

End User License Agreement

PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY BEFORE USING THE SOFTWARE OFFERED BY HUMIO INC. (“**HUMIO**” OR “**COMPANY**”). BY MUTUALLY EXECUTING ONE OR MORE ORDER FORMS WITH COMPANY WHICH REFERENCE THESE TERMS (EACH, AN “**ORDER**”) OR BY ACCESSING OR USING THE SOFTWARE IN ANY MANNER, YOU (“**YOU**” OR “**CUSTOMER**”) AGREE TO BE BOUND BY THESE TERMS (TOGETHER WITH ALL ORDER FORMS, THE “**AGREEMENT**”) TO THE EXCLUSION OF ALL OTHER TERMS. YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO ENTER INTO THIS AGREEMENT; IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF AN ORGANIZATION OR ENTITY, REFERENCES TO “**CUSTOMER**” AND “**YOU**” IN THIS AGREEMENT, EXCEPT THIS SENTENCE, REFER TO THAT ORGANIZATION OR ENTITY. IF YOU DO NOT AGREE TO ALL OF THE FOLLOWING, YOU MAY NOT USE OR ACCESS THE SOFTWARE IN ANY MANNER. IF THE TERMS OF THIS AGREEMENT ARE CONSIDERED AN OFFER, ACCEPTANCE IS EXPRESSLY LIMITED TO SUCH TERMS.

1. Definitions.

- 1.1 “**Authorized Units**” means the specific number of Units authorized by Humio with respect to the License Software as specified in the Entitlement.
- 1.2 “**Authorized Period**” means the time period specified in the Entitlement.
- 1.3 “**Confidential Information**” means any and all non-public, confidential and proprietary information, furnished by one party to this Agreement (the “**Disclosing Party**”) or any of its Representatives to the other party to this Agreement (the “**Receiving Party**”) or any of its Representatives, whether orally, in writing, or in other tangible form. Without limiting the generality of the foregoing, Confidential Information may include, without limitation, that which relates to patents, patent applications, trade secrets, research, product plans, products, developments, know-how, ideas, inventions, processes, design details, drawings, sketches, models, engineering, software (including source and object code), algorithms, business plans, sales and marketing plans, and financial information. Any Confidential Information disclosed in a written or other tangible form shall be clearly marked as “confidential,” “proprietary,” or words of similar import. Any Confidential Information disclosed orally shall, to the extent practicable, be identified as confidential at the time of disclosure. Notwithstanding the foregoing, Confidential Information shall expressly include the terms of this Agreement, the Licensed Software, the Documentation and all know-how, techniques, ideas, principles and concepts which underlie any element of the Licensed Software or the Documentation and which may be apparent by use, testing or examination.
- 1.4 “**Derivative Work**” means a work of authorship or other development that is based on, derived from or extends, replaces, emulates, substitutes for, or exposes to third parties the functionalities of the Licensed Software or the Documentation, such as a revision, enhancement, modification, improvement, translation, abridgement, compression, extension or expansion or any other form in which such work may be recast, applied, transformed or adopted, and includes, without limitation, any “derivative work” as defined in the United States Copyright Act, 17 U.S.C. Section 101.
- 1.5 “**Documentation**” means the product documentation delivered by Humio to Customer hereunder as available at the following URL: <https://docs.humio.com>.
- 1.6 “**Effective Date**” means the earlier of the date Customer first makes use of the Licensed Software or the date listed under Effective Date in the corresponding Order.
- 1.7 “**Entitlement**” means the specific use restrictions, period or use and limitations with respect to the Licensed Software and M&S specified in the applicable Order, including but not limited to Authorized Units and Named Users.
- 1.8 “**Error**” means an incident that investigation reveals is caused by the Licensed Software’s failure to perform materially in accordance with the specifications set forth in the Documentation for such Licensed Software. An incident will not be classified as an Error if (a) the relevant Licensed Software is not used for its intended purpose; (b) the incident is caused by Customer’s or a third party’s software or equipment; or (c) the version of the Licensed Software on which the Error has purportedly occurred is a version of such Licensed Software supported by Humio.

