

Terms of Service Agreement Journey Trusted Identity Platform

IMPORTANT – READ CAREFULLY. YOUR USE OF AND ACCESS TO THE JOURNEY PLATFORM (AS DEFINED HEREIN) AND ASSOCIATED SERVICES AND SOFTWARE IS CONDITIONED UPON YOUR COMPLIANCE WITH AND ACCEPTANCE OF THESE TERMS. PLEASE REVIEW THOROUGHLY BEFORE ACCEPTING.

THESE TERMS OF SERVICE AGREEMENT (“TOS”) ARE MADE AND ENTERED INTO BY AND BETWEEN JOURNEY.AI, INC. , A DELAWARE CORPORATION, LOCATED AT 1001 BANNOCK STREET, SUITE 522, DENVER, COLORADO 80204 (“JOURNEY”), AND THE CORPORATION, COMPANY OR OTHER BUSINESS ENTITY USING OR ACCESSING THE PLATFORM (“SUBSCRIBER”). JOURNEY AND SUBSCRIBER ARE EACH SOMETIMES REFERRED TO HEREIN AS “PARTY” AND COLLECTIVELY AS THE “PARTIES.”

SUBSCRIBER REPRESENTS THAT IT HAS AUTHORIZED THE PERSON ACCEPTING THESE TERMS TO BIND SUBSCRIBER TO THESE TERMS. THE PERSON ACCEPTING THESE TERMS ON SUBSCRIBER’S BEHALF REPRESENTS THAT THEY HAVE READ THESE TERMS IN FULL AND HAVE FULL LEGAL AUTHORITY TO LEGALLY BIND SUBSCRIBER TO THESE TERMS.

BY EXECUTING THESE TERMS, CLICKING/CHECKING THE “AGREE” BOX, OR ACCESSING THE JOURNEY PLATFORM AND ASSOCIATED SERVICES AND SOFTWARE, SUBSCRIBER AGREES TO BE BOUND BY THESE TERMS OF SERVICE, AND ALL EXHIBITS, ORDER FORMS, AND INCORPORATED POLICIES (“TOS”).

The Parties agree as follows:

1. DEFINITIONS:

Capitalized terms used in these TOS but not defined in the text are defined in this Section 1. The following terms have the meanings specified below.

“Affiliate” means any current or future worldwide entity that directly or indirectly is in Control of, is controlled by, or is under common Control with a Party.

“Authorized User” means Subscriber’s authorized employee or representative that is designated by Subscriber as having the right to access and use the Platform. Authorized Users shall be identified on the Order Form or via an email to sales@journeyid.com.

“Business Day” means Monday through Friday, excluding public and Journey designated holidays.

“Content” means all data, documents, information and other content sent by Subscriber or an Authorized User or displayed, posted, published, submitted or uploaded by Subscriber or an Authorized User in accessing or using the Platform.

“Control” means direct or indirect ownership or control of more than 50% of the voting interests of a Party.

“Documentation” means Journey’s, or its licensors’, user manuals and other published protocols, standards and technical specifications that Journey or its Affiliates generally makes available to subscribers for use with the Platform. The Documentation is located at www.journeyid.com and is updated from time to time by Journey.

“Initial Term” means the initial subscription term for access to and use of the Platform as specified in an Order Form. The Initial Term shall begin on the date set forth in the applicable Order Form.

“Marks” means a Party’s name, trademarks, service marks, logos or other words associated with a Party’s products and/or services.

“Order Form” means a Journey designated order form or online registration form pursuant to which Subscriber purchases a subscription to the Platform.

“Platform” means Journey’s designated and managed modules, services, data, capabilities and features offered through Journey’s designated servers, software and proprietary technology to produce Journey’s Trusted Identity Platform.

“Renewal Term” means successive twelve (12) month period(s) beginning on the date that a subscription order would otherwise expire at the end of the Initial Term (or any other Renewal Term). Collectively, the Initial Term and any subsequent Renewal Terms shall constitute the **“Term”**.

