



Client Name: College of the Marshall Islands  
 Address: PO Box 1258  
 City, State, Zip: Majuro, MH 96960-1258, Marshall Islands

**THIS MASTER AGREEMENT** (the “*Agreement*” or the “*Master Agreement*”) is made between Jenzabar, Inc., a Delaware corporation, with its principal place of business at 101 Huntington Avenue, Suite 2205, Boston, Massachusetts 02199 (“*Jenzabar*”) and the party specified above (“*Client*”). This Agreement shall govern all transactions for the purchase by Client of JaaS Services, Professional Services, and/or hardware, as the case. Terms and conditions that apply only to a certain type of transaction are contained in the applicable Order for Software and Services that is signed by Client and Jenzabar and is made part of this Agreement (each, an “*Order*” or collectively “*Orders*”). In the event of a conflict between the terms of this Agreement and any term contained in any Addendum, Order, and/or Statement of Work, the terms of the applicable Addendum, Order, and/or Statement of Work (but only as set forth in Section 4.1. (Statement of Work)) will control. Capitalized terms which are used in any Addendum, Order, or Statement of Work but which are not defined therein, shall have the meanings set forth in this Agreement.

## GENERAL TERMS AND CONDITIONS

### 1. DEFINITIONS.

“*Addendum*” (plural, “*Addenda*”) means any attachment to this Agreement that modifies this Agreement.

“*Agreement*” means this Master Agreement together with all Orders, Statements of Work, and Addenda which are attached to and made a part of this Agreement, whether such Orders, Statements of Work, or Addenda are attached hereto on the Effective Date, or are mutually executed by the parties (and deemed attached to this Agreement) after the Effective Date.

“*Client Authorized Users*” means Client’s employees, officers, directors and representatives, and students and their family members who are authorized by Client to use the JaaS Services and who, prior to obtaining access to Jenzabar’s Services, have agreed to the Terms of Use.

“*Client Hosted Data*” means all electronic data or information submitted by the Client to the JaaS Services.

“*Client Third Parties*” means Client’s third-party consultants or independent contractors, in each case, who are engaged by Client, who have a need to know Jenzabar’s Confidential Information and/or access and/or use the JaaS Services, and who, prior to obtaining access to Jenzabar’s Confidential Information and/or JaaS Services, have executed a Jenzabar-approved nondisclosure agreement and agreed to the Terms of Use.

“*Confidential Information*” means the non-public information of a party to this Agreement that is identified as confidential or should reasonably be considered confidential under the circumstances. Confidential Information of Jenzabar includes, without limitation, whether or not identified as confidential: (i) the JaaS Services and documentation, any third-party software, benchmark results, manuals, program listings, data structures, flow charts, logic diagrams, functional specifications, beta products or services, future product and service development plans, and price lists; (ii) the concepts, techniques, ideas, and know-how embodied and expressed in the JaaS Services; and (iii) all other information which could reasonably be considered the confidential and/or proprietary information of Jenzabar or its licensors or partners, including, without limitation, research, finances, methods, procedures, and product and service information. Confidential Information excludes information

which (a) is already known to the receiving party at the time of receipt free of any obligation of non-disclosure; (b) is or subsequently becomes publicly known through no wrongful act or omission of the receiving party; (c) is disclosed to or provided to the receiving party by a third-party who has the legal right to make such disclosure; or (d) has been independently developed by the receiving party without reliance on any Confidential Information or otherwise in violation of the receiving party’s obligations under this Agreement.

“*Effective Date*” means the date Jenzabar countersigns this Master Agreement after the signature of Client.

“*Force Majeure Event*” means any circumstance or cause beyond the party’s reasonable control including, but not limited to, acts of nature, acts of God, strikes, civil disturbances, terrorist acts, unavailability of goods or services needed from third parties, interruption or delay in telecommunications, transportation, failure of the Internet, delivery or electrical services, failure of third-party hardware or software, or acts or omissions of third parties not resulting from the actions or inactions of Jenzabar.

“*Intellectual Property Rights*” means all patent rights, copyright rights, trade secrets rights, trademark rights, other proprietary rights, all applications or registrations for any of the foregoing and all related Confidential Information.

“*JaaS Services*” means any software as a service offering provided by Jenzabar pursuant to an Order attached to this Agreement, including hosted and cloud-based services, platform or infrastructure-as-a-service, public, private, and hybrid cloud services, associated management services such as monitoring, disaster recovery, redundancy and security, mobile applications, or any other software as a service offering identified as a JaaS Service in an Order. For clarity, JaaS Services do not include Professional Services.

“*Order*” means a purchase order for licensing JaaS Services and/or purchasing Professional Services from Jenzabar, substantially in the form attached to this Agreement, which is signed by an authorized representative of both Jenzabar and Client.

“*Privacy Policy*” shall mean Jenzabar’s external privacy policy located at [www.myjenzabar.net](http://www.myjenzabar.net), which is updated from time to time.

"Professional Services" means any implementation, training, consulting, or other professional services described in an Order or Statement of Work attached to an Order.

"Scheduled Outages" shall mean periods of time during the term that Jenzabar temporarily interrupts the JaaS Service for updates, upgrades, maintenance, or for any other necessary reason or purpose including an established framework for scheduling and managing such outages.

"Services" means collectively, JaaS Services and Professional Services.

"Terms of Use" means the terms and conditions that are presented to each individual Client Authorized User upon creation of an account or access to the JaaS Services.

