

Master SaaS Subscription Agreement

This Master SaaS Subscription Agreement (“**Agreement**”) together with the Privacy Notice and Terms and Conditions of Use for the Service is subject to the relevant terms of the Order Form and permits Customer to purchase subscriptions to the Service (as defined below) and related Professional Services (as defined below) from Carrier pursuant to mutually executed Order Forms (as defined below) and sets forth the basic terms and conditions under which the Service and Professional Services will be delivered and performed. This Agreement will govern Customer’s initial purchase on the Effective Date as well as any future purchases made by Customer that reference this Agreement.

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1 DEFINITIONS

Capitalized words used herein and not otherwise defined shall have the meanings ascribed to them in the Agreement.

- a) **"Customer Data"** means any data of any type that is submitted, uploaded or imported to the Service by or on behalf of Customer (including from Third Party Platforms)
- b) **"Customer Facility"** means the location identified in the Order Form where the Service will be employed.
- c) **"Data Privacy Laws"** means applicable national, federal, state and provincial laws relating to data privacy, the protection of personal information or data, and the cross-border transfer of personal information or data, including, without limitation, the laws and regulations of the European Union member states under the General Data Protection Regulation ("**GDPR**") and any European Union law or regulation that may be enacted to implement or replace the GDPR.
- d) **"Documentation"** means the technical user documentation provided with the Service.
- e) **"Order Form"** means a mutually accepted, formal, transaction document, such as a quote, the invoice, or an order form, as applicable, that includes some or all of the following information: the name of the Customer, Customer's address and billing information, the length of the Term (if applicable), the fees due from Customer, the maximum number of Permitted Users authorized to access and use the Service(s), if applicable, and any maintenance and support being purchased (if applicable).
- f) **"Permitted User"** means an employee or contractor of Customer or its Affiliate(s) who is authorized to access the Service.
- g) **"Personal Data"** means any information relating to an identified or identifiable natural person ("**Data Subject**"); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.
- h) **"Privacy Notice"** means the Service Privacy Notice as published on <https://abound.carrier.com/en/worldwide/privacy> and as may be amended from time to time by Carrier.
- i) **"Professional Services"** means professional consulting services as specified in an applicable Order Form.
- j) **"Sensitive Personal Information"** means any of the following: (i) credit, debit or other payment card data subject to the Payment Card Industry Data Security Standards ("**PCI DSS**"); (ii) patient, medical or other protected health information regulated by the Health Insurance Portability and Accountability Act ("**HIPAA**"); or (iii) any other Personal Data of a Data Subject deemed to be in a "special" or similar category as identified in applicable Data Privacy Laws.
- k) **"Service"** means the Abound platform delivered to the Customer as an API and/or web-based digital user interface, or as otherwise described in the Order Form.

- l) **"Service Level"** means the quantitative performance standards for the Service, as further specified in the Service Level Agreement.
- m) **"Service Level Agreement"** means the service level agreement applicable to the Service as published by Carrier on <https://abound.carrier.com/en/worldwide/service> and as may be amended from time to time by Carrier.
- n) **"Service Security Standards"** means the security settings applicable to the Service as published by Carrier on <https://abound.carrier.com/en/worldwide/security> and as may be amended from time to time by Carrier.
- o) **"Terms and Conditions of Use"** means the Terms and Conditions of Use of the Service as published by Carrier on <https://abound.carrier.com/en/worldwide/terms> and as may be amended from time to time by Carrier.
- p) **"Third Party Platforms"** means any software, software-as-a-service, data sources or other products or Service not provided by Carrier that are integrated with or otherwise accessible through the Service.