- 1.9 **“Intellectual Property Right”** means any of the following: (i) all letters patent and applications for letters patent throughout the world, including all patent applications in preparation for filing anywhere in the world, all reissues, divisions, continuations, continuations-in-part, extensions, renewals, and reexaminations of any of the foregoing; (ii) common law and statutory trade secrets and all other confidential or proprietary or useful information that has independent value, and all know-how, in each case whether or not reduced to a writing or other tangible form; (iii) all copyrights, whether arising under statutory or common law, registered or unregistered, now or hereafter in force throughout the world, and all applications for registration thereof, whether pending or in preparation, all extensions and renewals of any thereof and all proceeds of the foregoing; (iv) all trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, certification marks, collective marks, logos, other source of business identifiers, prints, and labels on which any of the foregoing have appeared or appear, designs and general intangibles of a like nature, now existing anywhere in the world or hereafter adopted or acquired, whether currently in use or not, all registrations and records thereof and all applications in connection therewith, whether pending or in preparation for filing, including registrations, recordings, and applications in any office or agency of the United States of America or any State thereof or any foreign country, all reissues, renewals, and extensions thereof, all of the goodwill of the business connected with the use of, and symbolized by such items, and all proceeds of, and rights associated with, the foregoing; (v) moral rights in those jurisdictions within where such rights are recognized, (vi) database protections in those jurisdictions that provide distinct legal protections for databases, (vii) all other intellectual property protections recognized within any of the jurisdictions, including but not limited to any applicable *sui generis* protections for intellectual property, and (viii) all proceeds of, and rights associated with, the foregoing (as appropriate to such rights), including the right to sue third parties for any actual or threatened past, present, or future infringements, dilutions or misappropriations of any of the foregoing, or for any injury to the goodwill associated with the use of any property or rights set forth in clause (iv), and all rights corresponding thereto throughout the world.
- 1.10 **“Licensed Software”** means the Humio proprietary software product(s) indicated in an Order as Licensed Software under this Agreement.
- 1.11 **“M&S”** means the maintenance and support services provided by Humio for the Licensed Software licensed under this Agreement.
- 1.12 **“Named Users”** means the number of user- specific Customer’s employees and contractors authorized to use the Licensed Software hereunder, as specified in the Entitlement.
- 1.13 **“Representatives”** means, as to any person, such person’s affiliates and its or their directors, officers, employees, agents, and advisors (including, without limitation, financial advisors, counsel and accountants) bound by a written agreement or other legal obligation to maintain the confidentiality of the Confidential Information disclosed to them as required by the terms of Section 8.
- 1.14 **“Unit”** means uncompressed ingested data measured in gigabytes of data per day.

2. License Grant.

- 2.1 **License to Licensed Software and Documentation.** Subject to the terms and conditions of this Agreement, including but not limited to receipt of all applicable fees by Humio, Humio hereby grants to Customer, and Customer hereby accepts from Humio, a limited, non-exclusive, non-transferable, non-assignable and non-sublicenseable license to use the License Software and Documentation according to the Entitlement, in a manner consistent with the specifications and limitations set forth in this Agreement.
- 2.2 **Restrictions on Licenses.** In addition to the restrictions set forth above, Customer agrees that, except as otherwise expressly provided by this Agreement, it shall not: (a) exceed the scope of the licenses granted in this Section 2; (b) make copies of the Licensed Software or Documentation; (c) sublicense, assign, delegate, rent, lease, sell, time-share or otherwise transfer the benefits of, use under, or rights to, the license granted in Section 2.1, and any attempt to make any such sublicense, assignment, delegation or other transfer by Customer shall be void and of no effect; (d) reverse engineer, decompile, disassemble or otherwise attempt to learn the source code, structure or algorithms underlying the Licensed Software, except to the extent required to be permitted under applicable law; (e) modify, translate or create Derivative Works of the Licensed Software without the prior written consent of Humio; (f) remove any copyright, trademark, patent or other proprietary notice that appears on the Licensed Software, Documentation or copies thereof; or (g) combine or distribute any of the Licensed Software with any software that is licensed under terms that seek to require that any of the Licensed Software (or any associated Intellectual Property Rights) be provided in source code form (e.g., as “open