"Third-Party Software" means software, documentation, and other materials the rights in which are not owned by Jenzabar that may be provided with the JaaS Services or under this Agreement, as set forth in an applicable Order.

"Unscheduled Outages" shall mean interruption in the JaaS Services arising from failures associated with the services provided by Jenzabar or a Force Majeure Event.

**2. LICENSE GRANT.**

**2.1 Right to Use.** Jenzabar grants to Client a limited, non-exclusive, non-transferable, worldwide right during the term specified on the applicable Order to grant access to, and use of, the JaaS Services by Client Authorized Users and Client Third Parties.

**2.2 Restrictions.** Client shall not (i) modify, copy or create derivative works based on the JaaS Services; (ii) reverse engineer the JaaS Services; or (iii) access the JaaS Services in order to (A) build or benchmark a competitive product or service, or (B) copy any ideas, features, functions, or graphics of the JaaS Services. Client shall use the JaaS Services solely for its own non-commercial internal higher education administrative activities and shall not: (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the JaaS Services available to any third-party, other than to Client Authorized Users and Client Third Parties or as otherwise contemplated by this Agreement; (ii) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (iii) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material that is harmful to children or violates third-party privacy rights; (iv) send or store malicious code; (v) interfere with or disrupt the integrity or performance of the JaaS Services or the data contained in it; or (vi) attempt to gain unauthorized access to the JaaS Services or its related systems or networks. Client is responsible for compliance of its Client Authorized Users and Client Third Parties with this Agreement and the Terms of Use.

**2.3 Feedback.** Jenzabar shall have a royalty-free, worldwide, transferable, sublicensable, irrevocable, perpetual license to use or incorporate into the JaaS Services any suggestions, enhancement requests, recommendations, or other feedback provided by Client relating to the operation of the JaaS Services. Client agrees that its licensing of the JaaS Services is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written public comments made by Jenzabar with respect to future functionality or features.

**2.4 Client Responsibilities.** Client is responsible (i) for ensuring that any data including any Client Hosted Data or software provided to Jenzabar in connection with this Agreement is virus free and is not corrupted in any way; and (ii) for complying with any of Jenzabar's reasonable policies and procedures, including without limitation, any acceptable use policy relating to the JaaS Services or Professional Services, as Jenzabar may, from time to time, reasonably adopt. If Jenzabar notifies Client of any issues with its network, database, or data that is affecting the JaaS Services, Client will either fix the errors itself, or engage Jenzabar pursuant to a Statement of Work to address any such issues. Client's failure at any time to materially comply with any of its responsibilities in this Agreement will constitute a material breach.

**2.5 Reservations.** Subject to the limited rights expressly granted, Jenzabar reserves all right, title, and interest in and to the JaaS Services, including all related Intellectual Property Rights. No rights are granted to Client other than as expressly set forth in this Agreement.

**2.6 Third-Party Software.** Client shall comply with any additional terms and conditions regarding the Third-Party Software provided by Jenzabar or the owners or licensors of such Third-Party Software pursuant to an Order. To the extent that terms and conditions governing Third-Party Software conflict with the terms of this Agreement, the terms and conditions governing the Third-Party Software shall take precedence with respect only to the applicable Third-Party Software. Client acknowledges and agrees that Client's right to use certain Third-Party Software may be subject to Client agreeing to additional terms and conditions regarding the Third-Party Software. **JENZABAR DISCLAIMS ANY WARRANTY FOR THIRD-PARTY SOFTWARE; AND EACH SUCH THIRD-PARTY SOFTWARE SHALL BE GOVERNED BY THE WARRANTIES OFFERED BY THE APPLICABLE THIRD-PARTY UNDER THE TERMS OF THE AGREEMENT BETWEEN CLIENT AND SUCH THIRD PARTY.**

**3. SERVICE LEVELS AND SUPPORT.**

**3.1 Availability.** Jenzabar shall use commercially reasonable efforts to: (i) make any JaaS Services available according to the Access Level described in this Section 3.2 (Access Level); and (ii) provide support as described in Section 3.5 (Support).

**3.2 Access Level.** Jenzabar shall use commercially reasonable efforts to provide availability to the JaaS Services at the level of uptime set forth in the Order, assuming a 7 (day) x 24 (hour) x 52 (week) basis (such level referred to as the "Access Level"). Availability will be calculated monthly using total actual minutes available for the applicable month divided by total possible minutes available for the applicable month. Availability calculations will exclude Scheduled Outages and Unscheduled Outages due solely to Force Majeure Events. Jenzabar will have no liability for any failure to provide access to the JaaS Services (a) during any Scheduled Outage, (b) resulting from a Force Majeure Event, or (c) caused, directly or indirectly, by the acts or omissions of Client or its employees, agents, contractors, or representatives or by Client's or its employees', agents', contractors', or representatives' equipment. For any Scheduled Outages, Jenzabar shall give Client reasonable advance written notice (in no event less than forty-eight (48) hours) with the specific timeframe for the Scheduled Outage, which typically will not be more than a four (4) hour timeframe.

