Cyara End User Services Agreement

This End User Services Agreement ("Agreement") is entered into between Cyara, Inc., a Delaware corporation with its principal address at 805 Veterans Blvd, Suite 105, Redwood City, CA 94063 ("Cyara"), and you ("Customer"). Customer hereby agrees to the terms and conditions set forth herein governing its use of Cyara's "Service."

1. **DEFINITIONS**
   As used in this Agreement:

   1.1. Affiliate means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity; and control, for the purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

   1.2. Agreement means this End User Services Agreement and any materials available on the Cyara website specifically incorporated by reference herein, as such materials may be updated by Cyara from time to time.

   1.3. Customer Data means any data, information or material provided or submitted by Customer to the Service in the course of using the Service.

   1.4. Effective Date means the date this Agreement is acknowledged by Customer

   1.5. Equipment means any devices needed to connect to, access or otherwise use the Services or Software, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like.

   1.6. Service(s) means Cyara's online customer experience management solutions or other services and associated content, developed, operated, and maintained by Cyara, and made accessible via https://www.cyara.com or another web site or IP address designated by Cyara, or ancillary online or offline products and services provided to Customer by Cyara, to which Customer is being granted access.

   1.7. Usage Policy means Cyara's standard policies governing the use of its Software and Service as published at www.cyara.com/UsagePolicy.

2. **SAAS SERVICES AND SUPPORT**

   2.1. Subject to the terms of this Agreement, Cyara will make the Service available to Customer and will use commercially reasonable efforts to make the Service available 24 hours a day, 7 days a week.

3. **RESTRICTIONS AND RESPONSIBILITIES**

   3.1. Customer will not, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services or any Software, documentation or data related to the Service or Software; modify, translate, or create derivative works based on the Services or any Software (except to the extent expressly permitted by Cyara or authorized within the Services); use the Services or any Software for timesharing or service bureau purposes or otherwise for the benefit of a third party; or remove any proprietary notices or labels.

   3.2. Customer may not remove or export from the United States or allow the export or re-export of the Software or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. As defined in FAR section 2.101, the Software and documentation are "commercial items" and according to DFAR section 252.2277014(a)(1) and (5) are deemed

to be "commercial computer software" and "commercial computer software documentation." Consistent with DFAR section 227.7202 and FAR section 12.212, any use modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

3.3. Customer represents, covenants, and warrants that Customer will use the Services or Software only in compliance with Cyara's Usage Policy and all applicable laws and regulations. Customer hereby agrees to indemnify and hold harmless Cyara against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys' fees) in connection with any claim or action that arises from an alleged violation of the foregoing or otherwise from Customer's use of Services. Although Cyara has no obligation to monitor Customer's use of the Services, Cyara may do so and may prohibit any use of the Services it believes may be in violation of the foregoing.

3.4. Customer will refrain from uploading, storing or processing via the Services all regulated privacy data other than data required for system authentication.

4. **CONFIDENTIALITY; PROPRIETARY RIGHTS**

4.1. Customer shall own all right, title and interest in and to the Customer Data and its Proprietary Information, and all related intellectual property rights. Cyara shall own and retain all right, title and interest in and to (a) the Services and Software, and all improvements, enhancements or modifications thereto, (b) any software, applications, inventions or other technology developed in connection with Professional Services or support, and (c) all intellectual property rights related to any of the foregoing.

4.2. Cyara shall have the right to collect and analyze data and other information relating to the provision, use and performance of various aspects of the Services or Software and related systems and technologies (including, without limitation, information concerning Customer Data and data derived therefrom), and Cyara will be free (during and after the term hereof) to (i) use such information and data to improve and enhance the Services and for other development, diagnostic and corrective purposes in connection with the Services and other Cyara offerings, and (ii) use and disclose such data solely in aggregate or other anonymized form.

5. **TERM AND TERMINATION**
This Agreement is effective until terminated by you or Cyara. Your rights under this Agreement will terminate automatically if you fail to comply with any of its terms.

6. **WARRANTY AND DISCLAIMER**
Cyara shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Professional Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Cyara or by third-party providers, or because of other causes beyond Cyara's reasonable control, but Cyara shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. HOWEVER, CYARA DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES AND PROFESSIONAL SERVICES ARE PROVIDED "AS IS" AND CYARA DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON- INFRINGEMENT.

7. **LIMITATION OF LIABILITY**
NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT FOR BODILY INJURY OF A PERSON, CYARA AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS

AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND CYARA'S REASONABLE CONTROL; OR (D) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED FIFTY DOLLARS ($50.000. IN EACH CASE, WHETHER OR NOT CYARA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8. **MISCELLANEOUS**

8.1. This Agreement shall be governed by the laws of the State of California without regard to its conflict of laws provisions.

8.2. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Customer does not have any authority of any kind to bind Cyara in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees.