



## COPADO MASTER SERVICES AGREEMENT

THIS MASTER SUBSCRIPTION AGREEMENT GOVERNS CUSTOMER'S ACQUISITION AND USE OF COPADO SERVICES. CAPITALIZED TERMS HAVE THE DEFINITIONS SET FORTH HEREIN. BY ACCEPTING THIS AGREEMENT, BY (1) CLICKING A BOX INDICATING ACCEPTANCE, (2) EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, OR (3) USING SERVICES, CUSTOMER AGREES TO THE TERMS OF THIS AGREEMENT. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT IS ACCEPTING ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, SUCH INDIVIDUAL REPRESENTS THAT THEY HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERM "CUSTOMER" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT DOES NOT HAVE SUCH AUTHORITY, OR DOES NOT AGREE WITH THESE TERMS AND CONDITIONS, SUCH INDIVIDUAL MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES. COPADO's direct competitors are prohibited from accessing the Services, except with COPADO's prior written consent. In addition, the Services may not be accessed for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes. This Agreement was last updated on February 19<sup>th</sup>, 2019. It is effective between Customer and COPADO as of the date of Customer's accepting this Agreement.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

### 1. DEFINITIONS

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

"**Agreement**" means this Master Subscription Agreement.

"**Beta Services**" means Copado services or functionality that may be made available to Customer to try at its option at no additional charge which is clearly designated as beta, pilot, limited release, developer preview, non-production, evaluation, or by a similar description.

"**Customer**" means in the case of an individual accepting this Agreement on his or her own behalf, such individual, or in the case of an individual accepting this Agreement on behalf of a company or other legal entity, the company or other legal entity for which such individual is accepting this Agreement, and Affiliates of that company or entity (for so long as they remain Affiliates) which have entered into Order Forms.

"**Customer Data**" means all electronic data or information submitted by Customer in using the Services, excluding Content and Non-Copado Applications.

"**Documentation**" means the applicable documentation, and its usage guides and policies, as updated from time to time, accessible via <https://www.copado.com/legal/agreements>

"**Malicious Code**" means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.

"**Non-Copado Application**" means a Web-based, mobile, offline or other software application functionality that interoperates with a Service, that is provided by Customer or a third party and/or listed on a Marketplace including as Salesforce Labs or under similar designation. Non-Copado Applications, other than those obtained or provided by Customer, will be identifiable as such.

"**Order Form**" means the documents for placing orders hereunder, including addenda thereto, that are entered into between Customer and Copado or any of Copado's Affiliates from time to time, including addenda and supplements thereto. By entering into an Order Form hereunder, an Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto. Order Forms shall be deemed incorporated herein by reference.

"**Purchased Services**" means Services that Customer or Customer's Affiliate purchases under an Order Form.

"**Services**" means the products and services that are ordered by Customer under an Order Form and made available online by Copado, as described in the Documentation. "Services" exclude Content and Non-Copado Applications.

"**Copado**" means the copado.com company described in the "Copado Contracting Entity, Notices, Governing Law, and Venue" section below.

"**User**" means, in the case of an individual accepting these terms on his or her own behalf, such individual, or, in the case of an individual accepting this Agreement on behalf of a company or other legal entity, an individual who is authorized by Customer to use a Service, for whom Customer has purchased a subscription (or in the case of any Services provided by Copado without charge, for whom a Service has been provisioned), and to whom Customer (or, when applicable, Copado at Customer's request) has supplied a user identification and password (for Services utilizing authentication). Users may include, for example, employees, consultants, contractors and agents of Customer, and third parties with which Customer transacts business.

## 2. COPADO RESPONSIBILITIES

- 2.1. **Provision of Purchased Services.** Copado will (a) make the Services and Content available to Customer pursuant to this Agreement, and the applicable Order Forms and Documentation, (b) provide applicable Copado standard support for the Purchased Services to Customer at no additional charge, and/or upgraded support if purchased, (c) use commercially reasonable efforts to make the online Purchased Services available 24 hours a day, 7 days a week, except for: (i) planned downtime (of which Copado shall give advance electronic notice), and (ii) any unavailability caused by circumstances beyond Copado's reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving Copado employees), Internet service provider failure or delay, Non-Copado Application, or denial of service attack, and (d) provide the Services in accordance with laws and government regulations applicable to Copado's provision of its Services to its customers generally (i.e., without regard for Customer's particular use of the Services), and subject to Customer's use of the Services in accordance with this Agreement, the Documentation and the applicable Order Form.
- 2.2. **Protection of Customer Data.** Copado will maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data, as described in the Documentation found at <https://www.copado.com/legal/agreements>. The parties acknowledge that Copado only manages customer "Meta Data" and is not designed for the storage or management of "Personally Identifiable Data" and to the extent a customer utilizes such data with Copado, it is expressly outside of the design and use of the service. Nonetheless, Copado will take measures to safeguard all information processed in its system, this will include, but will not be limited to, measures designed to prevent unauthorized access to or disclosure of Customer Data (other than by Customer or Users). The terms of the data processing addendum at <https://www.copado.com/company/legal/agreements> ("DPA") are hereby incorporated by reference and shall apply to the extent Customer Data includes Personal Data, as defined in the DPA. To the extent Personal Data from the European Economic Area (EEA), the United Kingdom and Switzerland are processed by Copado, its Processor Binding Corporate Rules, the EU-US and/or Swiss-US Privacy Shield, and/or the Standard Contractual Clauses shall apply, as further set forth in the DPA. For the purposes of the Standard Contractual Clauses, Customer and its applicable Affiliates are each the data exporter, and Customer's acceptance of this Agreement, and an applicable Affiliate's execution of an Order Form, shall be treated as its execution of the Standard Contractual Clauses and Appendices. Upon request by Customer made within 30 days after the effective date of termination or expiration of this Agreement, Copado will make whatever Customer Data, if any, it stores outside of Salesforce.com available to Customer for export or download as provided in the Documentation. After such 30-day period, Copado will have no obligation to maintain or provide any Customer Data, and as provided in the Documentation will thereafter delete or destroy all copies of Customer Data in its systems or otherwise in its possession or control, unless legally prohibited.
- 2.3. **Copado Personnel.** Copado will be responsible for the performance of its personnel (including its employees and contractors) and their compliance with Copado's obligations under this Agreement, except as otherwise specified in this Agreement.
- 2.4. **Beta Services.** From time to time, Copado may make Beta Services available to Customer at no charge. Customer may choose to try such Beta Services or not in its sole discretion. Any use of Beta Services is subject to the Beta Services terms at <https://www.copado.com/company/legal/agreements>.

## 3. USE OF THE SERVICE

- 3.1. **Subscriptions.** Unless otherwise provided in the applicable Order Form or Documentation, (a) Purchased Services and access to Content are purchased as subscriptions for the term stated in the applicable Order Form or in the applicable online purchasing portal, (b) subscriptions for Purchased Services may be added during a subscription term at the same pricing as the underlying subscription pricing, prorated for the portion of that subscription term remaining at the time the subscriptions are added, and (c) any added subscriptions will terminate on the same date as the underlying subscriptions. Customer agrees that its purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Copado regarding future functionality or features.
- 3.2. **Usage Limits.** Services and Content are subject to usage limits specified in Order Forms and Documentation. If Customer exceeds a contractual usage limit, Copado may work with Customer to seek to reduce Customer's usage so that it conforms to that limit. If, notwithstanding Copado's efforts, Customer is unable or unwilling to abide by a contractual usage limit, Customer will execute an Order Form for additional quantities of the applicable Services or Content promptly upon Copado's request, and/or pay any invoice for excess usage in accordance with the "Invoicing and Payment" section below.
- 3.3. **Customer Responsibilities.** Customer will (a) be responsible for Users' compliance with this Agreement, Documentation and Order Forms, (b) be responsible for the accuracy, quality and legality of Customer Data, the means by which Customer acquired Customer Data, Customer's use of Customer Data with the Services, and the interoperation of any Non-Copado Applications with which Customer uses Services or Content, (c) use commercially reasonable efforts to prevent unauthorized access to or use of Services and Content, and notify Copado promptly of any such unauthorized access or use, (d) use Services and Content only in accordance with this Agreement, Documentation, the Acceptable Use and External Facing Services Policy at <https://www.copado.com/company/legal/agreements>, Order Forms and applicable laws and government regulations, and (e) comply with terms of service of any Non-Copado Applications with which Customer uses Services or Content. Any use of the Services in breach of the foregoing by Customer or Users that in Copado's judgment threatens the security, integrity or availability of Copado's services, may result in Copado's immediate suspension of the Services, however Copado will use commercially reasonable efforts under the circumstances to provide Customer with notice and an opportunity to remedy such violation or threat prior to any such suspension.
- 3.4. **Usage Restrictions.** Customer will not (a) make any Service or Content available to anyone other than Customer or Users, or use any Service or Content for the benefit of anyone other than Customer or its Affiliates, unless expressly stated otherwise in an Order Form or the Documentation, (b) sell, resell, license, sublicense, distribute, make available, rent or lease any Service or Content, or include any Service or Content in a service bureau or outsourcing offering, (c) use a Service or Non-Copado Application to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use a Service or Non-Copado Application to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of any Service or third-party data contained therein, (f) attempt to gain unauthorized access to any Service or Content or its related systems or networks, (g) permit direct or indirect access to or use of any Services or Content in a way that circumvents a contractual usage limit, or use any Services