**3.3 Service Credit.** In the event that, as a direct result of Jenzabar's actions or inactions, the availability to the JaaS Services fails to meet the Access Level stated in the Order, then as the sole and exclusive remedy hereunder, Client shall receive a service credit equal to ten percent (10%) of the applicable monthly

fee or 1/12<sup>th</sup> of the applicable annual fee for the affected JaaS Services. Such service credit shall be deemed to be liquidated damages, and in no event will the total credit exceed ten percent (10%) of 1/12<sup>th</sup> of the applicable annual fee for the affected JaaS Services. In order to receive such credit, Client must notify Jenzabar in writing within fifteen (15) days from the time Client experiences such failure. Client's failure to comply with this notice requirement will forfeit Client's right to receive such credit. If Jenzabar fails to meet such Access Level, the Client's sole and exclusive remedy is the Service Credit set forth in this Section 3.3 (Service Credit). Notwithstanding that such service credit is to be the sole and exclusive remedy for the failure to meet the Access Level as described herein, nothing herein shall prohibit Client's termination of the Agreement in accordance with Section 6.2 (Termination).

**3.4 Outages and Event Notification.** Jenzabar shall provide initial notice to a designated Client representative by telephone, e-mail, or comparable notification service promptly after Jenzabar becomes aware of an event that has caused or may cause an Unscheduled Outage. In the event Client first becomes aware of such event, Client shall promptly provide initial notice to Jenzabar via email at [support1@jenzabar.net](mailto:support1@jenzabar.net) or via telephone at 1 (800) 654-4357. Status reports about the event will continue until either the event has been resolved or both Jenzabar and Client have determined a course of action that does not require continued notification.

**3.5 Support.** For support related to the JaaS Services, Client may obtain support by telephoning or emailing Jenzabar's Help Desk or by logging an incident on Jenzabar's support portal. Except for support related to monitoring, hardware connectivity and priority one calls, normal support hours are 9:00 am to 6:00 pm, Eastern Standard Time, Monday through Friday, excluding holidays observed by Jenzabar which are published on [www.myjenzabar.net](http://www.myjenzabar.net). Changes to the hours of Jenzabar's Help Desk may be communicated via Jenzabar's client website: [www.myjenzabar.net](http://www.myjenzabar.net). For all monitoring, hardware connectivity issues, and support calls designated by Jenzabar as priority one, Jenzabar will provide support on a 7 (day) x 24 (hour) x 52 (week) basis. All requests for support are handled in the order in which they are received, provided, however, that Jenzabar will prioritize emergencies, in Jenzabar's discretion, subject to scheduling and availability constraints. Support may only be requested by those representative(s) of Client designated in writing and who have received sufficient training from Jenzabar. Client may change its designated representative(s) upon at least five (5) days' advance written notice to Jenzabar. Except as set forth in this Agreement, the support services for the JaaS System do not include: (i) visits to Client's site or (ii) any services for any third-party equipment or software. Client understands and agrees that Jenzabar may request access to Client's systems and network in order to provide the requested support, and Client hereby consents to such access. Jenzabar agrees that all information and data accessed as part of the requested support shall be Client Confidential Information and will be deleted once the requested support is completed. For support related to the JaaS Services, Jenzabar's standard exclusions shall apply.

**3.6 After-Hours Support.** Except as provided above, Jenzabar will not be obligated to provide support outside of Jenzabar's regular Help Desk hours, including responding to emergency requests for support and continuing work on open cases after regular support hours have ended. However, at Client's request, Jenzabar will use reasonable efforts to accommodate Client's after-hours support needs, subject in each case to scheduling and availability constraints. All after-hours support services will be charged at double Jenzabar's then-effective rates, with a two-hour

minimum. Jenzabar will not provide after-hours support unless authorized by Client.

**3.7 Government Reporting.** Support includes modifications to JaaS Services for compliance with federally-mandated reporting requirements. State-mandated modifications are not included, and Client may engage Jenzabar to make such modifications under a separate Order for Professional Services.

**3.8 Limitations.** Jenzabar reserves the right to cease providing support or limit availability of such support if, in Jenzabar's reasonable judgment, Client is abusing the customer support system. By way of example and not by way of limitation, such abuse may include excessive requests for assistance unrelated to errors in the JaaS Services or lack of cooperation with the reasonable requests of Jenzabar personnel for error documentation. Client understands and agrees that Jenzabar's obligation to provide support may be impacted if Client provides access to a third-party even if such third-party is a Client Authorized User or Client Third-Party.

## 4. PROFESSIONAL SERVICES.

**4.1 Statement of Work.** Each Statement of Work will include, at a minimum, a description of the Professional Services to be performed, an estimate of time and materials charges, the term during which the Professional Services are to be completed, and any additional terms to which the parties agree. A Statement of Work may include Professional Services which expire if not used by Client within a specified period of time (e.g., on-site and classroom training days). If a provision contained in a Statement of Work is different from a provision in this Agreement, then the provision in the Statement of Work shall govern, but only as it relates to the details of the Professional Services listed in that Statement of Work.

**4.2 Designated Personnel.** Jenzabar and Client will each designate personnel having the primary responsibility for implementing and administering the Professional Services and acting as a liaison with the other party. Client understands and agrees that, if Client desires to retain a third-party consultant that is a Client Third-Party to act as a project manager or perform other services related to Jenzabar's Professional Services, Jenzabar reserves the right to: (i) approve of such third-party consultant; (ii) approve of what tasks such consultant proposes to perform; and (iii) assess any additional fees or time that may result from such third-party consultant.

**4.3 Jenzabar Responsibilities.** Jenzabar will provide the Professional Services in a commercially reasonable and workmanlike manner in accordance with generally accepted industry standards. Jenzabar will use reasonable efforts to accommodate Client's scheduling requests. Jenzabar will maintain comprehensive general liability insurance with coverage and limits reasonable for its business and workers' compensation insurance covering Jenzabar employees involved in rendering the Professional Services. Jenzabar agrees that all information and data accessed as part of the Professional Services shall be Client Confidential Information and will be deleted once the Professional Services are completed.