“Subscription Fee(s)” mean the Platform access, use and other associated fees payable by Subscriber to Journey as identified on an Order Form.

“Website” means Journey’s website, including the publicly accessible and controlled access portions of the Website. Journey makes available to its subscribers and partners Documentation, support resources, and other information through its Website accessed at www.journeyid.com.

2. ORDERS, ACCESS, SYSTEM REQUIREMENTS AND PROHIBITED USES.

2.1 Ordering Specifics: An Order Form may contain additional terms and conditions and information regarding the Platform. Unless otherwise expressly set forth in any such additional terms and conditions applicable to the Platform which Subscriber chooses to use, those additional terms are hereby incorporated into these TOS. Subscriber's use of the Platform and any Content provided by Subscriber is governed by these TOS, posted at <https://journeyid.com/terms-of-service-agreement/> or such successor site as designated by Journey. In the event of any inconsistency or conflict between these TOS and an Order Form, the terms of the Order Form shall prevail.

2.2 Changes to these TOS. Journey may modify those TOS at any time in its sole discretion by posting updates to these TOS at such URL or successor site designated by Journey and it shall be Subscriber's responsibility to check for updates to these TOS. Modifications to these TOS may be required, for example, in order to address changes to laws applicable to the Platform, modifications to the Platform, and obligations imposed by suppliers and licensors. Subscriber's continued use of the Platform means that Subscriber accepts and agrees to any such modifications. In the event that Subscriber does not agree to any such modification, Subscriber's sole and exclusive remedy is to provide Journey with written notice of its intent to terminate within fifteen (15) Business Days after the posting of such modified TOS. In the event Subscriber so notifies Journey, the Parties shall in good faith seek to resolve any disagreement with respect to the updated TOS and if they are unable to do so within fifteen (15) Business Days of such notice, these TOS shall terminate, and Subscriber shall cease use of and access to the Platform, effective as of the last day of the billing period during which Subscriber notified Journey of its intent to terminate.

2.3 Access. Subject to the terms and conditions contained in these TOS, Journey hereby grants to Subscriber during the Term, a non-exclusive, non-transferable, and non-assignable right to: (i) permit Subscriber's Authorized Users to access and use the Platform, Website, and Documentation, for Subscriber's internal business purposes only and not for further sublicense or resale. Subscriber's rights to access and use the Platform are limited to those expressly granted in these TOS. No other rights with respect to the Platform or associated services and software or any related Journey intellectual property are implied.

2.3 System Requirements. Use of the Platform requires one or more compatible devices, Internet access (fees may apply), and certain third party software and services necessary for Subscriber and its Authorized Users to access the Platform (fees may apply), and may require obtaining updates or upgrades from time to time. Because use of the Platform involves hardware, software, and Internet access, Subscriber's ability to use the Platform may be affected by the performance of these factors. High speed Internet access is recommended. Subscriber acknowledges and agrees that such system requirements, which may change from time to time, are Subscriber's responsibility. Information regarding minimum system requirements to access and use the Platform can be found at <https://www.journeyid.com/>.

2.4 Third Party Products. In order to use certain features and functionality of the Platform,

Subscriber may be notified that Subscriber is required to download third party software or use a third party service (“Third Party Products”). In the event Subscriber elects to utilize certain features and functionality requiring Third Party Products, the applicable Order Form shall identify such Third Party Products. Subscriber acknowledges and agrees that Journey shall have no liability or obligation related to any Third Party Products.

2.5 Authorized Users. In connection with Subscriber’s subscription to the Platform, Subscriber may authorize any number of Authorized Users to access and use the Platform. Each Authorized User shall be subject to these TOS. Subscriber is responsible for the acts and omissions of its Authorized Users and their compliance with these TOS. Subscriber is solely responsible for the confidentiality and use of the Authorized Users’ login credentials, and Subscriber is responsible for the acts and omissions of its Authorized Users and any other persons who may access and use the Platform via any of Subscriber’s Authorized Users’ login credentials. Subscriber will promptly inform Journey of any need to deactivate an Authorized User or change any login credential information. Journey reserves the right to delete or change Authorized Users’ login credentials at any time and for any reason. Journey will not be liable for any loss or damage caused by any unauthorized use of an Authorized User’s account.