source”), licensed to others to allow the creation or distribution of Derivative Works, or distributed without charge. The licenses provided by this Agreement are limited licenses, and Customer acknowledges that this Agreement does not grant Customer, and Humio expressly disclaims the grant of, any license, immunity, or other right to or under any patent or other Intellectual Property Right of Humio, whether directly or by implication, legal or equitable estoppel, exhaustion or otherwise, except for the limited licenses expressly set forth in Section 2.1. The restrictions in this Section 2.2 are not intended to prohibit Customer from using third party managed services providers to manage the Licensed Software either at a Customer’s site or such third party’s site solely on behalf and for the benefit of Customer.

- 2.3 **Orders.** Customer may place Orders for additional Licensed Software or Authorized Units, or to extend the Authorized Period with respect to the Licensed Software by specifying such details in an Order form agreed to in writing by the parties.
- 2.4 **Ownership.** The Licensed Software and Documentation are licensed and not sold to Customer. Humio and its licensors own and retain all right, title and interest in the Licensed Software and Documentation, any design changes, improvements, enhancements, Derivative Works, and any related and/or associated Intellectual Property Rights, whether developed by Humio or by Customer or its employees or independent contractors. Customer shall cooperate with Humio in good faith to the extent necessary for Humio to arrange or obtain registration on behalf of Humio of all Intellectual Property Rights in any design changes, improvements, enhancements, Derivative Works, or modifications to the Licensed Software or Documentation. Notwithstanding anything to the contrary in this Agreement, Customer acknowledges that it is not licensed under, and Humio disclaims the grant of, any rights under Intellectual Property Rights of Humio, whether by implication, exhaustion, estoppel, or under any other theory, other than those expressly specified in Section 2 above.
- 2.5 **Software Maintenance and Support Services.** Subject to the timely payment of the Fees for the applicable Licensed Software and M&S (which fees are described in Order), Humio shall provide the M&S for such Licensed Software according to the support program described in the Humio Maintenance and Support Policy.

3. **Payments.**

- 3.1 **Fees.** Customer shall pay to Humio the applicable fees set forth in an Order in respect of the Licensed Software and M&S, and the other fees described in this Section 3 (collectively, the “Fees”). Customer acknowledges that Customer shall have no right to return the Licensed Software and that all Fees shall be non-refundable.
- 3.2 **Payment Terms.** All amounts payable to Humio under this Agreement shall be paid in United States dollars and shall be due thirty (30) days from the date of invoice. Unless otherwise agreed by Humio, all payments shall be made by wire transfer of immediately available funds to an account designated by Humio, all wire transfer fees prepaid. Notwithstanding any other rights of Humio, in the event of late payment by Customer (other than a payment that is not made when due as a result of a bona fide dispute between the parties), Humio shall be entitled to interest on the amount owing at a rate of 1% per month or the highest rate allowed by applicable law, whichever is less, compounded on a daily basis from the due date of payment until the date of actual payment.
- 3.3 **Taxes; Set-offs.** Any and all payments made by Customer in accordance with this Agreement are exclusive of any taxes that might be assessed against Customer by any jurisdiction. Customer shall pay or reimburse Humio for all value-added, sales, use, property and similar taxes; all customs duties, import fees, stamp duties, license fees and similar charges; and all other mandatory payments to government agencies of whatever kind, except taxes imposed on the net or gross income of Humio. All amounts payable to Humio under this Agreement shall be without set-off and without deduction of any taxes, levies, imposts, charges, withholdings and/or duties of any nature which may be levied or imposed, including without limitation, value added tax, customs duty and withholding tax.