**4.4 Intellectual Property Rights.** Client shall not have or retain any right, title, or interest in and to (i) any techniques, concepts, methods, algorithms, processes, procedures, and other Intellectual Property Rights including any manuals, guides, presentations, recordings, or summaries of such techniques, concepts, methods, algorithms, processes, procedures, and other Intellectual Property Rights; or (ii) any modifications, customizations, improvements, enhancements, and derivative works of JaaS Services; and all of which shall be deemed to be owned solely and exclusively by Jenzabar. All such techniques, concepts, methods,

algorithms, processes, procedures, and other Intellectual Property Rights, and all modifications, customizations, improvements, enhancements, and derivative works of JaaS Services are deemed to become part of the JaaS Services, and Client's use thereof will be subject to the same terms and conditions in this Agreement as are applicable to the JaaS Services. There are no implied rights; all rights to the foregoing are expressly reserved by Jenzabar.

**4.5 Client Responsibilities.** Client will provide equipment, connections, and resources for installation and operation of software or applicable service, reasonable access to Client's location, a suitable working environment for Jenzabar's staff, and all other information, data, materials, support, and assistance requested by Jenzabar, which are reasonably necessary for Jenzabar to render the Professional Services. Client acknowledges and agrees that Jenzabar's performance is dependent in part on Client's actions and fulfillment of Client's responsibilities. Accordingly, Jenzabar will not be required to provide any Professional Services if Client has not performed its required actions and/or fulfilled its responsibilities as determined by Jenzabar in its sole discretion. Any dates or time periods relevant to performance of Professional Services by Jenzabar will be extended to account for any delays due to Client. Client will be charged Jenzabar's then-current rates for additional time and materials outside the scope of the Statement of Work resulting from Client's delay.

**5. ORDERING, INVOICING, PAYMENT, AND TAXES.**

**5.1 Ordering.** Jenzabar will provide Client with JaaS Services, Professional Services, and Third-Party Software and Services specified in one or more Orders executed pursuant to this Agreement, each of which will be deemed attached to this Agreement following execution. Client agrees to pay the fees for JaaS Services, Professional Services, and Third-Party Software and Services specified in each Order. All such services, software, and applicable fees for such are non-cancellable and non-refundable.

**5.2 Invoicing.** The Order will serve as an invoice for the fees due upon execution of the relevant Order. For any fees not due upon execution of the Order, Jenzabar will invoice Client in accordance with such Order.

**For JaaS Services:** Any applicable initial set-up fees and the initial annual fee for the JaaS Services (the "JaaS Fees") will be set forth in the Order. JaaS Fees for renewal terms of the JaaS Services shall be priced at then-current rates and will be invoiced on the renewal date set forth in the Order.

**For Third-Party Software and Services:** Client shall make payment to Jenzabar for the Third-Party Software and/or services as set forth in any applicable Order. Notwithstanding anything to the contrary in the terms and conditions governing the Third-Party Software and/or services, by paying Jenzabar all fees specified for the Third-Party Software and/or services in the applicable Order, Client shall have the right to use the Third-Party Software and/or services specified in the applicable Order during the applicable term and any renewals thereof. In the event Jenzabar is assessed any additional fees by a provider of the Third-Party Software and/or services, Jenzabar reserves the right to assess Client for such additional fees (together with administrative and implementation costs).

**For Professional Services:** For any Professional Services fees not due upon execution of such Order, Jenzabar will invoice Client for the balance of such Professional Services fees as provided in the Order. For all other engagements for Professional Services, the Professional Services fees will be billed according to the

corresponding Order and Statement of Work and will be invoiced on a time and materials basis as such services are provided unless otherwise provided in the corresponding Order and Statement of Work.

**For Expenses:** Except as otherwise provided in an Order or Statement of Work, Client will reimburse Jenzabar for all reasonable expenses incurred in connection with the performance of the Professional Services (including transportation, meals, lodging, incidental, and out-of-pocket expenses).

**5.3 Payment.** Client will pay all amounts due under this Agreement in U.S. currency within thirty (30) days from the date of the invoice. Jenzabar may charge Client interest on overdue amounts at a rate of one and a half percent (1.5%) per month or the highest rate permitted by applicable law, whichever is less. In the event Jenzabar is required to pursue the collection of past due amounts from Client, Jenzabar will be entitled to recover all costs associated with collection, including attorneys' fees and expenses and court costs.

**5.4 Taxes.** All fees due under the relevant Order are exclusive of all applicable taxes, unless otherwise provided in an Order. Client will be responsible for all taxes with respect to the use of the JaaS Services and the Professional Services purchased hereunder (except for taxes based on Jenzabar's income) unless Client provides Jenzabar an appropriate certification of exemption.

**5.5 Suspension.** Without prejudice to any other rights available to Jenzabar, Jenzabar reserves the right, in its sole and absolute discretion, to suspend JaaS Services and Professional Services where Client has failed to make timely payment including time to cure as noted below in Section 6.2 (Termination), pursuant to this Agreement, and provided such payments are not the subject of a good faith dispute by Client. Upon Client's payment of all outstanding amounts due, Jenzabar shall resume JaaS Services and Professional Services pursuant to the terms of this Agreement.

