client and CultureIQ) and shall be in effect for the term specified in the Order.
- 9.3. Termination for Cause. Either party may terminate an Order if the other party does not cure its material breach of this Agreement or the applicable Order within 30 days of receiving written notice of the material breach from the non-breaching party. Termination of this Agreement will terminate any then-outstanding Orders. Termination in accordance with this Section 8.3 will take effect when the breaching party receives written notice of termination from the non-breaching party, which notice must not be delivered until the breaching party has failed to cure its material breach during the 30-day cure period. If Client fails to timely pay any fees, CultureIQ may, without limitation to any of its other rights or remedies, suspend performance of all Services for Client until CultureIQ receives all amounts due. Upon termination of this Agreement or an Order due solely to a breach by CultureIQ, CultureIQ shall refund a pro rata portion of any fees paid for services not yet rendered as of the date of termination. Termination of the Agreement or any Order shall be in addition to and not in lieu of any equitable remedies available to CultureIQ.

10. PUBLICITY

- 10.1. Usage of Client Name and Marks. Client permits CultureIQ and its Affiliates, as applicable, to use Client's name and logo for their internal and external Client lists and other marketing materials. In addition, if Client discloses Client Property to CultureIQ or its Affiliates for specific inclusion in materials or for the joint development of a case study or other research, CultureIQ or its Affiliates may attribute such information with Client's name and logo.
- 10.2. Other Use. Except as provided herein, CultureIQ will not use Client's name and logo for any other purpose without Client's prior consent.

11. REPRESENTATIONS AND WARRANTIES

- 11.1. Mutual Representations and Warranties. Each Party represents and warrants that (i) it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization; (ii) it has the power, authority and legal right to enter into this Agreement and to perform the obligations hereunder, including under any Order, and that it has taken all necessary corporate action to authorize execution of this Agreement; (iii) necessary consents, approvals and authorizations of governmental authorities and other persons required to be obtained related to the performance of this Agreement have been obtained; and (iv) the execution and delivery of this Agreement will not conflict with or violate any requirement of any applicable law or regulation, and does not conflict with or constitute a default under any contractual obligation.
- 11.2. CultureIQ. CultureIQ represents and warrants that Services will materially conform to the specifications describing such Services and that it will perform Services hereunder in good faith and in a professional manner. If Company reasonably demonstrates that there is a defect in the materials or workmanship of Services have not been performed with reasonable care and skill in accordance with good industry practice, CultureIQ will, at its option and Client's sole and exclusive remedy:
- (a) repair or make good such defect at no charge to Company; or
 - (b) re-perform such Services; or
 - (c) issue a credit note to Company for the whole or part of the price of such Services as appropriate
- 11.3. Client. Client represents and warrants that it has the full legal right to provide all Client Property that it provides to CultureIQ in connection with this Agreement or any Order, and all associated Intellectual Property Rights and that CultureIQ's use of such Client Property in accordance with this Agreement will not infringe upon any patent, trademark, copyright or any trade secret or any other proprietary right of any third party or person.
- 11.4. Disclaimers of Warranty. The Parties agree that the Services are based on compilation and analysis of the best sources available to CultureIQ at any given time and any opinions reflect CultureIQ judgment at the time and are subject to change.

EXCEPT AS OTHERWISE PROVIDED HEREIN, CULTUREIQ DISCLAIMS, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ALL WARRANTIES FOR ITS SERVICES, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CULTUREIQ DOES NOT WARRANT OR GUARANTEE THAT CLIENT WILL REALIZE ANY RESULTS BY VIRTUE OF THE USE OF THE SERVICES. AS SUCH, NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, CULTUREIQ SHALL NOT BE

LIABLE FOR ANY DAMAGES INCURRED BY OR ARISING AS A RESULT OF RELIANCE BY CLIENT UPON CULTUREIQ'S SERVICES.