4. **Term.**

- 4.1 The term of this Agreement shall commence on the Effective Date and remain in effect until the end of the Authorized Period (the “Term”), unless this Agreement is terminated earlier in accordance with Section 5. The Term may be extended by mutual written agreement of the parties provided Customer pays Humio the corresponding additional fees with respect to such extension. Each Order will renew automatically at the end of the applicable term and the applicable Fees shall be due, unless either party provided to the other advance written notice with respect to non-renewal at least ninety (90) days prior to the end of the then current term.

5. Termination.

5.1 **Termination.** This Agreement and the licenses granted hereunder may be terminated:

(a) by either party if the other has materially breached this Agreement, within thirty (30) calendar days after written notice of such breach to the other party if the breach is remediable or immediately upon notice if the breach is not remediable; or

(b) by Humio upon written notice to Customer if Customer (i) has made or attempted to make any assignment for the benefit of its creditors or any compositions with creditors, (ii) has any action or proceedings under any bankruptcy or insolvency laws taken by or against it which have not been dismissed within sixty (60) days, (iii) has effected a compulsory or voluntary liquidation or dissolution, or (iv) has undergone the occurrence of any event analogous to any of the foregoing under the law of any jurisdiction.

5.2 **Effect of Termination.** Upon any expiration or termination of this Agreement, the license granted in Section 2 shall terminate immediately, and Customer shall (i) immediately cease use of all Licensed Software and Documentation, and (ii) return to Humio all Licensed Software and related Documentation and other materials and information provided by Humio and any copies thereof made by Customer. Customer shall certify to Humio in writing that it has retained no copies of such Licensed Software, Documentation, materials or information. Any termination or expiration shall not relieve Customer of its obligation to pay all Fees accruing prior to termination. If the Agreement is terminated due to Customer's breach, Customer shall pay to Humio all Fees set forth in the corresponding Order.

6. Warranty.

6.1 **Humio Warranties.** For a period of ninety (90) days from the date the Licensed Software was first delivered to Customer (such period, the "**Warranty Period**") (a) the Licensed Software, when used by Customer in accordance with the provisions of this Agreement and in compliance with the applicable Documentation, will perform, in all material respects, the functions described in the Documentation, and (b) Humio will test for and remediate the Licensed Software with respect to software viruses and harmful code.

6.2 **Exclusive Remedies.** Customer shall report to Humio, pursuant to the notice provision of this Agreement, any breach of the warranties set forth in this Section 6 during the relevant Warranty Period. In the event of a breach of warranty by Humio under this Agreement, Customer's sole and exclusive remedy, and Humio's entire liability, shall be prompt correction of Errors or, if such correction is not possible, replacement of the Licensed Software in order to minimize any material adverse effect on Customer's business.

6.3 **Limitations of Warranties.** No warranty or indemnification shall apply where the defect or error in the Licensed Software is caused by: (a) any use of the Licensed Software which is not in conformity with the provisions of this Agreement or in substantial compliance with the Documentation; (b) any repair, modification or installation of the Licensed Software not made or expressly authorized by Humio; or (c) the use or attempted use of software other than the most current version supported by Humio and made available to Customer under the terms of this Agreement. Replacement or repair of a Licensed Software product shall not extend its warranty period beyond the original warranty expiration date.

6.4 **Disclaimer of Warranty.** Humio does not represent or warrant that the operation of the Licensed Software (or any portion thereof) will be uninterrupted or error free, or that the Licensed Software (or any portion thereof) will operate in combination with other hardware, software, systems or data not provided by Humio, except as expressly specified in the applicable Documentation. Humio does not provide assistance on the general use of the Licensed Software or problem diagnosis if Customer is not current in its payment obligations. CUSTOMER ACKNOWLEDGES THAT, EXCEPT AS EXPRESSLY SET FORTH IN SECTION 6.1, HUMIO MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES OF ANY KIND WITH RESPECT TO THE LICENSED SOFTWARE OR SERVICES, OR THEIR CONDITION. HUMIO IS FURNISHING THE WARRANTIES SET FORTH IN SECTION 6.1 IN LIEU OF, AND HUMIO HEREBY EXPRESSLY EXCLUDES, ANY AND ALL OTHER EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES, WHETHER UNDER COMMON LAW, STATUTE OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY AND ALL WARRANTIES AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY OR NON-INFRINGEMENT OF THIRD-PARTY RIGHTS.