2.6 Prohibited Use. Subscriber shall not (and will not authorize, permit, or encourage any third party to): (i) reverse engineer, decompile, disassemble, or otherwise attempt to discern the source code or interface protocols of the Platform; (ii) modify, adapt, copy or translate the Platform; (iii) resell, distribute, or sublicense the Platform without Journey’s prior written permission in each instance, which Journey may withhold in its sole and absolute discretion; (iv) remove or modify any proprietary marking or restrictive legends placed on the Platform; (v) knowingly or negligently use the Platform in a way that abuses, interferes with, or disrupts Journey’s networks, services or accounts; (vi) use the Platform in violation of Journey policy or in a manner that violates any applicable law or regulation; (vii) use the Platform in order to build or benchmark a competitive platform, software, product or service, or copy any features, functions or graphics of the Platform; or (viii) for any purpose not specifically permitted in these TOS.

2.7 Changes to the Platform. Journey may, at its sole discretion, modify the features, or functionality of the Platform from time to time, or discontinue, in part or in its entirety, the Platform, without prior notice. Journey will endeavor to timely document material modifications to the Platform in its Documentation.

3. FEES AND PAYMENT.

3.1 Fees. Subscriber shall pay all applicable subscription fees made known to it during registration (collectively, the “Subscription Fees”). If indicated on an Order Form, Subscriber

shall pay one time set up fees made known to Subscriber during registration (the “One Time Setup Fees”). Subscriber shall also pay any additional fees that may be incurred due to late payments (collectively, the “Late Payment Fees”). Journey may update or modify the Subscription Fees, the One Time Setup Fees, and the Late Payment Fees (collectively, the “Fees”) from time to time, and shall provide notice to Subscriber (including via the Platform or Website) upon such update or modification. All fees and payments due hereunder are in U.S. dollars. Billing begins upon signup and all Subscription Fees are due at the beginning of each Subscription Term. All Fees and Taxes payable under these TOS are non-cancelable and nonrefundable. Journey may suspend access to the Platform upon ten (10) days’ notice to Subscriber if any payment due is over thirty (30) days past due, and such failure to pay will be considered a material breach of this Agreement. If at any time Journey suspends or disables access to the Platform (as applicable) for non-payment, Journey may charge a reactivation fee to reinstate the Subscriber.

3.2 Taxes. The Fees do not include federal, state, provincial, or local sales, PST, GST, HST, VAT, foreign withholding, use, property, excise, service, or similar transaction taxes (“Taxes”) now or hereafter levied, all of which shall be for Subscriber’s account. The Fees payable under these TOS shall not be reduced as a result of any such Taxes. Upon making a determination that any such Taxes apply, Journey will invoice Subscriber for such Taxes (excluding all Taxes based on Journey’s net income) and remit any payments made on any such invoice directly to the appropriate taxing authorities; provided that any failure by Journey to include such Taxes on an invoice shall not relieve Subscriber of responsibility for any such applicable Taxes. Subscriber shall promptly reimburse Journey for any and all such Taxes that Journey is required to pay in connection with these TOS or Journey’s performance hereunder.

4. TERM, TERMINATION, AND SUSPENSION.

4.1 Term. These TOS shall be effective as of the earlier of the date accepted by Subscriber, Subscriber’s first use of or access to the Platform, or commencement of the Initial Term of Subscriber’s subscription to the Platform (the “Effective Date”) and shall continue in full force and effect for the Initial Term and any Renewal Terms, unless terminated earlier in accordance with the terms of these TOS.

