



GLASSBEAM SOFTWARE AS A SERVICE (SaaS) LICENSE AGREEMENT

BY USING A SERVICE OFFERING, "YOU" OR "CUSTOMER" AGREE TO BE BOUND BY THESE TERMS OF SERVICE BETWEEN YOU AND GLASSBEAM, INC. ("TERMS OF SERVICE"), AND BY ANY SERVICE OFFERING DOCUMENTATION, WHICH TOGETHER CONSTITUTE THE "AGREEMENT". IF YOU DO NOT AGREE TO THESE TERMS OF SERVICE OR TO ANY OTHER PORTION OF THE AGREEMENT YOU MUST NOT USE THE SERVICE OFFERING. "YOU" MEANS YOU INDIVIDUALLY OR THE ENTITY THAT YOU REPRESENT (AND, AS APPLICABLE, YOUR USERS). IF YOU ARE ENTERING INTO THE AGREEMENT FOR AN ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND THAT ENTITY. THE AGREEMENT TAKES EFFECT WHEN YOU CLICK "I ACCEPT" OR SIMILAR BUTTON OR CHECK BOX PRESENTED TO YOU AS PART OF THE SIGN-UP PROCESS OR WHEN YOU FIRST USE THE SERVING OFFERING, WHICHEVER IS EARLIER, AND WILL REMAIN IN EFFECT DURING THE RELEVANT SUBSCRIPTION TERM OR UNTIL TERMINATED AS SPECIFIED IN THE AGREEMENT.

1. RIGHTS TO USE SERVICES.

1.1 Access. Subject to these Terms of Services, Glassbeam agrees to manage and make available to the Customer access to the Glassbeam Software as a service product offering(s), including all Documentation, Enhancements, and Analytics thereto made available hereunder or as described or provided in conjunction with one of Glassbeam's authorized partner's services offerings, pursuant to their subscription ordering documentation (collectively, the "Services" or "Service Offering").

1.2 Limited Software Location License. Subject to these Terms of Service, Glassbeam hereby grants to Customer a non-exclusive, non-sublicensable, non-transferable, limited license ("License") during the applicable subscription term. Customer shall have no right to receive, use or examine any source code or design Documentation relating to the Software. The License permits the use of the Services only in accordance with the purchased Services Configuration. It is a violation of this Agreement to create, set-up or design any hardware, software or system which alters the purchased Services Configuration.

1.3 Services Environment. Glassbeam will maintain the Services at a reputable third-party Internet service provider and/or hosting facility provided by the Customer ("Glassbeam Cloud") and will implement industry standard security precautions intended to prevent unauthorized access to Customer Content (which shall be any content uploaded by Customer to the Glassbeam Cloud).

2. PASSWORDS/SECURITY. If applicable, Glassbeam shall issue to Customer, or shall authorize a Customer administrator to issue, a password for each Named User of the Services. Customer agrees to immediately notify Glassbeam of any unauthorized use of Customer's account (including each password of each Named User accessing the Services by means of Customer's account) or any other breach of security known to Customer. Glassbeam shall have no liability for any loss or damage arising from Customer's failure to comply with these requirements.

3. CUSTOMER SUPPORT. Glassbeam's current standard telephone and e-mail support is described at <https://www2.glassbeam.com/support-contract>

4. OWNERSHIP. Customer acknowledges that, as between Glassbeam and Customer, all right, title and interest in the Services and any other Glassbeam materials furnished or made available hereunder, and all Enhancements and Analytics thereof, including all copyright and patent and other Intellectual Property Rights, belong to and are retained solely by Glassbeam, as applicable. There are no implied rights.

5. CUSTOMER OBLIGATIONS.

5.1 Prohibited Actions. Customer shall not, directly or indirectly, or permit any Named User to: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code or underlying ideas or algorithms of the Services; modify, translate, or create derivative works based on the Services or any related Documentation; (iii) rent, lease, distribute, sell, resell, assign, or otherwise transfer its rights to use the Services; use the Services for timesharing or service bureau purposes or otherwise for the benefit of a third party; remove any proprietary notices from the Services or any other Glassbeam materials furnished or made available hereunder; publish or disclose to third parties any evaluation of the Services without Glassbeam's prior written consent; or use the Services in automatic, semi-automatic or manual tools designed to create virus signatures, virus detection routines, or any other data or code for detecting malicious code or data.