7. Limitation of Liability.

- 7.1 Exclusion of Consequential Damages.** EXCEPT FOR A BREACH OF SECTION 8 BY EITHER PARTY, OR CUSTOMER'S BREACH OF SECTION 2, IN NO EVENT SHALL HUMIO OR CUSTOMER BE LIABLE IN AN ACTION UNDER TORT, CONTRACT, WARRANTY OR OTHERWISE FOR ANY: (a) SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE/EXEMPLARY DAMAGES OR LOSSES ARISING FROM OR RELATED TO A BREACH OF THIS AGREEMENT, THE OPERATION OR USE OF THE LICENSED SOFTWARE, OR THE SERVICES PERFORMED HEREUNDER, INCLUDING, WITHOUT LIMITATION, SUCH DAMAGES OR LOSSES ARISING FROM (i) LOSS OF BUSINESS, PROFIT OR REVENUES, (ii) LOSS OF DATA, PROGRAMMING OR CONTENT, (iii) FAILURE TO REALIZE SAVINGS OR OTHER BENEFITS, (iv) SUBSTITUTE PROCUREMENT, OR (v) DAMAGE TO EQUIPMENT, INCURRED BY EITHER PARTY OR ANY THIRD PARTY, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES OR IF SUCH DAMAGES OR LOSSES ARE FORESEEABLE; OR (b) DAMAGES OR LOSSES (REGARDLESS OF THEIR NATURE) FOR ANY DELAY OR FAILURE BY A PARTY TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT DUE TO ANY CAUSE BEYOND SUCH PARTY'S REASONABLE CONTROL.
- 7.2 Maximum Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, EXCEPT FOR A BREACH OF SECTION 8 BY EITHER PARTY, CLAIMS ARISING FROM A PARTY'S GROSS NEGLIGENCE OR WILFUL MISCONDUCT, OR OBLIGATIONS ARISING UNDER SECTION 9 IN NO EVENT SHALL EITHER PARTY'S TOTAL LIABILITY TO THE OTHER FOR DAMAGES, LOSSES OR LIABILITY OF ANY KIND EXCEED, EITHER CUMULATIVELY OR IN THE AGGREGATE, THE FEES PAID BY CUSTOMER TO HUMIO UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE OF THE CLAIM. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, HUMIO'S TOTAL LIABILITY WITH RESPECT TO SECTION 9 SHALL BE LIMITED TO AN AMOUNT EQUAL TO FIVE TIMES (5X) THE TOTAL FEES PAID BY CUSTOMER TO HUMIO UNDER THIS AGREEMENT.
- 7.3 Allocation of Risk.** The parties acknowledge and agree that the limitations of liability in this Section 7 and in other provisions of this Agreement and the allocation of risk herein are an essential element of the bargain between the parties, without which neither party would have entered into this Agreement. Humio's pricing and compensation under this Agreement reflects this allocation of risk and the limitation of liability specified herein. The parties further acknowledge and agree that the limitations of liability in this Section 7 shall apply even when a remedy available under breach of warranty or other similar provisions set forth under this Agreement has failed of its essential purpose.