4.2 Termination of an Order Form. Unless otherwise specified in the applicable Order Form, after the Initial Term, a subscription for access to and use of the Platform shall automatically renew for successive Renewal Terms. In the event that Subscriber wishes to terminate an Order Form at the end of the Initial Term, or any Renewal Term, Subscriber shall provide Journey with a written termination notice not less than forty-five (45) days prior to the expiration or termination of the then current Term.

4.3 Termination for Cause. If either Party commits a material breach of its obligations under these TOS, or under an applicable Order Form, the other Party may terminate these TOS or the affected Order Form, by providing the other Party with thirty (30) days' prior notice detailing such breach and an opportunity to cure the breach within such thirty (30) day period. If Journey terminates under this provision, then in addition to any other rights Journey may have, Subscriber will be responsible for all subscription fees for the Platform for the remainder of the applicable Term, as well as any early termination or cancellation fees (if applicable).

4.4 Termination for Convenience. Journey and Subscriber may terminate these TOS, for convenience upon thirty (30) Business Days prior written notice upon expiration or termination of all Subscriber orders. Individual orders may be terminated for convenience by Subscriber in accordance with these TOS, and subject to termination true up, or cancellation fees. For any subscription based orders, any cancellation that occurs before the expiration or termination of the Initial Term or any Renewal Term is subject to payment of all subscription fees payable through the Term of the subscription.

4.6 Effect of Termination. Upon termination of these TOS: (i) all rights granted hereunder to Subscriber and Subscriber's Authorized Users will immediately cease, and Subscriber and Subscriber's Authorized Users will immediately cease all access to and use of the non-public portions of the Website, the Platform and Documentation; (ii) Subscriber will promptly pay all unpaid Fees and Taxes due through the end of the Term; and (iii) upon written request, each Party shall either return to the other Party (or, at such other Party's instruction, destroy and provide such other Party with written certification of the destruction of) all documents, computer files, and other materials containing any of such other Party's Confidential Information that are in its possession or control.

4.7 Continuing Obligations. The Parties agree that those obligations which by their nature are intended to survive expiration or termination of these TOS shall survive.

5. DATA PROTECTION.

5.1 Content. Journey assumes no responsibility or liability for Content. Subscriber shall have the sole responsibility and liability for the accuracy, quality, and legality of its Content. Journey will only use Content to make the Platform and its features and functionality available to Subscriber in accordance with these TOS.

5.2 License to Content. Subject to these TOS, Subscriber hereby grants to Journey during the Term a non-exclusive, worldwide, fully paid-up, royalty-free right and license, with the right to grant sublicenses through multiple tiers to vendors providing services to Journey (such as hosting providers), to reproduce, execute, use, store, archive, modify, enhance, aggregate,

combine with other data, perform, display, and distribute the Content to Subscriber and its Authorized Users in order to provide the Platform.

5.3 Data Security. Access and use of the Platform is subject to Journey's Privacy Policy. The Privacy Policy is available at <https://www.journeyid.com/>. Journey will not retain, use, or disclose personal information for any purpose other than to provide the Platform, as set out in these TOS and the Privacy Policy.

5.4 Aggregated Data. Journey may monitor the performance and use of the Website and the Platform by all of its subscribers and customers, and combine this data with other data (including Content), and use such combined data to create and derive aggregated and/or anonymized data that does not identify Subscriber or its Authorized Users ("Aggregated Data"). Subscriber hereby agrees that Journey may collect, use, and publish such Aggregated Data for the purpose of creating aggregated and anonymized statistics regarding Journey's customer base, for benchmarking purposes, improving the Platform, and for sharing it with Journey's prospective customers and business partners.

5.5 Data Privacy. Journey does not have access to and does not store any consumer data, and therefore will not and cannot share or sell consumer data.