to access or use any of Copado intellectual property except as permitted under this Agreement, an Order Form, or the Documentation, (h) modify, copy, or create derivative works based on a Service or any part, feature, function or user interface thereof, (i) copy Content except as permitted herein or in an Order Form or the Documentation, (j) frame or mirror any part of any Service or Content, other than framing on Customer's own intranets or otherwise for its own internal business purposes or as permitted in the Documentation, (k) except to the extent permitted by applicable law, disassemble, reverse engineer, or decompile a Service or Content or access it to (1) build a competitive product or service, (2) build a product or service using similar ideas, features, functions or graphics of the Service, (3) copy any ideas, features, functions or graphics of the Service, or (4) determine whether the Services are within the scope of any patent.

#### **4 FEES AND PAYMENT**

- 4.1 **Fees.** Customer will pay all fees specified in Order Forms. Except as otherwise specified herein or in an Order Form, (i) fees are based on Services and Content subscriptions purchased and not actual usage, (ii) payment obligations are non-cancelable and fees paid are non-refundable, and (iii) quantities purchased cannot be decreased during the relevant subscription term.
- 4.2 **Invoicing and Payment.** Customer will provide Copado with valid and updated credit card information, or with a valid purchase order or alternative document reasonably acceptable to Copado. If Customer provides credit card information to Copado, Customer authorizes Copado to charge such credit card for all Purchased Services listed in the Order Form for the initial subscription term and any renewal subscription term(s) as set forth in the "Term of Purchased Subscriptions" section below. Such charges shall be made in advance, either annually or in accordance with any different billing frequency stated in the applicable Order Form. If the Order Form specifies that payment will be by a method other than a credit card, Copado will invoice Customer in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, invoiced fees are due net 30 days from the invoice date. Customer is responsible for providing complete and accurate billing and contact information to Copado and notifying Copado of any changes to such information.
- 4.3 **Overdue Charges.** If any invoiced amount is not received by Copado by the due date, then without limiting Copado's rights or remedies, (a) those charges may 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, and/or (b) Copado may condition future subscription renewals and Order Forms on payment terms shorter than those specified in the "Invoicing and Payment" section below.
- 4.4 **Suspension of Service and Acceleration.** If any charge owing by Customer under this or any other agreement for services is 30 days or more overdue, (or 10 or more days overdue in the case of amounts Customer has authorized Copado to charge to Customer's credit card), Copado may, without limiting its other rights and remedies, accelerate Customer's unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend Services until such amounts are paid in full, provided that, other than for customers paying by credit card or direct debit whose payment has been declined, Copado will give Customer at least 10 days' prior notice that its account is overdue, in accordance with the "Manner of Giving Notice" section below for billing notices, before suspending services to Customer.
- 4.5 **Payment Disputes.** Copado will not exercise its rights under the "Overdue Charges" or "Suspension of Service" section above if Customer is disputing the applicable charges reasonably and in good faith and is cooperating diligently to resolve the dispute.
- 4.6 **Taxes.** Copado's fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "Taxes"). Customer is responsible for paying all Taxes associated with its purchases hereunder. If Copado has the legal obligation to pay or collect Taxes for which Customer is responsible under this section, Copado will invoice Customer and Customer will pay that amount unless Customer provides Copado with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, Copado is solely responsible for taxes assessable against it based on its income, property and employees.