2 CARRIER SERVICES

- 2.1 **Provision of the Service.** Subject to the terms and conditions of this Agreement and the Order Form, and upon Customer's payment of the applicable fees, Carrier shall host and make the Service available to Customer during the Term.
- 2.2 **Access to the Service.** Customer and its Permitted Users may access and use the Service solely for its own benefit and in accordance with the terms and conditions of this Agreement, the Documentation and any other use restrictions included in the applicable Order Form. Use of and access to the Service is permitted only by Permitted Users; quantity of which is designated in the Order Form. If Customer is given API keys or passwords to access the Service, Customer will require that all Permitted Users keep API keys, user ID and password information strictly confidential and not share such information with any unauthorized person. User IDs are granted to individual, named persons and may not be shared. Customer will be responsible for any and all actions taken using Customer's accounts and passwords. If any Permitted User who has access to a user ID is no longer an employee or contractor of Customer, then Customer will immediately delete such user ID and otherwise terminate such Permitted User's access to the Service.
- 2.3 **Customer Responsibilities.** Customer shall (i) be responsible for Customer's and Permitted Users' compliance with this Agreement, Carrier's Privacy Notice and Terms and Conditions of Use that govern use of the Service and all applicable laws and regulations, (ii) use commercially reasonable efforts to prevent unauthorized access to or use of the Service, and notify Carrier promptly of any such unauthorized access or use, (iii) be responsible for Customer's and Permitted Users' use of the Service, including responsibility for any use of the Service that is in violation of this Agreement, applicable laws, regulations, Customer's policies and/or Carrier's Privacy Notice and Terms and Conditions of Use for the Service. Prior to enabling access to the Service for Permitted Users Customer shall be solely responsible for obtaining and documenting valid consents required for Permitted Users to access or use the Service.
- 2.4 **General Restrictions.** Customer will not (and will not permit any third party including its Permitted Users to): (a) make the Service available to anyone other than Permitted Users, (b) sell, resell, rent, lease, provide access to or sublicense the Service to a third party; (c) interfere with or disrupt the integrity or performance of the Service or any content contained

therein; (d) attempt to gain unauthorized access to the Service or the underlying systems or networks; (e) use the Service or data derived therefrom to provide, or incorporate the Service into, any unauthorized product or service provided to a third party, or to create a competing offering; (f) reverse engineer, decompile, disassemble, or otherwise seek to obtain the source code or non-public APIs to the Service, except to the extent expressly permitted by applicable law (and then only upon advance notice to Carrier); (g) circumvent any technical limitations in the Service that limit or restrict access to or use of Service or any content, file, or other work, except as expressly permitted by applicable law notwithstanding this limitation; (h) degrade, impede access, copy or modify the Service or any Documentation, or create any derivative work from any of the foregoing; (i) remove or obscure any proprietary or other notices contained in the Service; (j) publicly disseminate information regarding the performance of the Service; (k) use any Carrier or other third party name or trademarks referenced in the provision of the Service in any manner without Carrier's written consent; or (l) use the Service in a manner outside of its intended purpose.

- 2.5 **Third Party Open Source Components.** Portions of the Service may include third party open source components that are subject to third party terms and conditions ("**Third Party Terms**"). In the event there is a conflict between the Third Party Terms and the terms of this Agreement, then the Third Party Terms shall prevail but solely in connection with the related third party open-source component. Notwithstanding anything in this Agreement to the contrary, Carrier makes no warranty or indemnity hereunder with respect to any third party open source component. A list of any third party open source components and related Third Party Terms will be provided upon request to Carrier.

3 MAINTENANCE AND SUPPORT

- 3.1 **Service Level Agreement.** Carrier will provide the Service in accordance with the Service Levels as defined in the Service Level Agreement.
- 3.2 **Updates to the Service.** Carrier will upgrade and update the Service as appropriate and in Carrier's sole determination to fulfil its obligations under this Agreement.

4 FEES AND PAYMENT

- 4.1 **Service Fees.** Except as otherwise specified herein or in an Order Form, (i) the fees payable for the Service are as set forth in the Order Form, (ii) the fees are quoted and payable in United States dollars, (iii) payment obligations are non-cancellable and fees paid are non-refundable unless the Agreement is terminated for cause pursuant to Section 8.2.
- 4.2 **Fee Increases at Renewal.** The fees payable for any Renewal Term (as defined in Section 8 Term and Termination) will be set forth in the Order Form. If the Order Form does not include any pricing for a Renewal Term, then Carrier's standard pricing available at the date of renewal will apply. Carrier may increase the fees to the then-current rate for the Service at the time of renewal. Carrier will provide a 60 day renewal notice of any fee increase prior to renewal.
- 4.3 **Invoicing and Payment.** Fees will be invoiced in advance in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, fees are due 30 days from the invoice date. If any amounts invoiced hereunder are not received by Carrier by the due date, then such amounts shall accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid.