FURTHERMORE, WITH RESPECT TO THE PLATFORM, CULTUREIQ DOES NOT WARRANT OR GUARANTEE CLIENT'S USE OF THE PLATFORM OR THAT THE PLATFORM WILL BE FREE FROM ERROR, OMISSION, INTERRUPTION, DEFECT, DELAY IN OPERATION, TECHNICAL INACCURACIES, VIRUSES OR OTHER HARMFUL CODE. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, CULTUREIQ SHALL NOT BE LIABLE FOR ANY DAMAGES INCURRED BY OR ARISING AS A RESULT OF RELIANCE BY CLIENT UPON THE CULTUREIQ AND INFORMATION PROVIDED THROUGH THE PLATFORM.

12. GENERAL TERMS

- 12.1. Anti-Bribery and Corruption. Each Party will comply with all applicable laws of the countries where it operates, including all securities, anti-corruption, and anti-bribery laws, and with the US Foreign Corrupt Practices Act and the UK Bribery Act. Any breach of this Article is a material breach of this Agreement.
- 12.2. Export and Import Regulations Compliance. It is CultureIQ's policy to comply with all U.S. import, export, and sanctions regulations. The products and services offered to you by CultureIQ may be subject to U.S. import and export laws and regulations, including the Export Administration Regulations (EAR) and U.S. sanctions governed by the Office of Foreign Asset Control (OFAC). CultureIQ's services may not be sold or licensed to any party without CultureIQ's permission. Particularly, CultureIQ's Services shall not be licensed, sold, exported, reexported, released or in any way disseminated to individuals or countries sanctioned by the United States. By signing this agreement, you affirm your compliance with the Export Administration Regulations (EAR) and that you will not disseminate, export, or reexport CultureIQ's Services or products in a way inconsistent with the EAR and all other U.S. import and export regulations. You certify not to use CultureIQ's Services and products to import software, data, technical data, or any other product in a manner noncompliant with U.S. import regulations and any applicable foreign laws. Customer shall provide prior written notice of the need to comply with such laws to any person or entity which the customer has reason to believe is obtaining CultureIQ's regulated products and services with the intent to export or reexport.
- 12.3. Assignment. Neither Party may assign its rights or delegate its obligations under this Agreement or any Order without the prior written consent of the other Party. Notwithstanding the foregoing, either Party may assign its rights and obligations under this Agreement to an entity that acquires all or substantially all of a Party's assets as a successor to the business during the Term of this Agreement, provided that the Party assuming obligations agrees to do so in writing and has adequate resources to meet its obligations hereunder. Should an entity who acquires Client during the Term of this Agreement already have independent access to the Services being provided hereunder, the acquiring entity's

obligations of payment for Client's purchased Services pursuant to an Order shall remain in effect.

- 12.4. Headings and Enumerations. Article and Section headings and enumerations contained in this Agreement are for convenience of reference only and will not control or affect the meaning or construction of any its provision.
- 12.5. Dispute Resolution. In the event of any dispute between the Parties, prior to a Party commencing an action in court for damages, each Party shall designate a representative and the representatives shall meet in person or telephonically in a good-faith attempt to resolve the dispute. Prior to such meeting, the complaining Party shall provide a detailed, written explanation of the dispute in order to facilitate the efforts to achieve mutually agreeable resolution. In the event that the Parties are unable to resolve their dispute in such meeting or such meeting does not occur within thirty (30) days of the initial notice being provided by the complaining Party, then either Party shall be free to pursue other available judicial remedies at law. Notwithstanding the foregoing, this Section 11.4 shall not prevent or delay a Party from terminating this Agreement or seeking those remedies set forth in Section 6.2.
- 12.6. Force Majeure. CultureIQ shall be relieved from any and all liability under or in connection with this Agreement to the extent that such liability arises from any failure to perform any of its obligations under or in connection with this Agreement and has been caused or contributed to by a force majeure event or circumstance including acts of God, war, hostilities (whether war be declared or not), civil disturbance, government action, strikes, lock-outs or labor disputes, computer virus or any other event or circumstance or cause whatsoever beyond the reasonable control of CultureIQ.
- 12.7. Governing Law. Unless otherwise agreed in an Order, this Agreement, shall be governed by, and construed in accordance with, the laws of the State of New York (without giving effect to the choice of law principles). Both Parties agree to submit to the jurisdiction of New York courts to resolve disputes.
- 12.8. Insurance. Each Party will maintain in full force and effect throughout the Term of this Agreement the following insurance at its sole cost and expense:
 - Workers' Compensation and Employers Liability in accordance with all federal, state, and local requirements and coverage with a minimum limit of \$1,000,000 each accident, with a policy limit of not less than \$1,000,000;
 - Commercial General Liability, including coverage for bodily injury, property damage and personal injury liability, with a minimum limit of \$1,000,000 each occurrence and \$2,000,000 aggregate;
 - Business Automobile Liability covering all vehicles that CultureIQ hires or leases in an amount not less than \$1,000,000 combined single limit for bodily injury and property damages;