6. INTELLECTUAL PROPERTY.

All right, title, and interest in and to the Marks, the Website, the Documentation, the Platform, and the Aggregated Data, including all modifications, improvements, adaptations, enhancements, or translations made thereto, and all proprietary rights therein, shall be and remain Journey's and/or Journey's suppliers' exclusive property. Subscriber may not frame or utilize framing techniques to enclose any of Journey's Marks, or any of Journey's other proprietary information (including images, text, page layout, or form) without Journey's express written consent. All right, title, and interest in and to the Marks, the Website, the Platform, and the Aggregated Data, including all modifications, improvements, adaptations, enhancements, or translations made thereto, and all proprietary rights therein, shall be and remain Journey's sole and exclusive property.

7. CONFIDENTIALITY.

7.1 Definition of Confidential Information. "Confidential Information" means: (i) with respect to Journey, the Platform, and the Website, the Documentation, and any and all source code relating thereto and any other non-public information or material regarding Journey's legal or business affairs, financing, customers, properties, pricing, or data; and (ii) with respect to Subscriber, Content and any other non-public information or material regarding Subscriber's legal or business affairs, financing, customers, properties, or data. Notwithstanding any of the

foregoing, Confidential Information does not include information which: (a) is or becomes public knowledge without any action by, or involvement of, the Party to which the Confidential Information is disclosed (the "Receiving Party"); (b) is documented as being known to the Receiving Party prior to its disclosure by the other Party (the "Disclosing Party"); (c) is independently developed by the Receiving Party without reference or access to the Confidential Information of the Disclosing Party and is so documented; or (d) is obtained by the Receiving Party without restrictions on use or disclosure from a third party.

7.2 Confidentiality Obligations. At all times, the Receiving Party will protect and preserve the Confidential Information of the Disclosing Party, using no less care than that with which it protects and preserves its own confidential and proprietary information (but in no event less than a reasonable degree of care), and will not use the Confidential Information for any purpose except to perform its obligations and exercise its rights under this Agreement. The Receiving Party may disclose, distribute, or disseminate the Disclosing Party's Confidential Information to any of its officers, directors, members, managers, partners, employees, contractors, or agents (its "Representatives"), provided that the Receiving Party reasonably believes that its Representatives have a need to know and such Representatives are bound by confidentiality obligations at least as restrictive as those contained herein. The Receiving Party will not disclose, distribute, or disseminate the Confidential Information to any third party, other than its Representatives, without the prior written consent of the Disclosing Party. The Receiving Party will at all times remain responsible for any violations of these TOS by any of its Representatives. If the Receiving Party is legally compelled to disclose any of the Disclosing Party's Confidential Information, the Receiving Party will provide the Disclosing Party prompt prior written notice of such requirement (to the extent legally permitted) and reasonable assistance should the Disclosing Party seek a protective order or other appropriate remedy to limit disclosure of the Confidential Information. Such compelled disclosure shall not be a violation of these terms governing protection of Confidential Information, and any information so disclosed will continue to be protected as Confidential Information for all other purposes.

7.3 Return or Destruction. Upon termination of these TOS, or upon a Party's written request, the Parties shall cease all use of the other Party's Confidential Information and shall at the other Party's written request, either promptly return, or destroy, all Confidential Information, including any copies, in tangible form or in an erasable storage medium in that Party's possession or under its control; provided that Journey may retain copies of its work product hereunder containing Company's Confidential Information for archival purposes subject to the terms of this Section 7. Upon written request, a Party shall certify in writing its compliance with this Section 7.

7.4 Ownership and License. Each Party shall retain all right, title and interest to such Party's

Confidential Information. No license under any trademark, patent or copyright, or application for same which is in existence as of the Effective Date or thereafter, is either granted or implied by the disclosure of Confidential Information.

8. WARRANTIES; DISCLAIMERS AND INDEMNITY.

8.1 Journey's Warranties. Journey warrants that: (i) it is duly organized, validly existing, and in good standing under its jurisdiction of organization and has the right to enter into these TOS; (ii) it has the full power, authority, and right to perform its obligations and grant the rights it grants hereunder; (iii) Journey will comply with all laws, regulations and other legal requirements that apply to its performance under these TOS; (iv) the Platform shall perform materially in accordance with the Documentation; and (v) Journey shall not cause the functionality of the Platform to be materially diminished during the Term.