- 4.4 **Suspension of the Service.** If any undisputed charge owing by Customer is 30 days or more overdue, Carrier may, without limiting its other rights and remedies, suspend the Service until such amounts are paid in full or terminate the Agreement and Service.
- 4.5 **Taxes.** Customer agrees to pay all applicable taxes levied by any tax authority on the Service or on Customer's use thereof, which shall be separately invoiced, excluding any and all taxes based on the net income of Carrier.
- 4.6 **Free Trial Period.** If, as indicated in the applicable Order Form, Carrier is offering the Service on a limited free-trial basis ("Free Trial Service"). If Customer uses a Free Trial Service, Carrier will make such Free Trial Service available to Customer on a trial basis, free of charge, until the earlier of (a) the end of the free trial period, not to exceed six (6) months, or (b) the start date of any Service purchased by Customer for the same service, or (c) termination of the Free Trial Service by Carrier in its sole discretion.

5 CUSTOMER DATA

- 5.1 **Customer Data.** The Service contains features that allow for the collection and submission of building information at Customer Facility that allow Carrier to deliver the Service back to Customer and its Permitted Users. Customer is responsible for any Customer Data submitted or contributed to the Service by any of its Permitted Users, and Carrier is fully authorized to collect Customer Data on behalf of Customer and any of its Permitted Users. Customer certifies that it will obtain explicit authorization to permit Carrier to access and use the Customer Data to provide the Service, and for other purposes permitted by law. Customer recognizes that failure to obtain such authorization may result in irreparable harm to Carrier and, notwithstanding anything else in this Agreement to the contrary, shall be liable for any losses, costs or expenses that Carrier may suffer from its failure to obtain such authorization. Customer is fully responsible for such content and Customer's and its Permitted Users' use of such content, including without limitation its legality, reliability, accuracy, and appropriateness.
- 5.2 **Rights in Customer Data.** Customer will retain all right, title and interest in and to the Customer Data as provided to Carrier, and hereby grants to Carrier and its Affiliates a non-exclusive, perpetual, sub-licensable, irrevocable and worldwide, royalty-free right and license to receive, host, store, analyse, process, enhance, copy, transmit, modify, create derivative works of, maintain, display or otherwise use the Customer Data to provide the Service in accordance with this Agreement.
- 5.3 **Aggregated Data.** Customer acknowledges and agrees that Carrier monitors Customer's and its Permitted Users' use of the Service and collects, logs, and aggregates usage statistics and usage data as part of the normal operation of the Service ("**Aggregated Data**"). Carrier may use Aggregated Data for any business purpose during or after the Term of this Agreement, including but not limited to (i) improve the Service, (ii) produce and share aggregated insights from the usage statistics or usage data, or (iii) compare usage and adoption rates of Customer's and other organizations as long as the Aggregated Data is anonymized or de-identified. For the avoidance of doubt, Customer Data does not include Aggregated Data, and Carrier will not disclose or provide Customer Data or Customer's or Permitted Users' identities to third parties, except as provided in this Agreement or Carrier's Privacy and Data Usage Policy, and Carrier shall own all right, title and interest in and to Aggregated Data, the usage statistics and usage data including without limitation all Intellectual Property Rights therein.
- 5.4 **Storage of Customer Data.** Carrier does not provide an archiving service. Carrier agrees only that it will not intentionally delete any Customer Data from the Service prior to

termination of Customer's applicable Subscription Term. Carrier expressly disclaims all other obligations with respect to storage and/or return of Customer Data post termination.

6 DATA PRIVACY AND SECURITY

- 6.1 **Compliance with Law.** The Parties acknowledge and agree that in the execution and the administration of the Agreement, Personal Information of either party will be collected and processed, as independent data controllers, for invoicing and contract management purposes, and that where a party provides the other party with any Personal Data for such purpose, it will ensure that it has the legal right to do so, including obtaining consent and providing notice to the individuals whose Personal Data it has provided to the other, if needed.
- 6.2 **Processing of Personal Information.** The Parties further acknowledge and agree that Carrier's provision of the Service requires Carrier to process Personal Information of Data Subjects, which may include the Personal Information of Customer and its Permitted Users. Where Carrier processes Personal Information in relation to providing the Service, it will do so in accordance with the Privacy Notice.
- 6.3 **No Sensitive Personal Information.** Customer specifically agrees not to use the Service to collect, store, process or transmit any Sensitive Personal Information. Customer acknowledges that Carrier is not a Business Associate or subcontractor (as those terms are defined in HIPAA) or a payment card processor and that the Service are neither HIPAA nor PCI DSS compliant. Carrier will have no liability under this Agreement for Sensitive Personal Information, notwithstanding anything to the contrary herein.
- 6.4 **Security.** Carrier agrees to use commercially reasonable technical and organizational measures designed to prevent unauthorized access, use, alteration or disclosure of any Customer Data, as further described in Carrier's Service Security Standards. However, as the Service is to be provided over the internet, Carrier will have no responsibility for errors in transmission, unauthorized third-party access, interruptions due to a failure of third-party communication technologies or any other causes beyond Carrier's control.

7 PROPRIETARY RIGHTS

- 7.1 **Reservation of Rights.** This is a subscription agreement for access to and use of the Service. Customer acknowledges that it is obtaining only a limited and revocable right and license to access and use the Service. The Service is licensed, not sold. The Service (including without limitation, any updates, upgrades, modifications, customizations, and improvements thereto) and all intellectual property rights therein, are and will remain the sole property of Carrier and/or Carrier's partners, suppliers and licensors, and that irrespective of any use of the words "purchase", "sale" or like terms in this Agreement no ownership rights are being conveyed to Customer and its Permitted Users under this Agreement with respect to the Service. Customer's, and any Permitted User's, access and use of the Service does not transfer to Customer, any Permitted User, or any third party any rights, title, or interest in or to such intellectual property rights. Carrier and its suppliers reserve all rights not expressly granted to Customer in this Agreement.
- 7.2 **Suggestions.** Customer may choose to, or may be invited to, submit comments, suggestions, or ideas about the Service, including how to improve the Service ("**Feedback**"). Customer agrees that Feedback submissions are voluntary, gratuitous,

unsolicited, and without restriction and will not place Carrier under any fiduciary or other obligation. Carrier shall have a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual right and license to use, copy, modify, publish, or redistribute Feedback and its contents for any purpose, including the right and license to use or incorporate into the Service any suggestions, enhancement requests, recommendations or other Feedback provided by Customer and its Permitted Users relating to the Service. Customer waives all moral rights Customer may have in the Feedback.

8 TERM AND TERMINATION

- 8.1 **Term of Agreement.** Notwithstanding Section 4.6 or unless otherwise terminated as provided herein, this Agreement commences on the Effective Date and continues until the expiration of the term specified in the Order Form (the “**Initial Term**”) or, immediately following the Initial Term, any additional, successive one (1) year term (the “**Renewal Term**”). The Initial Term and the Renewal Term together refer to the “**Term**” herein. Customer must provide its written intent not to renew its access to the Service at least sixty (60) days prior to the end of the Term. Customer’s notices of its intent not to renew shall be sent directly to the Carrier contact identified in the Order Form.
- 8.2 **Termination for Cause.** A party may terminate this Agreement for cause (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.
- 8.3 **Effects of Termination; Refund or Payment upon Termination.** Upon any termination for cause by Customer, Carrier shall refund Customer any prepaid fees covering the unused portion of the Term. Upon any termination for cause by Carrier, Customer shall pay any unpaid fees covering the remainder of the Term after the effective date of termination. In no event shall any termination relieve Customer of its obligation to pay any fees payable to Carrier for the period prior to the effective date of termination.
- 8.4 **Surviving Provisions.** Sections 2.4 (General Restrictions), 4 (Fees and Payment), 5.2 (Rights In Customer Data), 5.3 (Storage of Customer Data), 7 (Proprietary Rights), 8 (Term and Termination), 9.2 (Warranty Disclaimer), 10 (Indemnification), 11 (Limitation of Liability and Damages) and 12 (Confidentiality) shall survive any termination or expiration of this Agreement.