5.2 Hardware. Customer is solely responsible for obtaining and maintaining all computer hardware, software and communications equipment needed to access and use the Services in any Glassbeam controlled Services Environment and for paying all third-party fees and access charges (e.g., ISP, telecommunications, etc.) incurred while using the Services.

5.3 Network Operations; Transmission of Product Operational Data. Customer acknowledges and agrees: (1) that Customer assumes

the risk for use of the Services; (2) that Customer is responsible for selecting appropriate remediation for, and resolving, any issues found on Customer's network or in Customer's web traffic through the Services; and (3) that Glassbeam is not liable for, or responsible to, remediate any issues found on Customer's network or in Customer's web traffic through the Services. Customer is responsible for providing Glassbeam with Product Operational Data collected regularly from its or its customers' installed base, as applicable.

5.4 Conduct; Compliance with Laws. Customer shall be solely responsible for its actions and the actions of its Named Users while using the Services. Customer agrees to abide by all local, state, national, and international laws and regulations applicable to Customer's use of the Services, including, without limitation, all laws regarding the transmission of technical data exported from the United States through the Services, intellectual property and privacy laws, gambling and gaming laws, and all laws applicable to wireless e-mail marketing and advertising. Glassbeam may remove any violating content posted or stored using the Services or transmitted through the Services, without prior notice to Customer.

5.5 Acceptable Use. Customer agrees to comply with the terms and conditions of Glassbeam's Acceptable Use Policy ("AUP") which can be accessed at the Glassbeam Portal (www2.glassbeam.com/aup-contract), as the same may be updated from time to time.

6. TERMINATION.

6.1 Breach. Either party may terminate this Agreement upon written notice if the other party has breached a material term of this Agreement and has not cured such breach within thirty (30) days of receipt of notice from the non-breaching party specifying the breach.

6.2 Customer Conduct. Glassbeam may suspend or terminate access to the Services, at its sole option, with or without notice to Customer, if Customer breaches either of Section 5.4 or 5.5 of this Agreement.

6.3 Effect of Termination. Glassbeam shall not be liable to Customer or any third party for suspension or termination of Customer's access to, or right to use, the Services under this Agreement. Upon the effective date of expiration or termination of this Agreement for any reason, whether by Customer or Glassbeam, Customer's right to use the Services shall immediately cease. Upon the expiration or termination of this Agreement, Customer and its Named Users' access to the Services will terminate and Customer shall cease accessing and using the Services immediately. Sections, 5, 6, 7, 8, 9, 10, and 11 of this Agreement shall survive its expiration or termination for any reason. Glassbeam shall retain Customer's Product Operational Data files for a period of thirty (30) days after expiration or termination of this Agreement. Customer may request that Glassbeam conduct a mass export of Customer's Product Operational Data files, Customer Content, and the database, and Glassbeam agrees to provide such services at its then-current rates on a time and materials basis. After thirty (30) days, Glassbeam will be permitted to delete and destroy all Customer Product Operational Data files and Customer Content without notice or further liability to Customer.

7. CONFIDENTIALITY. Customer shall hold in the strictest confidence the Services and any related software and materials or information including, but not limited to, any technical data, research, product plans or know-how provided by Glassbeam to Customer, either directly or indirectly in writing, orally or by inspection of tangible objects ("Confidential Information"). Customer shall not disclose any Confidential Information to third parties, including any of its employees who do not have a need to know such information and Customer shall take reasonable measures to protect the secrecy of, and to avoid disclosure and unauthorized use of the Confidential Information. Customer shall immediately notify Glassbeam in the event of an unauthorized or suspected use or disclosure of the Confidential Information. Upon expiration or termination of this Agreement for any reason, Customer shall promptly return to Glassbeam, or destroy all copies of Glassbeam's Confidential Information.

8. WARRANTY. Glassbeam covenants, represents and warrants that the Services will be provided in compliance with all applicable laws and regulations.



TO THE EXTENT NOT PROHIBITED BY LAW, THESE WARRANTIES ARE EXCLUSIVE AND THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS INCLUDING FOR SOFTWARE, HARDWARE, SYSTEMS, NETWORKS OR SERVICE ENVIRONMENTS OR FOR MERCHANTABILITY, SATISFACTORY QUALITY AND FITNESS FOR A PARTICULAR PURPOSE. GLASSBEAM DOES NOT WARRANT THAT THE USE OF THE GLASSBEAM MATERIALS WILL BE ERROR-FREE OR UNINTERRUPTED, OR THAT GLASSBEAM WILL CORRECT ALL SERVICES ERRORS, (B) THE GLASSBEAM MATERIALS WILL OPERATE IN COMBINATION WITH ANY END-USER CONTENT OR DATA, OR WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEMS OR DATA NOT PROVIDED BY GLASSBEAM, AND (C) THE GLASSBEAM MATERIALS WILL MEET EITHER CUSTOMER OR ANY END-USER'S REQUIREMENTS, SPECIFICATIONS OR EXPECTATIONS.

CUSTOMER ACKNOWLEDGES THAT GLASSBEAM DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES. GLASSBEAM IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS. GLASSBEAM IS NOT RESPONSIBLE FOR ANY ISSUES RELATED TO THE PERFORMANCE, OPERATION OR SECURITY OF THE SERVICES THAT ARISE FROM ANY END-USER'S CONTENT OR DATA UPLOADED TO THE SERVICES.

9. INDEMNIFICATION. Customer shall indemnify, defend and hold Glassbeam and its subsidiaries, Affiliates, employees, officers, directors and agents, harmless from and against all suits, claims charges and liabilities, and all associated losses, costs, damages and expenses, or at its option settle, any third party claim or suit against Glassbeam based on a claim arising from: (i) any breach of this Agreement by Customer or any of its Names Users, and their respective Affiliates, employees agents, successors and assigns; and (ii) relating to or based on the activities conducted by Customer or any of its Names Users, and their respective employees, contractors and agents through the Services; and Customer shall pay any final judgment entered against Glassbeam in any such proceeding or agreed to in settlement

10. LIMITATION OF LIABILITY. UNDER NO CIRCUMSTANCES SHALL GLASSBEAM AND ITS RESPECTIVE AFFILIATES, EMPLOYEES, OFFICERS, DIRECTORS, REPRESENTATIVES, AND AGENTS BE LIABLE TO CUSTOMER, ANY END USER, OR ANY OTHER PERSON OR ENTITY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OR FOR LOSS OF PROFITS, REVENUES, CONTRACTS, CUSTOMERS, LOSS OF USE, LOSS OF DATA, GOODWILL, BUSINESS INTERRUPTION, COST OF REPLACEMENT GOODS OR SERVICES, OR FAILURE TO REALIZE EXPECTED COST SAVINGS EVEN IF ADVISED OF THE POSSIBILITY OF SAME OR SAME WERE REASONABLY FORESEEABLE. GLASSBEAM'S MAXIMUM LIABILITY FOR ALL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT OR TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, SHALL IN NO EVENT IN EXCESS OF THE TOTAL AMOUNT PAID BY CUSTOMER TO RESELLER OR AUTHORIZED SERVICES PARTNER FOR THE GLASSBEAM SOFTWARE OR SERVICES DIRECTLY CAUSING THE LIABILITY DURING THE TWELVE (12) MONTHS PERIOD IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE CLAIM, AND UNDER NO CIRCUMSTANCES IN THE AGGREGATE FOR ALL CLAIMS TO EXCEED AN AMOUNT PAID TO GLASSBEAM DURING TERM OF THIS AGREEMENT, AND SHALL BE LIMITED TO DIRECT DAMAGES ONLY. THE FOREGOING LIMITATIONS OF LIABILITY SHALL APPLY NOTWITHSTANDING ANY FUNDAMENTAL BREACH, BREACH OF MATERIAL TERM OR FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