#### **5 PROPRIETARY RIGHTS**

- 5.1 **Reservation of Rights.** Subject to the limited rights expressly granted hereunder, Copado reserves all rights, title and interest in and to the Platform and Services, including all related intellectual property rights. No rights are granted to Customer hereunder other than expressly set forth herein.
- 5.2 **Customer Data.** Subject to the limited rights granted by Customer hereunder, Copado acquires no right, title or interest from Customer or Customer's licensors under this Agreement in or to Customer Data, including any intellectual property rights therein.
- 5.3 **Admin Access.** Customer understands and agrees that selected Copado technical and customer support personnel may require access to the Customer's Data through the normal course of providing customer support and system administrative services. Customer hereby consents to such access.
- 5.4 **License by Customer to Copado.** Customer grants Copado, its Affiliates and applicable contractors a worldwide, limited-term license to host, copy, use, transmit, and display any Non-Copado Applications and program code created by or for Customer using a Service or for use by Customer with the Services, and Customer Data, each as appropriate for Copado to provide and ensure proper operation of, the Services and associated systems in accordance with this Agreement. If Customer chooses to use a Non-Copado Application with a Service, Customer grants Copado permission to allow the Non-Copado Application and its provider to access Customer Data and information about Customer's usage of the Non-Copado Application as appropriate for the interoperation of that Non-Copado Application with the Service. Subject to the limited licenses granted herein, Copado acquires no right, title or interest from Customer or its licensors under this Agreement in or to any Customer Data, Non-Copado Application or such program code.
- 5.5 **License by Customer to Use Feedback.** Customer grants to Copado and its Affiliates a worldwide, perpetual, irrevocable, royalty free license to use and incorporate into its services any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer or Users relating to the operation of Copado's or its Affiliates' services.

5.6 **Federal Government End Use Provisions.** Copado provides the Services, including related software and technology, for ultimate federal government end use in accordance with the following: The Services consist of "commercial items," as defined at FAR 2.101. In accordance with FAR 12.211-12.212 and DFARS 227.7102-4 and 227.7202-4, as applicable, the rights of the U.S. Government to use, modify, reproduce, release, perform, display, or disclose commercial computer software, commercial computer software documentation, and technical data furnished in connection with the Services shall be as provided in this Agreement, except that, for U.S. Department of Defense end users, technical data customarily provided to the public is furnished in accordance with DFARS 252.227-7015. If a government agency needs additional rights, it must negotiate a mutually acceptable written addendum to this Agreement specifically granting those rights.

## 6 CONFIDENTIALITY

6.1 **Definition of Confidential Information.** As used herein, "**Confidential Information**" means all information disclosed by a party ("**Disclosing Party**") to the other party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Customer Confidential Information shall include Customer Data; Copado Confidential Information shall include, without limitation, the Services, the source code, and the data schema; and Confidential Information of each party shall include the terms and conditions of this Agreement and all Order Forms, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party, as demonstrated by contemporaneous written records.

6.2 **Protection of Confidential Information.** The Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Neither party shall disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates and their legal counsel and accountants without the other party's prior written consent.

6.3 **Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

6.4 **Accepted use.** Customer acknowledges and agrees that Copado may compile aggregated de-identified data or metrics from all or part of Client's use of the Services, provided that such aggregated results will not contain information that could be used to individually identify Client or its Users. Copado shall use such aggregated data in non-personally identifiable form for the purposes of improving the Copado service, for evaluating global trends for product development and marketing, for optimizing its performance or metrics, and as may be required for accounting or audit requirements, or by law. Such aggregated de-identified data shall belong to Copado and shall be considered Copado's Confidential Information.

## 7 WARRANTIES AND DISCLAIMERS

7.1 **Warranties by Copado.** Copado warrants that (i) Copado has validly entered into this Agreement and has the legal power to do so, (ii) the Services shall perform materially in accordance with its documentation, and (iii) the functionality of the Services will not be materially decreased during a subscription term. For any breach of a warranty above, the exclusive remedy shall be as provided in Section 10.4 (Refund or Payment upon Termination) below.

7.2 **Warranties by Customer.** Customer warrants that Customer has validly entered into this Agreement and has the legal power to do so.