9 LIMITED WARRANTY AND EXCLUSIONS

- 9.1 **Limited Warranty.** Carrier warrants that the Service will operate in substantial conformity with the applicable Documentation. Carrier’s sole liability (and Customer’s sole and exclusive remedy) for any breach of this warranty will be, at no charge to Customer, for Carrier to use commercially reasonable efforts to correct the reported non-conformity. If Carrier determines such remedy to be impracticable, either party may terminate the applicable Subscription Term and Customer will receive as its sole remedy a refund of any fees Customer has pre-paid for use of such Service for the terminated portion of the applicable Subscription Term. The limited warranty set forth in this Section 9.1 will not apply: (i) unless Customer makes a claim within thirty (30) days of the date on which Customer first noticed the non-conformity, (ii) if the error was caused by misuse, unauthorized modifications or third-party hardware, software or Service, or (iii) to use provided on a no-

charge, trial or evaluation basis.

- 9.2 **Warranty Disclaimer.** EXCEPT FOR THE LIMITED WARRANTY IN SECTION 9.1, ALL SERVICE, SUPPORT, AND PROFESSIONAL SERVICES ARE PROVIDED “AS IS”. NEITHER CARRIER NOR ITS SUPPLIERS MAKES ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. CARRIER DOES NOT WARRANT THAT CUSTOMER’S USE OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, NOR DOES CARRIER WARRANT THAT IT WILL REVIEW THE CUSTOMER DATA FOR ACCURACY OR THAT IT WILL MAINTAIN THE CUSTOMER DATA WITHOUT LOSS OR CORRUPTION. CARRIER SHALL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES OR OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS, THIRD-PARTY PLATFORMS OR OTHER SYSTEMS OUTSIDE THE REASONABLE CONTROL OF CARRIER.
- 9.3 **Exclusions.** The information provided pursuant to the Service is general in nature and should not be considered medical, legal, insurance or any other professional advice. In all cases you should consult with professional advisors familiar with your particular factual situation before making any decisions. In no event will Carrier in any way whatsoever, be liable to you, or anyone else, for your use of the information provided pursuant to the Service, or for any decision(s) made or action(s) taken in reliance upon the information provided pursuant to the Service.

10 INDEMNIFICATION

- 10.1 **Indemnification.** Carrier will defend Customer from and against any claim by a third party alleging that the Service when used as authorized under this Agreement infringe a U.S. patent, U.S. copyright, or U.S. trademark and will indemnify and hold harmless Customer from and against any damages and costs finally awarded against Customer or agreed in settlement by Carrier (including reasonable attorneys’ fees) resulting from such claim, provided that Carrier will have received from Customer: (i) prompt written notice of such claim (but in any event notice in sufficient time for Carrier to respond without prejudice); (ii) the exclusive right to control and direct the investigation, defense and settlement (if applicable) of such claim; and (iii) all reasonable necessary cooperation of Customer. Notwithstanding the foregoing, Customer will defend, indemnify, and hold harmless Carrier from and against any claim by a third party related to or arising out of use of the Service in breach of this Agreement, including but not limited to failure to keep API keys, user ID and password information strictly confidential.
- 10.2 **Remedy for infringement.** If Customer’s use of the Service is (or in Carrier’s opinion is likely to be) enjoined, if required by settlement or if Carrier determines such actions are reasonably necessary to avoid material liability, Carrier may, in its sole discretion: (a) substitute substantially functionally similar products or services; (b) procure for Customer the right to continue using the Service; or if (a) and (b) are not commercially reasonable, (c) terminate this Agreement and refund to Customer the fees paid by Customer for the portion of the Term that was paid by Customer but not rendered by Carrier.
- 10.3 **Exclusions of indemnification.** The foregoing indemnification obligation of Carrier will not apply: (1) if the Service or any part thereof is modified by any party other than Carrier, but solely to the extent the alleged infringement is caused by such modification; (2) if the Service is combined with products or processes not provided by Carrier, to the extent the alleged

infringement is caused by such combination; (3) to any unauthorized use of the Service; (4) to any action arising as a result of Customer Data or any third-party deliverables or components contained within the Service; (5) to the extent the alleged infringement is not caused by the particular technology or implementation of the Service but instead by features common to any similar product or service or building management system the Service is used with; or (6) if Customer settles or makes any admissions with respect to a claim without Carrier's prior written consent. THIS SECTION SETS FORTH CARRIER'S AND ITS SUPPLIERS' SOLE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT.