8. Confidentiality.

- 8.1** Unless otherwise agreed to in writing by the Disclosing Party, each Receiving Party agrees (a) to keep all Confidential Information in strict confidence and not to disclose or reveal any Confidential Information to any person (other than such Receiving Party's Representatives who (i) are actively and directly involved in providing or receiving products or services under this Agreement, and (ii) have a need to know the Confidential Information), and (b) not to use Confidential Information for any purpose other than in connection with fulfilling obligations or exercising rights under this Agreement. The Receiving Party shall treat all Confidential Information of the Disclosing Party by using the same degree of care, but no less than a reasonable degree of care, as it accords its own Confidential Information. The parties agree to cause their Representatives who receive Confidential Information to observe the requirements applicable to the Receiving Party pursuant to this Agreement with respect to such information, including, but not limited to, the restrictions on use and disclosure of such information contained in this Section 8. Notwithstanding the above, the obligations of the parties set forth herein shall not apply to any information that: was in the public domain at the time it was disclosed or has entered the public domain through no fault of the Receiving Party or any of its Representatives; was known to the Receiving Party free of any obligation of confidentiality before or after the time it was communicated to the Receiving Party by the Disclosing Party; is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information; is disclosed with the prior written approval of the Disclosing Party; is or becomes available to the Receiving Party on a non-confidential basis from a person other than the Disclosing Party or any of its Representatives who is not known by the Receiving Party to be otherwise bound by a confidentiality agreement with the Disclosing Party or any of its Representatives or to be under an obligation to the Disclosing Party or any of its Representatives not to transmit the information to the Receiving Party; or is disclosed pursuant to an order or requirement of a court, administrative agency or other governmental body; provided however, that the Receiving Party shall provide prompt written notice of such court order or requirement to the Disclosing Party to enable the Disclosing Party to seek a protective order or otherwise prevent or restrict such disclosure, and shall use reasonable efforts to cooperate with the Disclosing Party (at the Disclosing Party's expense) to obtain such protective order or other appropriate remedy. In the

event that such protective order or other remedy is not obtained, or the Disclosing Party waives compliance in whole or in part, with the terms of this Agreement, the Receiving Party and its Representatives shall use reasonable efforts to disclose only that portion of the Confidential Information that is legally required to be disclosed or is the subject of such waiver, and to ensure that all Confidential Information that is so disclosed shall be accorded confidential treatment. Any materials or documents which have been furnished to the Receiving Party from the Disclosing Party shall be promptly returned or destroyed, at the option of the Disclosing Party, by the Receiving Party, within ten (10) days after (a) this Agreement has expired or has been terminated; or (b) a written notice is made by the Disclosing Party requesting such return or destruction. Upon such request, all copies, reproductions, compilations, summaries, analyses, or other documents containing or reflecting the Receiving Party's or its Representatives' use of the Confidential Information will be destroyed by the Receiving Party, and such destruction confirmed to the Disclosing Party in writing. The terms and obligations pertaining to confidentiality in this Agreement shall survive and remain in full force and effect for a period of five (5) years from the termination or expiration of this Agreement, unless the Disclosing Party expressly agrees in writing to release all or part of its Confidential Information from the restrictions imposed by this Agreement before such period has elapsed.