**6. TERM; TERMINATION.**

**6.1 Term.** This Agreement shall enter into effect on the Effective Date and shall terminate upon the earlier of: (i) the termination of this Agreement pursuant to Section 6.2 (Termination); and (ii) the termination of all Orders and Statements of Work and the completion of all services required to be performed by Jenzabar, in each case as specified in the Order(s) or Statement(s) of Work executed pursuant to this Agreement.

**6.2 Termination.** A party will be deemed to be in default if such party: (i) fails to pay any sum of money past due and owing under this Agreement within fifteen (15) days after written notice from the other party; or (ii) fails to perform any material obligation under this Agreement within thirty (30) days after written notice from the other party. Such thirty (30) day period will be extended in Jenzabar's case for so long as Jenzabar is using commercially reasonable efforts to cure such default. In the event of default by a party, the other party will have the right to terminate this Agreement without any further notice and/or pursue any other remedy available to such party at law or in equity. Termination of this Agreement will not relieve either party of any obligation hereunder which will have arisen prior to such termination, or which is stated herein as continuing thereafter, nor operate as a cancellation of any indebtedness owing or accruing due by any party to any other party. Termination of this Agreement will be without prejudice to the terminating party's other rights and remedies under this Agreement and applicable law.

**6.3 Effects of Termination.** Upon termination of this Agreement, each party will erase, destroy, or return, at such party's expense, all of the Confidential Information of the other party in its possession. If requested, the other party will certify in writing to the requesting party that the requesting party's Confidential Information has been erased, destroyed, or returned. Upon termination or expiration of this Agreement or any Order, Client's right to use the applicable JaaS Services shall automatically terminate; provided, however, that in no event shall Jenzabar disconnect Client's access to the JaaS Services earlier than the date that Client has received the Client Hosted Data, pursuant to Section 8.4 (Return of Client Hosted Data).

**6.4 Survival.** The terms in this Agreement (including those of any Order, Statement of Work, or Addenda attached hereto) which are expressly stated to survive, together with all other terms which by their nature are intended to survive, shall survive the termination of this Agreement for any reason. Except to the extent otherwise expressly stated, the termination of this Agreement shall automatically terminate all Addenda, Statements of Work, and Orders in effect on the effective date of termination of this Agreement.

## 7. CONFIDENTIALITY.

Neither party will permit access to nor disclose the other party's Confidential Information, except to its authorized employees and contractors who are bound by confidentiality agreements and who need to use or have access to the other party's Confidential Information, as permitted under this Agreement. A party will use at least the same degree of care in safeguarding the other party's Confidential Information as such party uses to preserve and safeguard its own valuable proprietary information, but, in no event shall a party use less than reasonable care and diligence. If a party is required by law to disclose the other party's Confidential Information, then prior to making such disclosure the disclosing party shall (unless prohibited by law, the terms of the subpoena, or court order) notify the other party and provide the other party with a copy of any public records request, subpoena, or court order pertaining to such disclosure, and shall reasonably cooperate with the disclosing party, at the disclosing party's expense, to assist the disclosing party to resist or limit the scope of the legally required disclosure. The rights and remedies provided in this Section 7 (Confidentiality) are not exclusive and are in addition to any other rights and remedies provided by law or under this Agreement. Client will not disclose the terms and conditions of this Agreement, including any related pricing to any third-party. The provisions of this Section 7 (Confidentiality) will survive the termination of this Agreement.

## 8. DATA AND SECURITY.

**8.1 Security.** Jenzabar will implement commercially-reasonable, industry best-practice security controls and security measures for the JaaS Services (as determined by Jenzabar) that are designed to secure and/or help Client secure Client Hosted Data against accidental or unlawful loss, access or disclosure in accordance with the Jenzabar Security Standards. Jenzabar may modify the Jenzabar Security Standards from time to time, provided Jenzabar provides at least thirty (30) days prior notice and such modifications continue to provide at least the same level of security as is described in the Jenzabar Security Standards on the Effective Date.

**8.2 Data Privacy.** Client consents to the storage of Client Hosted Data by Jenzabar. Jenzabar will not access or use Client Hosted Data except as necessary to maintain or provide the JaaS Services, or as necessary to comply with the law or a binding order of a governmental body. Jenzabar will not (a) disclose Client

Hosted Data to any government or third-party, or (b) move Client Hosted Data; except in each case as necessary to comply with the law or a binding order of a governmental body (such as a subpoena or court order). Unless it would be in violation of a court order or other legal requirement, Jenzabar will give Client reasonable notice of any legal requirement or order referred to in this Section 8.2 (Data Privacy), to enable Client to seek a protective order or other appropriate remedy. Jenzabar will only use Client Hosted Data in accordance with its Privacy Policy, and Client consents to such usage. Jenzabar shall not reconfigure, de-identify, or aggregate Client Hosted Data, including, but not limited to, nonpublic personal information and Client Confidential Information.

**8.3 Client Hosted Data.** As between Jenzabar and Client, Client exclusively owns all right, title, and interest in and to all Client Hosted Data. Jenzabar shall not access the Client Hosted Data including without limitation Client's JaaS Services user accounts, except to respond to service or technical problems or at Client's request. Client shall: (i) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Client Hosted Data; (ii) prevent unauthorized access to, or use of, the JaaS Services, and notify Jenzabar promptly of any such unauthorized access or use; and (iii) comply with all applicable local, state, federal, and foreign laws in using the JaaS Services. Client acknowledges and agrees that Jenzabar shall have the right, at its sole discretion, to remove any inappropriate data or content, including, but not limited to (a) material that infringes the Intellectual Property Rights of third parties, and (b) malware or material that violates any applicable law.