11 LIMITATION OF LIABILITY AND DAMAGES

- 11.1 **Damages Waiver.** Under no circumstances shall Carrier or its suppliers be liable for any indirect, incidental, special or consequential damages, including loss of revenue, loss of use of equipment or facilities, loss of data, failure of security mechanism, interruption of business, or economic damages howsoever arising.
- 11.2 **Liability Cap.** To the extent permitted by law, Carrier's aggregate liability for any reason including, to the greatest extent permissible under applicable laws, for gross negligence, whether in contract, tort, breach of statutory duty or otherwise, will be limited to the total amount paid and payable by the Customer to Carrier under this Agreement in the 12-month period preceding the commencement of the event or events.

12 CONFIDENTIALITY

- 12.1 **Confidential Information.** Each party (as "**Receiving Party**") agrees that all code, inventions, know-how, business, technical, financial information, technical or non-technical data, formulas, patterns, compilations, prototypes, models, sample products, equipment, patent applications, concepts, ideas, programs, software, devices, methods, techniques, drawings, designs, functional specifications, processes, financial data, financial plans, product or service plans or lists of actual or potential customers or suppliers it obtains from the disclosing party ("**Disclosing Party**") constitute the confidential property of the Disclosing Party ("**Confidential Information**"), provided that it is identified as confidential at the time of disclosure or should be reasonably known by the Receiving Party to be confidential or proprietary due to the nature of the information disclosed and the circumstances surrounding the disclosure. Any Carrier technology, performance information relating to the Service, and the terms and conditions of this Agreement will be deemed Confidential Information of Carrier without any marking or further designation.
- 12.2 **Use of Confidential Information.** Except as expressly authorized herein, the Receiving Party will (1) hold in confidence and not disclose any Confidential Information to third parties and (2) not use Confidential Information for any purpose other than fulfilling its obligations and exercising its rights under this Agreement. The Receiving Party may disclose Confidential Information to its employees, agents, contractors and other representatives having a legitimate need to know, provided that such representatives are bound to confidentiality obligations no less protective of the Disclosing Party than as stipulated herein, and that the Receiving Party remains responsible for compliance by any such representative with the terms of this Section. The Receiving Party's confidentiality obligations will not apply to information that the Receiving Party can document: (i) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (ii)

is or has become public knowledge through no fault of the Receiving Party; (iii) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; or (iv) is independently developed by employees of the Receiving Party who had no access to such information. The Receiving Party may make disclosures to the extent required by law or court order, provided the Receiving Party notifies the Disclosing Party in advance and cooperates in any effort to obtain confidential treatment. The Receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Party the Disclosing Party will be entitled to seek appropriate equitable relief in addition to whatever other remedies it might have at law.

13 GENERAL PROVISIONS

- 13.1 Entire Agreement, Assignment.** This Agreement contains the complete and exclusive statement of the Agreement between the parties and supersedes all previous or contemporaneous, oral or written, statements. Customer may assign this Agreement only with Carrier's prior written consent. Orders shall be binding upon Carrier when accepted in writing by an authorized representative of Carrier. CARRIER'S ACCEPTANCE OF CUSTOMER'S ORDER IS CONDITIONED UPON CUSTOMER'S ACCEPTANCE OF THE TERMS AND CONDITIONS SET FORTH HEREIN AND CUSTOMER'S AGREEMENT TO BE BOUND BY AND COMPLY WITH THIS AGREEMENT. THIS AGREEMENT AND ALL REFERENCED ATTACHMENTS CONSTITUTE THE ENTIRE AGREEMENT BETWEEN CARRIER AND CUSTOMER, AND NO AMENDMENT OR MODIFICATION SHALL BE BINDING ON CARRIER UNLESS SIGNED BY AN OFFICER OR AUTHORIZED EMPLOYEE OF CARRIER. THE FAILURE OF CARRIER TO OBJECT TO PROVISIONS CONTAINED IN ANY PURCHASE ORDER OR OTHER DOCUMENT OF CUSTOMER SHALL NOT BE CONSTRUED AS A WAIVER BY CARRIER OF THE TERMS IN THIS AGREEMENT OR AN ACCEPTANCE OF ANY OF CUSTOMER'S PROVISIONS. ANY CONFLICTING OR ADDITIONAL TERMS OR CONDITIONS SET FORTH BY CUSTOMER IN A PURCHASE ORDER OR OTHER DOCUMENT SHALL NOT BE BINDING UPON CARRIER, AND CARRIER HEREBY EXPRESSLY OBJECTS THERETO.
- 13.2 Modifications.** Customer acknowledges and agrees that Carrier may modify this Agreement at any time and Customer's continued use of the Service after being notified of a change to the Agreement shall constitute acceptance and agreement to such modified Agreement. This Agreement applies to any updates to the Service as well as any applications (if any) used to access the Service that Carrier may, in its sole discretion, provide or make available to Customer ("**Update**"). From time to time, Carrier may, without additional notification, automatically "push" or deliver an over-the-air Update to Customer's and/or Permitted Users' mobile phone, tablet, laptop, desktop, or another computing device via a cellular or internet connection ("**Automatic Update**"). You acknowledge and agree that Automatic Updates may occur at Carrier's sole discretion, that Customer's continued use of the Service may be conditioned upon your acceptance of Automatic Updates, and that you consent to Automatic Updates by acceptance of this Agreement. If Carrier provides additional Agreement terms along with an Update, those terms will apply to the Update. If Carrier provides you an Update, Carrier may, at its sole discretion, require you to use the Update version and cease use of earlier versions. Carrier reserves the right to update, modify or discontinue any product or service made available to you through use of the Service.
- 13.3 Relationship of the parties.** The Parties are independent contractors. There is no