Subscriber's sole and exclusive remedy under the warranty set forth in this Section 8.1, and Journey's sole and exclusive liability and responsibility related to the warranty claims hereunder, is that Journey will use reasonable efforts, as determined by Journey in its business judgement, to correct, within a reasonable period of time, any failure of a feature or functionality of the Platform as reported by Subscriber to Journey in writing, at no additional cost to Subscriber.

8.2 Exclusions and Disclaimer. The Platform shall be made available by Journey subject to any unavailability caused by: (a) circumstances beyond Journey's reasonable control, including any force majeure events as contemplated in Section 10.4; (b) or any computer, communications, Internet service or hosting facility failures or delays involving hardware, software, power, other systems or services not within Journey's possession or reasonable control; (c) denial of service attacks; or (d) Third Party Products. The Platform may be temporarily limited, interrupted or curtailed due to maintenance, repair, modifications, upgrades or relocation. Journey shall attempt to notify Subscriber of scheduled and unscheduled network outages that are expected to last more than four (4) hours, such notices to be published at www.journeyid.com .

The warranties provided by Journey under these TOS do not extend to any damages, malfunctions, or non-conformities caused by: (i) use of the Platform or Website in violation of these TOS or in a manner inconsistent with the Documentation; (ii) failure to follow Journey's implementation, operation or maintenance instructions; (iii) failure to provide Journey or its subcontractors timely access to: logs and reports, operational Journey nodes (as identified by Journey), and Subscriber's engineering team members responsible for the integration of Journey's technology and the Platform; (iv) any performance issue(s) caused by a Third Party Product, software or service, or caused by a modification provided by a third-party, including but not limited to third party authentication vendors or suppliers. All Third-Party Products,

software and/or services are provided “AS IS” and without warranty from Journey.

SUBSCRIBER ACKNOWLEDGES THAT ALTHOUGH THE WEBSITE AND THE PLATFORM MAY BE USED AS AIDS TO SUBSCRIBER TO MAKE INFORMED BUSINESS DECISIONS, USE OF THE PLATFORM, OR ANY DETERMINATIONS THEREFROM, ARE NOT MEANT TO BE SUBSTITUTES FOR LEGAL OR BUSINESS ADVICE OR SUBSCRIBER’S EXERCISE OF ITS OWN BUSINESS JUDGMENT. ANY SUCH DECISIONS OR JUDGMENTS ARE MADE AT SUBSCRIBER’S SOLE DISCRETION AND ELECTION. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 8.1, THE WEBSITE, THE PLATFORM, THE DOCUMENTATION, AND ANY OTHER MATERIALS PROVIDED HEREUNDER ARE PROVIDED “AS IS” AND “AS AVAILABLE,” AND JOURNEY DOES NOT MAKE ANY WARRANTIES WITH RESPECT TO THE SAME OR OTHERWISE IN CONNECTION WITH THESE TOS, AND JOURNEY HEREBY DISCLAIMS ANY AND ALL EXPRESS, IMPLIED, OR STATUTORY WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COMPLETENESS, ACCURACY, ACCESS, AVAILABILITY, ERROR-FREE OR UNINTERRUPTED USE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. TO THE EXTENT THAT JOURNEY MAY NOT AS A MATTER OF APPLICABLE LAW DISCLAIM ANY IMPLIED WARRANTY, THE SCOPE AND DURATION OF SUCH WARRANTY WILL BE THE MINIMUM PERMITTED UNDER SUCH LAW.

8.3 Subscriber’s Warranties. Subscriber warrants that: (i) it is duly organized, validly existing, and in good standing under its jurisdiction of organization and has the right to enter into these TOS; (ii) it has the full power, authority, and right to perform its obligations and grant the rights it grants hereunder; (iii) Subscriber will comply with all laws, regulations and other legal requirements that apply to its performance under these TOS; and (iv) it either owns all right, title and interest in and to the Content or has obtained all rights and licenses necessary to use the Content in association with the Platform.