- Commercial Excess Umbrella in an amount not less than \$5,000,000 each occurrence and aggregate;
- Errors and Omissions/Cyber coverage in an amount not less than \$2,000,000 annual aggregate.

All insurance obtained by CultureIQ will be underwritten by an insurer having a minimum AM Best insurance rating of “A-”. Upon request, CultureIQ will furnish Client certificates of insurance and/or other appropriate documentation evidencing all of the coverage described in this Section 11.8.

- 12.9. **Modifications.** This Agreement constitutes the entire agreement between the Parties with respect to its subject matter and supersedes all prior understandings, proposals, negotiations and communications, oral or written, between the Parties or their representatives. Any and all additions, amendments and/or modifications to the terms and conditions of this Agreement or any Order must be in writing and shall only be binding if signed by duly authorized representatives of the Parties. All such additions, amendments and/or modifications should be dated.
- 12.10. **Notice.** All notices and other communications required in connection with this Agreement or any Order shall be in writing and will be either delivered personally (as evidenced by a signed receipt) or mailed by first class prepaid postage to the address provided in the Order unless otherwise designated. A notice or other communication delivered personally shall be deemed to have been served on the date on which it is delivered to the designated addressee. Notices to CultureIQ shall be addressed to the attention of the CultureIQ Legal Department. Notices to Client shall be addressed to Client’s signatory of this Agreement unless otherwise designated.
- 12.11. **Relationship of the Parties.** Each Party is an independent contractor, and neither Party is, nor shall represent itself to be, an agent, partner, fiduciary, joint venturer, co-owner or representative of the other Party. Client understands that nothing in this Agreement shall be construed to restrict CultureIQ’s ability to provide similar products or services and enter into similar arrangements with other entities that may be similar to or in the same business as Client.
- 12.12. **Severability.** If any term, condition, or provision of this Agreement is for any reason declared or found to be illegal, invalid, ineffective, inoperable, or otherwise unenforceable, it shall be severed and deemed to be deleted from this Agreement and the validity and enforceability of the remainder of this Agreement shall not be affected or impaired thereby the remaining terms shall remain in full force and effect.
- 12.13. **Exhibits.** All exhibits, attachments, appendices (without limitation defined as “Exhibits”), or Orders shall be deemed a part of this Agreement. In the event of any conflict or inconsistency between the provisions of an Exhibit or an Order, the Exhibit or Order shall supersede this Agreement.

- 12.14. Subcontractors. CultureIQ may from time to time, as part of its business operations generally, delegate its obligations and responsibilities hereunder to third party subcontractors that are under contract with CultureIQ; provided, however, that (i) the subcontractor shall be bound by confidentiality provisions at least as stringent as those to which CultureIQ is subject under this Agreement; (ii) CultureIQ shall not be relieved of any responsibilities or obligations under this Agreement that are performed by the subcontractor; and (iii) CultureIQ shall remain Client's sole point of contact and sole contracting party. Performance of CultureIQ's obligations by its Affiliates will not be considered subcontracting under this Agreement.
- 12.15. Waiver. Failure by either Party at any time to enforce any provision of this Agreement against the other shall not be construed as a waiver of such entitlement and shall not affect the validity of this Agreement or any part or parts hereof or the right of the relevant Party to enforce any provision in accordance with its terms.
- 12.16. Counterparts. Any Order hereunder may be executed in several counterparts, each of which is deemed an original but all of which will constitute one and the same document.
- 12.17. Updates. CultureIQ may from time to time make reasonable updates to these Terms; provided, however, any existing Orders shall remain subject to the version of the Terms in effect as of the date of the Order until the expiration of the applicable Order.