9. Indemnification.

- 9.1 **By Humio.** Humio will indemnify, defend and hold harmless Customer and its employees (collectively, the "**Indemnified Parties**") from and against any and all losses arising from claims by a third party that the Licensed Software when used by Customer as authorized in this Agreement (i) directly infringes a third party copyright or patent; or (ii) misappropriates, or unlawfully uses a third-party's trade secrets (collectively, "**Infringement Claims**"). Should any Licensed Software become, or in Humio's opinion be likely to become, the subject of any Infringement Claim, then Customer will permit Humio, at Humio's option and expense: to procure for Customer the right to continue using the Licensed Software; to replace or modify the Licensed Software or portion thereof to be non-infringing; or to take any other action reasonably deemed advisable by Humio related to such alleged infringement. In the event none of these remedies is available and/or practical, Humio may, in its sole discretion, terminate the license and return to Customer the license fees paid for the infringing licensed copies with respect to the then-current Authorized Period, reduced on a prorated basis for each month the Licensed Software is used during the Authorized Period.
- 9.2 **Notice of Claim and Indemnity Procedure.** In the event of a claim for which an Indemnified Party will seek indemnity or reimbursement under this Section 9, and as a condition of the indemnity benefits in Section 9, such party shall notify Humio in writing as soon as practicable, but in no event later than thirty (30) days after receipt of such claim, together with such further information as is necessary for Humio to evaluate such claim to the extent that the Indemnified Party is in possession or has knowledge of such information; provided that any delay in giving such notice shall not preclude the Indemnified Party(ies) from seeking indemnification or reimbursement thereunder if: (a) such delay has not materially prejudiced Humio's ability to defend the claim; and (b) such delay does not materially affect the amount of any damages awarded for or paid in settlement of such claim. As a condition of the indemnity benefits in Section 9, Humio shall have the right to assume full control of the defense of the claim, including retaining counsel of its own choosing. Upon the assumption by Humio of the defense of a claim with counsel of its choosing, Humio will not be liable for the fees and expenses of additional counsel retained by any Indemnified Party. The Indemnified Party(ies) shall cooperate with Humio in the defense of any such claim.
- 9.3 **Exclusions.** Notwithstanding any other provision in this Agreement, Humio shall have no obligation to indemnify or reimburse any Indemnified Party with respect to any Infringement Claim to the extent arising from (i) use of any Licensed Software in combination with any products or services other than those provided or approved by Humio to Customer under this Agreement; (ii) modification of the Licensed Software after delivery by Humio to Customer, except for such modifications performed by or expressly approved in writing by Humio; (iii) use of any version of the Licensed Software other than supported versions made available by Humio to Customer according to M&S; (iv) the failure of any Indemnified Party to use any Updates, corrections or enhancements to the Licensed Software that are made available by Humio to Customer hereunder; or (v) detailed, non-discretionary designs or specifications provided to Humio by any Indemnified Party that necessarily caused such Infringement Claim. Customer agrees to reimburse Humio for any and all damages, losses, costs and expenses incurred as a result of any of the foregoing actions.
- 9.4 **General Limitations.** Notwithstanding the foregoing provisions, Humio shall have no obligation to indemnify or reimburse for any losses, damages, costs, disbursements, expenses, settlement liability of a claim or other sums paid by any Indemnified Party voluntarily, and without Humio's prior written consent, to settle a claim. Subject to the maximum liability set forth in Section 7.2, the provisions of this Section 9 constitute the entire understanding of the parties

regarding Humio's liability for Infringement Claims (including related claims for breach of warranty if any) and sole obligation to indemnify and reimburse any Indemnified Party.

10. Miscellaneous.

- 10.1 **Publicity.** Customer hereby authorizes Humio to identify Customer as a Humio Customer, and to use Customer's name, mark and logo on Humio's website and in Humio's marketing materials in connection with Customer's use of the service. To the extent so authorized by the customer in writing, Customer agrees to participate in certain Humio marketing activity, such as case study, joint press release, and customer quotes.
- 10.2 **Notices.** All notices, summons and communications related to this Agreement and sent by either party hereto to the other shall be written in English and given by registered mail, internationally recognized overnight courier or by facsimile also confirmed by registered or certified mail, postage prepaid to the party's address as set forth in the corresponding Order, or such other addresses as may have been previously specified in writing by either party to the other.
- 10.3 **Assignment.** Customer shall not transfer or assign this Agreement or any of its rights or obligations hereunder, the Licensed Software or any component thereof, or any other materials provided hereunder, to any other person or entity, whether by written agreement, operation of law or otherwise, without the prior written consent of Humio, which consent may be withheld for any reason whatsoever, as determined by Humio in its sole discretion. Any purported assignment or transfer by Customer without Humio's prior written consent shall be void and of no effect. Humio may freely assign this Agreement, or delegate obligations under this Agreement, without the prior written consent of Customer. Subject to the foregoing, any permitted assignment or transfer of or under this Agreement shall be binding upon, and inure to the benefit of, the successors, executors, heirs, representatives, administrators and assigns of the assigning or transferring party hereto.
- 10.4 **Survival.** Sections 1, 2.2, 4, 6, 8.2, 9.4, 10, 11, 13 shall survive the expiration or termination of this Agreement, or any default under or rejection in bankruptcy of this Agreement by Customer.
- 10.5 **Governing Law; Jurisdiction.** This Agreement and all matters relating to this Agreement shall be construed in accordance with and controlled by the laws of the State of California, without reference to its conflict of law principles. The parties agree to submit to the non-exclusive jurisdiction and venue of the courts located in San Francisco, California and hereby waive any objections to the jurisdiction and venue of such courts.
- 10.6 **No Agency; Independent Contractors.** In connection with this Agreement each party is an independent contractor and as such will not have any authority to bind or commit the other. Furthermore, neither this Agreement, nor any terms and conditions contained herein, shall be construed as creating a partnership, joint venture or agency relationship or as granting a franchise.