Subscriber agrees to indemnify, defend and hold harmless Journey, Journey’s Affiliates, officers, directors, employees, consultants, agents, suppliers, and licensors from any and all third party claims, liability, damages and/or costs (including, but not limited to, attorneys’ fees) arising from: (a) Subscriber’s use of the Platform, Website or Documentation; (b) Subscriber’s violation of these Terms of Service; (c) any claim that Subscriber’s (or any of its Authorized Users’) Content violates or infringes upon any third party intellectual property right or copyright. Without limiting the foregoing, the Platform is not designed or licensed for use in hazardous environments requiring fail-safe controls, including without limitation operation of nuclear facilities, aircraft navigation/communication systems, air traffic control, and life support or weapons systems.

Any and all of Journey’s rights and remedies upon Subscriber’s breach or other default under

these TOS will be deemed cumulative and not exclusive of any other right or remedy conferred by these TOS or by law or equity on Journey, and the exercise of any one remedy will not preclude the exercise of any other.

9. LIMITATION OF LIABILITY.

EXCEPT FOR CLAIMS OF PERSONAL INJURY, WILLFUL MISCONDUCT, VIOLATION OF JOURNEY'S INTELLECTUAL PROPERTY RIGHTS, AND/OR TO THE EXTENT OF THE DEFENSE AND INDEMNIFICATION OBLIGATIONS UNDER THESE TERMS OF SERVICE, IN NO EVENT WILL JOURNEY AND ITS AFFILIATES AND LICENSORS AND SUPPLIERS, OR SUBSCRIBER BE LIABLE FOR ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL, EXEMPLARY, STATUTORY, OR PUNITIVE DAMAGES OF ANY KIND (INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUES, PROFITS, REPUTATION, GOOD WILL, OR ANTICIPATED SALES OR SAVINGS), COST OF COVER, SUBSTITUTE GOODS, OR PERFORMANCE, LOSS OR CORRUPTION OF DATA OR INTERRUPTED OR LOSS OF BUSINESS, ARISING FROM OR RELATING TO THESE TOS, REGARDLESS OF WHETHER SUCH PARTY WAS ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY THEREOF AND REGARDLESS OF THE FORM OF ACTION OR THEORY OF LIABILITY. THE AGGREGATE LIABILITY OF JOURNEY, ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS, AND LICENSORS COLLECTIVELY FOR CLAIMS ARISING OUT OF THESE TERMS OF SERVICE, SUBSCRIBER'S ORDER, OR THE PLATFORM, REGARDLESS OF THE CAUSE OF ACTION (WHETHER IN CONTRACT, TORT, BREACH OF WARRANTY, OR OTHERWISE), WILL NOT EXCEED THE FEES PAID TO JOURNEY UNDER THESE TOS DURING THE PERIOD TWELVE (12) MONTHS PRIOR TO THE LAST EVENT GIVING RISE TO THE CLAIM.

10. GENERAL

10.1 Independent Contractor. The Parties are independent contractors. These TOS do not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the Parties.

10.2 Language. These TOS are in the English language. Versions in any other language will be for accommodation only, and only the English language version will be binding upon the Parties hereto.

10.3 Export Restrictions. Subscriber acknowledge that the Platform, or portions thereof, may be subject to the export control laws of the United States. Subscriber will not export, re-export, divert, transfer or disclose any portion of the Platform or any related technical information or materials, directly or indirectly, in violation of any applicable export law or regulation.

10.4 Force Majeure. Except for payment obligations, neither Party will be responsible for failure of performance due to causes beyond its reasonable control. Such causes include

(without limitation) accidents, severe weather events, acts of God, labor disputes, actions of any government agency, epidemic, pandemic, shortage of materials, acts of terrorism, unavailability of third party hosting services, or the stability or availability of the Internet or connectivity outside of the control of a Party.