7.3 **Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

## 8 MUTUAL INDEMNIFICATION

8.1 **Indemnification by Copado.** Copado shall defend Customer against any claim, demand, suit, or proceeding made or brought against Customer by a third party alleging that the use of the Services as permitted hereunder infringes or misappropriates the intellectual property rights of a third party (a "**Claim Against Customer**"), and shall indemnify Customer for any damages, attorney fees and costs finally awarded against Customer as a result of, and for amounts paid by Customer under a judgment, or court approved settlement of, a Claim Against Customer; provided that Customer (a) promptly gives Copado written notice of the Claim Against Customer; (b) give Copado sole control of the defense and settlement of the Claim Against Customer (provided that Copado may not settle any Claim Against Customer unless the settlement unconditionally releases Customer of all liability); and (c) provides to Copado all reasonable assistance, at Copado's expense. In the event of a Claim Against Customer, or if Copado reasonably believes the Services may infringe or misappropriate a third party's intellectual property rights, Copado may in its sole discretion and at no cost to Customer (i) modify the Services so that they no

longer infringe or misappropriate, which shall not be considered a breach of any warranties under this Agreement, (ii) obtain a license for continued use of the Services in accordance with this Agreement, or (iii) terminate subscriptions for such Services upon 30 (thirty) days written notice and refund to Customer any prepaid fees covering the remainder of the term of such r subscriptions after the effective date of such termination. Copado shall have no liability or obligation hereunder with respect to any claim based upon (a) use of any Services in an application or environment or on a platform or with devices for which it was not designed or contemplated; (b) modifications, alterations, combinations or enhancements of the Services not created by or for Copado; (c) Customer's continuing allegedly infringing activity after being notified thereof, or its continuing use of any version after being provided modifications that would have avoided the alleged infringement; or (d) any intellectual property right in which Customer or any Customer Affiliates has an interest.

- 8.2 **Indemnification by Customer.** Customer shall defend Copado against any claim, demand, suit or proceeding made or brought against Copado by a third party alleging that Customer Data, or Customer's use of the Services in breach of this Agreement, infringes or misappropriates the intellectual property rights of a third party or violates applicable law (a "**Claim Against Copado**"), and shall indemnify Copado for any damages, attorney fees and costs finally awarded against Copado as a result of, or for any amounts paid by Copado under a judgment, or court-approved settlement of, a Claim Against Copado; provided that Copado (a) promptly gives Customer written notice of the Claim Against Copado; (b) gives Customer sole control of the defense and settlement of the Claim Against Copado (provided that Customer may not settle any Claim Against Copado unless the settlement unconditionally releases Copado of all liability); and (c) provides to Customer all reasonable assistance at Customer's expense.
- 8.3 **Exclusive Remedy.** Section 8 (Indemnity) states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of claim described in this Section 8.

## 9 LIMITATION OF LIABILITY

- 9.1 **Limitation of Liability.** IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EACH PARTY TOGETHER WITH ALL OF ITS AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER AND ITS AFFILIATES HEREUNDER FOR THE SERVICES GIVING RISE TO THE LIABILITY IN THE TWELVE MONTHS PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, BUT WILL NOT LIMIT CUSTOMER'S AND ITS AFFILIATES' PAYMENT OBLIGATIONS UNDER THE "FEES AND PAYMENT" SECTION ABOVE.
- 9.2 **Exclusion of Consequential and Related Damages.** IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY LOST PROFITS, REVENUES, GOODWILL, OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER, BUSINESS INTERRUPTION OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF A PARTY'S OR ITS AFFILIATES' REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

## 10 TERM AND TERMINATION

- 10.1 **Term of Agreement.** This Agreement commences as of the Effective Date and continues until all subscriptions granted in accordance with this Agreement have expired or have been terminated.
- 10.2 **Term of Purchased Subscriptions.** The term of each subscription shall be as specified in the applicable Order Form. Except as otherwise specified in an Order Form, subscriptions will automatically renew for additional periods equal to the expiring subscription term or one year (whichever is shorter), unless either party gives the other notice of non-renewal at least 30 days before the end of the relevant subscription term. The per-unit pricing during any renewal term will increase by up to 7% above the applicable pricing in the prior term, unless Copado provides Customer notice of different pricing at least 60 days prior to the applicable renewal term. Except as expressly provided in the applicable Order Form, renewal of promotional or one-time priced subscriptions will be at Copado's applicable list price in effect at the time of the applicable renewal. Notwithstanding anything to the contrary, any renewal in which subscription volume for any Services has decreased from the prior term will result in repricing at renewal without regard to the prior term's per-unit pricing.
- 10.3 **Termination.** 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.
- 10.4 **Refund or Payment upon Termination.** If this Agreement is terminated by Customer in accordance with the "Termination" section above, Copado will refund Customer any prepaid fees covering the remainder of the term of all Order Forms after the effective date of termination. If this Agreement is terminated by Copado in accordance with the "Termination" section above, Customer will pay any unpaid fees covering the remainder of the term of all Order Forms to the extent permitted by applicable law. In no event will termination relieve Customer of its obligation to pay any fees payable to Copado for the period prior to the effective date of termination.
- 10.5 **Surviving Provisions.** The sections titled "Proprietary Rights and Licenses," "Confidentiality," "Disclaimers," "Mutual Indemnification," "Limitation of Liability," "Refund or Payment upon Termination," "Surviving Provisions" and "General Provisions" will survive any termination or expiration of this Agreement, and the section titled "Protection of Customer Data" will survive any termination or expiration of this Agreement for so long as Copado retains possession of Customer Data.