**8.4 Return of Client Hosted Data.** If this Agreement is terminated or any JaaS Services are not renewed, Jenzabar shall deliver to Client all copies of the Client Hosted Data in the then current format of such data as it resided in the JaaS Services prior to the termination date. Jenzabar shall use commercially reasonable efforts to deliver such data within thirty (30) business days after the date of termination or expiration.

**8.5 Deletion of Data.** Within sixty (60) business days after the date of termination or expiration, Jenzabar will delete all data entered by Client.

## 9. INDEMNIFICATION.

**9.1 Indemnification by Jenzabar.** Jenzabar shall indemnify, defend, and hold harmless Client from any loss, damage, or costs (including reasonable attorneys' fees) incurred in connection with claims, demands, suits, or proceedings to the extent arising out of and relating to any claim made or brought against Client by a third-party alleging that the use of the JaaS Services in accordance with this Agreement infringes any United States patent, copyright, or other intellectual property rights of a third-party (an "*IP Claim*"). Client agrees to (a) promptly give written notice of the IP Claim to Jenzabar (provided that any delay in giving such notice shall not relieve Jenzabar of its obligations under this Section 9.1 (Indemnification by Jenzabar) except to the extent that such delay has compromised Jenzabar's defense of the IP Claim); (b) give Jenzabar sole control of the defense and settlement of the IP Claim (provided that Client may be represented, at its sole expense, by an attorney of its own choosing); and (c) provide to Jenzabar all reasonable assistance in the settlement and defense of the IP Claim. If Jenzabar becomes aware of an IP Claim, or believes that an IP Claim is reasonably anticipated, Jenzabar shall have the right to, in its sole and reasonable discretion, (a) obtain a license for Client's continued use of the JaaS Services, (b) modify the JaaS Services so that they are no longer infringing, or (c) replace the JaaS Services with a substitute service or software that is not infringing. Alternatively, Jenzabar, at its sole and reasonable discretion, shall have the right to terminate

Client's use of the JaaS Services and refund any prepaid fees for use of the terminated service. Jenzabar shall have no liability to Client for any IP Claim that is based upon any combination of the JaaS Services with software not supplied by or authorized by Jenzabar if such claim would have been avoided but for such combination, or any modifications to the JaaS Services. The foregoing indemnity is Client's sole and exclusive remedy for any claim of infringement or misappropriation of any third-party intellectual property rights.

**9.2 Indemnification by Client.** Client shall indemnify, defend, and hold harmless Jenzabar, its officers, directors, and employees from any loss, damage or costs (including reasonable attorneys' fees) incurred in connection with claims, demands, suits, or proceedings arising out of and relating to any claim made or brought against Client by a third-party alleging that (a) the collection, transmission, use, and storage of any Client Hosted Data by Jenzabar was not authorized, violated applicable law, or was otherwise affected without the proper consents and permissions of those that provided the Client Hosted Data to Client, or (b) Client's use of the JaaS Services or Third-Party Software in violation of this Agreement or Client Authorized Users' or Client Third Parties' use of the JaaS Services or Third-Party Software in violation of the Terms of Use, infringes the Intellectual Property Rights of, or has otherwise harmed, a third-party. Jenzabar agrees to (a) promptly give written notice of the claim to Client (provided any delay in giving such notice shall not relieve Client of its obligations under this Section 9.2 (Indemnification by Client) except to the extent that such delay has compromised Client's defense of the claim); (b) gives Client sole control of the defense and settlement of the claim (provided that Jenzabar may be represented, at its sole expense, by an attorney of its own choosing); and (c) provides to Client, at Client's cost, all reasonable assistance in the settlement and defense of the claim.

**10. LIMITATION OF LIABILITY.**

**EXCEPT IN THE CASE OF CLIENT'S BREACH OF ANY LICENSE RESTRICTIONS IN ANY APPLICABLE ORDERS OR ADDENDA, CLIENT'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS AND CLIENT'S INFRINGEMENT OR MISAPPROPRIATION OF JENZABAR'S INTELLECTUAL PROPERTY RIGHTS, NEITHER PARTY WILL BE LIABLE TO THE OTHER UNDER THIS AGREEMENT OR OTHERWISE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, REVENUES, DATA AND DATA USE, UNAUTHORIZED DISCLOSURE OF CONFIDENTIAL INFORMATION AND THE LIKE, HOWEVER ARISING, WHETHER IN CONTRACT, TORT OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NEITHER PARTY WILL BE LIABLE FOR ANY CLAIM, DAMAGES (INCLUDING MULTIPLE OR TRIPLE DAMAGES), AND/OR ATTORNEY'S FEES UNDER MASSACHUSETTS GENERAL LAW CHAPTER 93A.**

**IN NO EVENT SHALL JENZABAR'S LIABILITY TO CLIENT, IF ANY, EXCEED THE FEES PAID TO JENZABAR FOR THE PARTICULAR SOFTWARE OR SERVICE WHICH IS THE SUBJECT OF THE CLAIM IN THE TWELVE MONTHS PRECEDING THE CLAIM.**

**11. REPRESENTATIONS AND WARRANTIES; DISCLAIMER.**

**11.1 By Jenzabar.** Jenzabar represents and warrants that (a) it has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder without any further ratification or approval; (b) this Agreement constitutes the

legal, valid, and binding obligations of Jenzabar; (c) neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will violate or conflict with any obligation, contract, lease, or license that could reasonably be expected to materially interfere with the consummation of the transactions contemplated hereby; and (d) the Services shall be performed in a professional and workperson-like manner.

**11.2 ALL SERVICES ARE PROVIDED AS-IS. JENZABAR MAKES NO REPRESENTATIONS REGARDING THE SERVICES AND THE LEVEL OF SERVICE TO BE PROVIDED, EXCEPT AS STATED HEREIN. JENZABAR DISCLAIMS ALL OTHER WARRANTIES WITH RESPECT TO THE SERVICES, OR ANY OTHER INFORMATION, MATERIALS, OR TECHNOLOGY PROVIDED UNDER THIS AGREEMENT, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT OR NON MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS, CUSTOM, TRADE, QUIET ENJOYMENT, ACCURACY OF INFORMATIONAL CONTENT, OR THAT THE SERVICES WILL MEET CLIENT'S REQUIREMENTS OR EXPECTATIONS OR THAT THE OPERATION THEREOF WILL BE ERROR-FREE OR UNINTERRUPTED.**

**CLIENT ACKNOWLEDGES THAT JENZABAR HAS ESTABLISHED ITS FEES AND ENTERED INTO THIS AGREEMENT IN RELIANCE UPON THE LIMITATION OF LIABILITY AND THE DISCLAIMER OF WARRANTIES IN THIS AGREEMENT, AND THAT THE SAME FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES. THE PROVISIONS OF SECTION 10 (LIMITATION OF LIABILITY) AND THIS SECTION 11 (DISCLAIMER OF WARRANTIES) WILL SURVIVE THE TERMINATION OF THIS AGREEMENT.**

**12. ARBITRATION.**

Every dispute or claim arising out of or related to this Agreement will be settled exclusively under the Commercial Arbitration Rules (the "Rules") of the American Arbitration Association (the "AAA"). The arbitration proceedings may be commenced by any party by notice to the other party. The parties will mutually agree on the number of arbitrators. The arbitration proceedings will take place in Boston, Massachusetts, or such other neutral location mutually agreed by the parties. The parties exclude any right of appeal to any court on the merits of the dispute. The provisions of this Section 12 (Arbitration) may be enforced in any court having jurisdiction over the award or any of the parties or any of their respective assets, and judgment on the award (including, without limitation, equitable remedies) granted in any arbitration hereunder may be entered in any such court. Nothing contained in this Section 12 (Arbitration) will prevent any party from seeking interim measures of protection in the form of pre-award attachment of assets or preliminary or temporary equitable relief. The parties agree that arbitration under this Section 12 (Arbitration) will be the exclusive method for resolving disputes under this Agreement. The cost of the arbitration will be borne by the losing party, or if a compromise decision is reached, assumed between the parties in proportion to the amount of the claims and the award. Any arbitration proceedings, including any filings, orders, or submitted documents under this Section 12 (Arbitration) will be deemed Confidential Information. Any issue concerning the extent to which any dispute is subject to arbitration, or any dispute concerning the applicability, interpretation, or enforceability of these dispute resolution procedures, including any contention that all or part of these procedures is invalid or unenforceable, shall be governed by the Federal Arbitration Act and resolved by the arbitrators.

### 13. AUDIT RIGHTS.

If, at any time, Jenzabar is required by a licensor of Third-Party Software to audit Client, Jenzabar may, upon reasonable notice, audit Client's usage of the Third-Party Software. The audit may be conducted either on-site by Jenzabar's independent accountants or internal finance and accounting staff, or by telephone or means of a mailed self-audit. Jenzabar may charge any excess fees assessed by the licensor of the Third-Party Software as a result of the audit and an administrative fee for the performance of such audit, and Client agrees to pay such fees in accordance with the terms of this Agreement. The provisions of this Section 13 (Audit Rights) will survive the termination of this Agreement.

### 14. NON-SOLICITATION.

During the term of this Agreement and for a period of one (1) year after the termination of this Agreement, Client will not, alone or in association with others, anywhere in the world, directly or indirectly, solicit, recruit, offer employment, employ, engage as a consultant or independent contractor, lure or entice away, or in any other manner persuade or attempt to persuade any person who is an employee, consultant or independent contractor of Jenzabar or its affiliates and/or subsidiaries, to leave the employ of, or reduce his or her services to, Jenzabar or its affiliates and/or subsidiaries. This provision does not apply to newspaper, Internet, or similar employment solicitations directed by Client to the public at large.

The non-solicitation period will be computed by excluding from such computation any time during which Client is in violation of its non-solicitation obligations and any time during which there is pending in arbitration or in any court of competent jurisdiction any action (including an appeal from any judgment) brought by any person, whether or not a party to this Agreement, in which action Jenzabar or its affiliates and/or subsidiaries seeks to enforce the non-solicitation covenant contained in this Section 14 (Non-Solicitation) or in which any person contests the validity or enforceability of such covenant or seeks to avoid the performance or enforcement of such covenant. The provisions of this Section 14 (Non-Solicitation) will survive the termination of this Agreement.

### 15. GENERAL.

**15.1 Notices.** All notices will be in writing and served by machine-confirmed facsimile, overnight delivery, personal service, or by certified or registered mail, return receipt requested, or email (if to Jenzabar, [legal@jenzabar.com](mailto:legal@jenzabar.com)), and will be deemed to have been given or received on the earlier of actual receipt or, if mailed, on the 5<sup>th</sup> day after it is properly addressed to the party to be notified, certified or registered with return receipt requested, and properly stamped, sealed, and deposited in the U.S. mail. Notices from a party to the other will be sent to the respective address listed on the first page of this Agreement. Either party may change its address for notices by giving notice of the new address to the other party. Notices to Jenzabar will be sent to the attention of Jenzabar's General Counsel.

**15.2 Assignment.** Client may not assign its rights or delegate its obligations under this Agreement, in whole or in part, whether by operation of law or otherwise, without the prior written consent of Jenzabar. Jenzabar may freely assign its rights and obligations under this Agreement to any parent, subsidiary, and/or affiliate of Jenzabar or to any successor in interest by consolidation, reorganization, merger or acquisition, or the sale of substantially all of its assets to which this Agreement relates. Any prohibited assignment will be null and void. This Agreement will be binding on

and inure to the benefit of the parties and their permitted assigns and successors in interest, if any.

**15.3 Equitable Relief.** Each party acknowledges that its breach of this Agreement may cause the other party irreparable damages for which recovery of money damages would be inadequate. Therefore, each party agrees that the other party will be entitled to seek injunctive or other equitable relief to protect its rights under this Agreement in addition to any other remedies.

**15.4 Attorneys' Fees.** In the event that suit is brought under this Agreement, the prevailing party shall be awarded reasonable attorneys' fees and expenses including the reasonable value of any services provided by in-house counsel. The reasonable value of services provided by in-house counsel shall be calculated by applying an hourly rate commensurate with prevailing market rates charged by attorneys in private practice for such services.

**15.5 Entire Agreement; Amendment.** This Agreement, together with all Addenda, Orders, Statements of Work, and other exhibits executed pursuant to this Agreement, is the exclusive statement between the parties regarding the subject matter of this Agreement, and supersedes all other previous agreements made between the parties, whether oral or written, with respect to the subject matter of this Agreement. Any modification of the terms of this Agreement must be specified in writing on a separate Addendum signed by a duly authorized representative of each party.

**15.6 Exculpation.** Neither party will be liable for any delay or failure in the performance of its obligations under this Agreement that directly results from any failure of the other party to perform its obligations under this Agreement.

**15.7 Force Majeure.** Except for Client's payment obligations under this Agreement, neither party will be liable or deemed in default for any delay or failure in performance under this Agreement or interruption of service resulting directly or indirectly from a Force Majeure Event. The parties agree to address or minimize the impact of such acts by taking reasonable measures to ensure to the extent possible performance hereunder.

**15.8 Governing Law.** This Agreement will be governed by and construed in accordance with the internal laws of the Commonwealth of Massachusetts, without giving effect to its conflict of laws principles.

**15.9 Severability and Binding Effect.** If any provision of this Agreement is deemed invalid or unenforceable by law, the provision will be changed and interpreted, if possible, to accomplish the intent of the provision within the constraints of the law, or if not possible, the provision will be stricken from the Agreement. The remaining provisions of the Agreement will remain in full force and effect.

**15.10 Authority to Contract.** Each party represents that it has the required legal capacity, corporate power, and authority to enter into and perform this Agreement, and that this Agreement has been duly and validly executed and constitutes the legal, valid, and binding obligation of such party and is enforceable against such party in accordance with its terms.

**15.11 Waiver of Rights.** No waiver of any term or condition is valid unless it is in writing and signed by a duly authorized representative of the waiving party. The failure or delay of any party to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this Agreement or to exercise any right, power, or privilege under this Agreement, shall not operate

or be construed as a relinquishing of performance under this Agreement or as a waiver of any of the same or similar rights, power or privileges in the future, and the obligation of the other party with respect to such rights or performance shall continue in full force and effect as if such failure or delay never occurred. A valid waiver is limited to the specific situation for which it was given.

**15.12 No Agency.** Nothing contained in this Agreement will be construed as creating any agency, partnership, or other form of joint enterprise between the parties.

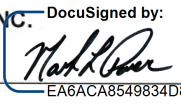
**15.13 Section Headings and Counterparts.** Section headings used in this Agreement are for reference purposes only and will not be interpreted to limit or affect in any way the meaning of the language contained in such sections. This Agreement may be executed in multiple counterparts, delivered electronically, each of

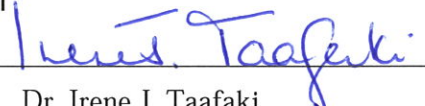
which will be considered an original and all of which shall be taken together and deemed to be one instrument.

**15.14 No Strict Construction.** Notwithstanding the fact that this Agreement has been drafted or prepared by one of the parties, each of the parties confirms that both it and its counsel have reviewed, negotiated, and adopted this Agreement as the joint agreement and understanding of the parties, and the language used in this Agreement shall be deemed to be the language chosen by the parties thereto to express their mutual intent, and no rule of strict construction shall be applied against either party. This Agreement shall not be construed against the principal drafter.

**15.15 Limitation of Claims Period.** No action or proceeding under this Agreement, regardless of form may be commenced by Client more than one (1) year after the date upon which the cause of action arises.

This Agreement has been executed on behalf of the parties by their duly authorized representatives.

JENZABAR, INC. DocuSigned by:  
  
By: \_\_\_\_\_  
EA6ACA8549834D8...  
Name: Mark L. Pover  
Title: VP of Finance  
Date: January 14, 2021  
("Effective Date")

CLIENT  
By:   
Name: Dr. Irene J. Taafaki  
Title: President/CEO  
Date: 1/13/2021