10.5 Injunctive Relief. Nothing in these TOS will be construed to preclude either Party from seeking provisional and equitable remedies, including but not limited to temporary restraining orders and preliminary injunctions from any court of competent jurisdiction in order to protect its rights.

10.6 Affiliates. Subject to Journey's prior written approval, any Company Affiliate may make a purchase hereunder, provided that the Affiliate agrees to be bound by the terms and conditions of these TOS and any Affiliate incorporates these TOS by reference into their order. Subscriber shall remain jointly liable for the performance of its Affiliates' hereunder.

10.7 Notices. All notices under these TOS must be given in writing and delivered either by hand, e-mail (receipt confirmed in the case of notices from Subscriber to Journey), certified mail (return receipt requested, postage pre-paid), or nationally recognized overnight delivery service (all delivery charges pre-paid). Notices to Journey shall be provided to the address noted above, and notices to Subscriber shall be to the address provided to Journey's registration page on its Website. All such notices shall be effective on the date actually received, or in the case of mailed notices, three (3) business days (or seven (7) business days in the case of an international mailing) after such mailing. The above addresses/contact information may be changed at any time by giving prior written notice.

10.8 Assignment. Journey may assign these TOS (or any of its rights and obligations under these TOS): a) to any of its Affiliates; or (b) in connection with any merger, consolidation, reorganization, sale of all or substantially all of its assets or any similar transaction. Any other assignment of these TOS (or orders) or any rights or obligations under these TOS without the express written consent of the other Party (not to be unreasonably withheld) will be invalid. Journey may subcontract obligations under these TOS but will retain responsibility for the work.

10.9 Waiver and Severability. Failure by either Party to exercise any of its rights under, or to enforce any provision of, these Terms of Service will not be deemed a waiver or forfeiture of such rights or ability to enforce such provision in the future. In the event that a provision of these TOS is held invalid by a court of competent jurisdiction, the remaining provisions shall nonetheless be enforced in accordance with their terms. Further, in the event that any provision is held to be overbroad as written, such provision shall be deemed amended to narrow its application to the extent necessary to make the provision enforceable according to applicable law and shall be enforced as amended.

10.10 U.S. Government End User Purchasers. Software provided by Journey to use the Platform, if any, and associated documentation are “commercial items,” as defined at Federal Acquisition Regulation (“FAR”) (48 C.F.R.) 2.101, consisting of “commercial computer software” and “commercial computer software documentation” as such terms are used in FAR 12.212. Consistent with FAR 12.211 (Technical Data) and FAR 12.212 (Computer Software) and Defense Federal Acquisition Regulation Supplement (“DFAR”) 227.7202-1 through 227.7202-4, and notwithstanding any other FAR or other contractual clause to the contrary in any agreement into which this Agreement may be incorporated, Government end users will acquire, such software and associated documentation with only those rights set forth in this Agreement. Any license provisions that are inconsistent with federal procurement regulations are not enforceable against the U.S. Government.

10.11 Governing Law. These TOS shall be governed by and construed in accordance with the laws of the state of Delaware without regard to its conflict of law principles and expressly excludes the United Nations Convention on the International Sale of Goods. All proceedings related to these TOS shall be conducted in English. Unless otherwise agreed to by the Parties in writing, the Parties hereto agree that the state courts of Delaware and federal courts of Delaware shall be the proper, and exclusive, forums for any legal controversy arising in connection with these TOS, and the Parties hereby irrevocably and unconditionally consent to the exclusive jurisdiction of such courts for such purposes.

10.12 Entire Agreement. This TOS constitutes the entire agreement between the Parties and supersedes any and all prior and contemporaneous oral or written understandings between the Parties relating to the subject matter hereof. Subscriber agrees that its purchase, access to or use of the Platform is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written public comments made by Journey with respect to future functionality or features.