relationship of partnership, joint venture, employment, franchise or agency created hereby between the parties. Neither party will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent.

- 13.4 **Governing Law and Forum.** This Agreement and any Order shall be interpreted in accordance with the plain English meaning of its terms and the construction thereof shall be governed by the laws in force in the State of New York, USA without regard to conflicts of law principles, except that Sections 5-1401 and 5-1402 of the New York General Obligations law will apply and except that the United Nations Convention on Contracts for the International Sale of Goods dated April 11, 1980, as amended to date, will not apply. The state and federal courts located in New York City, New York shall have exclusive jurisdiction to adjudicate any dispute arising out of or relating to this Agreement.
- 13.5 **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.
- 13.6 **International Trade Compliance.** Customer agrees to comply with all export and import laws and regulations of the United States and other applicable jurisdictions. Without limiting the foregoing, (i) Customer represents and warrants that it is not listed on any U.S. government list of prohibited or restricted parties or located in (or a national of) a country that is subject to a U.S. government embargo or that has been designated by the U.S. government as a "terrorist supporting" country, (ii) Customer will not (and will not permit any of its Permitted Users to) access or use the Service in violation of any U.S. export embargo, prohibition or restriction, and (iii) Customer will not submit to the Service any information that is controlled under the U.S. International Traffic in Arms Regulations.
- 13.7 **Subcontractors.** Carrier may use the services of subcontractors and permit them to exercise the rights granted to Carrier in order to provide the Service under this Agreement, provided that Carrier remains responsible for (i) compliance of any such subcontractor with the terms of this Agreement and (ii) for the overall performance of the Service as required under this Agreement.
- 13.8 **Expenses.** Unless otherwise expressly provided herein, all expenses incurred by either party in connection with the formation or implementation of this Agreement shall be the sole responsibility of that party and neither party shall have any claim for such expenses against the other.
- 13.9 **Notices.** Notices relative to this Agreement shall be given in writing and sent by email or certified mail, return receipt requested. Any such notice sent by Customer to Carrier, or sent by Carrier to Customer, shall be addressed to the entities identified in the Order Form.
- 13.10 **Force Majeure.** Neither party will be liable to the other for any delay or failure to perform any obligation under this Agreement (except for a failure to pay fees) if the delay or failure is due to unforeseen events that occur after the signing of this Agreement and that are beyond the reasonable control of such party, including strike, blockade, an act of war, hostility, sabotage, terrorism or riot; natural disaster, pandemic, failure or diminishment of power or telecommunications or data networks or services, government restrictions, or refusal of a license by a government agency.
- 13.11 **Counterparts.** This Agreement may be executed electronically and/or in counterparts, which taken together shall form one legal instrument.
- 13.12 **Customer Consent.** Customer consents and agrees that Carrier (including its parent

company, subsidiaries and affiliates) may broadly communicate to internal and external audiences that Customer purchased and uses Abound. Carrier may use Customer's company name, logo or any photograph or video created in conjunction with this Agreement. These internal and external communications may include, but are not limited to, annual reports, brochures, press releases, newsletters, advertising, social media posts, case studies and websites.