11. GENERAL. This Agreement shall inure to the benefit of each party's successors and permitted assigns. Both parties acknowledge and agree that the Services and technology subject to this Agreement are subject to the export and re-export control laws and regulations of the United States and any applicable jurisdiction, including but not limited to the Export Administration Regulations ("**EAR**"), and sanctions regimes of the U.S. Department of Treasury, Office of Foreign Asset Controls. Both parties will comply with these laws and regulations This Agreement may be amended or superseded only by a written instrument signed by both parties. This Agreement shall be governed by the laws of the state of California, excluding its conflict of laws rules. The parties agree that the United Nations Convention for the International Sale of Goods is excluded in its

entirety from this Agreement. Any provision of this Agreement held to be unenforceable shall not affect the enforceability of any other provisions of this Agreement. In the event of any conflict between the terms of this Agreement and the terms of any agreement, the terms of this Agreement shall control. Except with respect to Customer's payment obligations under each applicable SaaS Order Form, neither party shall be in default if its failure to perform any obligation under this Agreement is caused solely by supervening conditions beyond that party's reasonable control, including acts of God, civil commotion, war, strikes, third party Internet service interruptions or slowdowns, vandalism or "hacker" attacks, acts of terrorism or governmental demands or requirements. All pre-printed terms and conditions of any quote, invoice, purchase order or other form of document that are inconsistent to or in conflict with this Agreement shall be null and void and of no legal force or effect. No waiver shall be deemed a waiver of any prior or subsequent default hereunder.

12. DEFINITIONS. The following terms shall have the meanings set forth below when used in this Agreement:

"**Analytics**" means any deliverables and insights created by Glassbeam in the process of delivering Services to the Customer.

"**Affiliate**" means any person, partnership, joint venture, corporation, company or other form of enterprise, including, but not limited to subsidiaries, located in the Territory and in which Customer holds directly (or indirectly through one or more intermediaries) more than fifty percent (50%) of the outstanding voting shares, voting rights or other securities, or which is controlled by, or is under common control with Customer.

"**Documentation**" means the documentation supplied with the Services or otherwise made available to Customer under this Agreement, including, without limitation, the program instructions and user manuals for the Services referenced within the Services, as well as any help windows and readme files that are accessible from within the Services.

"**Content**" means all data, information, text, files, images, graphics, illustrations, audio, video, photographs and other content and material, in any format, provided by Customer or any Named Users that are uploaded to, reside in, or run on or through, the Services including, without limitation, Product Operational Data.

"**Enhancements**" means all modifications, improvements, derivative works of or revisions to the Software including, without limitation, those expanding its functionality or improving its performance commonly known as upgrades

"**Intellectual Property Rights**" means patents of any type, design rights, utility models or other similar invention rights, copyrights, mask work rights, trade secret or confidentiality rights, trademarks, trade names and service marks and any other intangible property rights, including moral rights and all applications and registrations for any of the foregoing, in any country, arising under statutory or common law or by contract and whether or not perfected, now existing or hereafter filed, issued, or acquired.

"**Named Users**" means those employees, contractors, agents and other authorized individuals identified by Customer as permitted to use the Services and include each level of user, including, without limitation, all Regular Users and Power Users. Regular Users can use all functionalities of the Services offered, EXCEPT the ability to author Rules and Dashboards, which are only allowable to Power Users.

"**Product Operational Data**" means any data containing configuration, status, statistics and events, CRM information and any device or other Customer-related information that is uploaded to, resides in, or is run on or through, the Services.

"**Services Configuration**" means the subscriptions to the Software and Services and any additional services purchased by Customer, the Licensed Servers, if any, and the applicable fees payable with respect thereto.

"**Services Environment**" refers to the combination of hardware and Software components owned and managed by Glassbeam to which Glassbeam grants Customer and its Named Users access as part of the Services or, where applicable, the hardware and Software components owned and managed by or on behalf of Customer through which access to the Services is provisioned. As applicable and subject to the terms of this Agreement, Customer and its Named Users' Content may be hosted in the Services Environment.