## 11 General Provisions.

- 11.1 **Export Compliance.** The Services, other technology Copado makes available, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Each Party represents that it is not named on any U.S. government denied-party list. Customer shall not permit Users to access or use Services in a U.S.-embargoed country or otherwise in violation of any U.S. export law or regulation.

- 11.2 **Anti-Corruption.** Neither party has received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from an employee or agent of the other party in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction.
- 11.3 **Entire Agreement and Order of Precedence.** This Agreement is the entire agreement between Copado and Customer regarding Customer's use of Services and Content and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. The parties agree that any term or condition stated in a Customer purchase order or in any other Customer order documentation (excluding Order Forms) is void. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the applicable Order Form, (2) this Agreement, and (3) the Documentation. Titles and headings of sections of this Agreement are for convenience only and shall not affect the construction of any provision of this Agreement.
- 11.4 **Relationship of the Parties.** The parties to this Agreement are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties. Each party will be solely responsible for payment of all compensation owed to its employees, as well as all employment-related taxes.
- 11.5 **Third-Party Beneficiaries.** There are no third-party beneficiaries under this Agreement.
- 11.6 **Waiver.** No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right.
- 11.7 **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of this Agreement will remain in effect.
- 11.8 **Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other party's prior written consent (not to be unreasonably withheld); provided, however, either party may assign this Agreement in its entirety (including all Order Forms), without the other party's consent to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Notwithstanding the foregoing, if a party is acquired by, sells substantially all of its assets to, or undergoes a change of control in favor of, a direct competitor of the other party, then such other party may terminate this Agreement upon written notice. In the event of such a termination, Copado will refund Customer any prepaid fees covering the remainder of the term of all subscriptions for the period after the effective date of such termination. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.
- 11.9 **Copado Contracting Entity, Notices, Governing Law, and Venue.** The Copado entity entering into this Agreement, the address to which Customer should direct notices under this Agreement, the law that will apply in any dispute or lawsuit arising out of or in connection with this Agreement, and the courts that have jurisdiction over any such dispute or lawsuit, depend on where Customer is domiciled

If Customer is domiciled in:	The Copado entity into the Agreement is:	Notices should be addressed to:	Governing Law is:	Courts with exclusive jurisdiction are:
All Countries besides those in the EU or UK	Copado, Inc. a Delaware Corporation	Copado, Inc. 111 W Illinois Street Chicago, IL 60654	California and controlling United States federal law	San Francisco, California USA
UK or European Union	Copado Solutions S.L. Spanish Corporation	Copado Solutions S.L. Paseo de la Castellana, 77 Madrid M 28046	Spain	Spain

- 11.10 **Manner of Giving Notice.** Except as otherwise specified in this Agreement, all notices related to this Agreement will be in writing and will be effective upon (a) personal delivery, (b) the second business day after mailing, or (c), except for notices of termination or an indemnifiable claim ("Legal Notices"), which shall clearly be identifiable as Legal Notices, the day of sending by email. Billing-related notices to Customer will be addressed to the relevant billing contact designated by Customer. All other notices to Customer will be addressed to the relevant Services system administrator designated by Customer.
- 11.11 **Agreement to Governing Law and Jurisdiction.** Each party agrees to the applicable governing law above without regard to choice or conflicts of law rules, and to the exclusive jurisdiction of the applicable courts above.
- 11.12 **No Agency.** For the avoidance of doubt, Copado is entering into this Agreement as principal and not as agent for any Copado company. Subject to any permitted Assignment under the "Assignment" section below, the obligations owed by Copado under this Agreement shall be owed to Customer solely by Copado and the obligations owed by Customer under this Agreement shall be owed solely to Copado.