11. Export Control; Compliance with Laws.

- (a) **Export Control.** The Licensed Software, the Documentation and all other technical information delivered hereunder (collectively, "**Technical Data**") include technology and software and are subject to the export control laws and regulations of the United States ("**U.S.**"). Customer agrees not to export, re-export or otherwise release any Licensed Software outside of the U.S. and to abide by such laws and regulations as to which Humio may notify Customer from time to time. Customer further acknowledges and agrees that the Technical Data may also be subject to the export laws and regulations of the country in which the products are received, and that Customer will abide by such laws and regulations.
- (b) **Compliance with Laws.** Customer shall comply with all applicable laws and regulations in its use of any Licensed Software and Documentation, including without limitation the unlawful gathering or collecting, or assisting in the gathering or collecting of information in violation of any privacy laws or regulations. Customer shall, at its own expense, defend, indemnify and hold harmless Humio from and against any and all claims, losses, liabilities, damages, judgments, government or federal sanctions, costs and expenses (including attorneys' fees) incurred by Humio arising from any claim or assertion by any third party of violation of privacy laws or regulations by Customer or any of its agents, officers, directors or employees.

12. Force Majeure.

12.1 Neither party shall be liable for failure to perform any of its obligations under this Agreement (except payment obligations) during any period in which such party cannot perform due to fire, earthquake, flood, any other natural disaster, epidemic, accident, explosion, casualty, strike, lockout, labor controversy, war, embargo, riot, civil disturbance, act of public enemy, act of nature, the intervention of any government authority, any failure or delay of any transportation, power, or for any other similar cause beyond either party's control. In the case of failure to perform, the failing party shall promptly notify the other party in writing of the reason for and the likely duration of the failure. The performance of the failing party's obligations shall be suspended during the period that the cause persists, and each party shall use commercially reasonable efforts to avoid the effect of that cause.

13. Severability and Waiver.

13.1 To the extent that any term, condition or provision of this Agreement is held to be invalid, illegal or otherwise unenforceable under applicable law, then such term, condition or provision shall be deemed amended only to the extent necessary to render such term, condition or provision enforceable under applicable law, preserving to the fullest extent possible the intent and agreements of the parties set forth herein; in the event that such term, condition or provision cannot be so amended as to be enforceable under applicable law, then such term, condition or provision shall be deemed excluded from this Agreement and the other terms, conditions and provisions hereof shall remain in full force and effect as if such unenforceable term, condition or provision had not been included herein. The failure of a party to prosecute its rights with respect to a default or breach hereunder shall not constitute a waiver of the right to enforce its rights with respect to the same or any other breach.

14. Entire Agreement; Amendment.

14.1 This Agreement and all Order embody the entire understanding of the parties with respect to the subject matter hereof and shall supersede all previous communications, representations or understandings, either oral or written, between the parties relating to the subject matter hereof. It shall not be modified except by a written agreement signed on behalf of Customer and Humio by their respective duly authorized representatives. Customer acknowledges that it is entering into this Agreement solely on the basis of the agreements and representations contained herein, and for its own purposes and not for the benefit of any third party. It is expressly agreed that the terms of this Agreement shall supersede the terms in any purchase order or other ordering document.