



SOFTWARE AS A SERVICE SUBSCRIPTION AGREEMENT

This Software as a Service Subscription Agreement is between EverString Technology, Ltd. (“EverString”) and the customer identified on the initial Order Form (“Customer”). The parties acknowledge receipt and sufficiency of good and valuable consideration and agree as follows:

1. Definitions. Terms used in this Agreement with their initial letters capitalized have the meanings ascribed to them in this section or where they are elsewhere defined in this Agreement. Any term defined in the singular will have the corresponding definition in the plural (and vice versa). As used in this Agreement:

(a) “Agreement” means this Software as a Service Subscription Agreement, together with all applicable Orders.

(b) “Content” means information obtained by EverString and provided to Customer in accordance with an Order.

(c) “Credentials” refers to the password or similar credentials issued by EverString to Customer, enabling access to the Services.

(d) “Data” refers to any information, data and/or files Customer transmits, uploads, creates, or stores to or on the Services in association with Customer’s use of the Services.

(e) “Documentation” means EverString’s online user guides, documentation, and help and training materials that it provides or makes available to Customer, as is updated by EverString from time to time.

(f) “Hosted Environment” refers to EverString’s third party hosting provider’s environment, on which the Services and associated data are hosted.

(g) “Malicious Code” means code, files, scripts, agents, or programs intended to do harm, including, for example, computer viruses, worms, Trojan horses, logic bombs, spyware, adware and backdoor programs.

(h) “Order” means an ordering document for the purchase of the Services hereunder, that is executed by both parties, and which is incorporated by reference herein.

(i) “Users” means individuals appointed by Customer to access and use the Services, which may include Customer’s officers, employees and/or consultants and agents performing services for Customer or on Customer’s behalf.

2. Services Provided by EverString.

(a) EverString will provide Customer with the Services detailed on an applicable Order, using EverString's Predictive Marketing Engine (the "EverString Engine"). The EverString Engine may utilize some or all of the following: (i) Customer's historical customer conversion data (the "Historical Data"); (ii) monthly customer conversion data ("Monthly Data"); and (iii) EverString's own proprietary database of external signaling information.

(b) Customer may upload the Historical Data and the Monthly Data to the EverString Engine. Customer acknowledges and agrees that failure to upload any Historical Data or Monthly Data may reduce the quality of the Services, and that EverString will have no resulting liability. EverString will use the Historical Data and the Monthly Data solely for the purpose of providing the Services.

(c) Provision of Services and Content. Subject to the terms and conditions of this Agreement, including payment of all applicable fees, EverString (a) authorizes Customer to access and use the Services and Content, and to permit its Users to do the same, during the term and in accordance with applicable Documentation. EverString will provide reasonable email and telephone support to Customer. Customer shall be responsible for providing first level support to its Users, and will undertake commercially reasonable efforts to resolve issues with the Services concerning its Users prior to seeking support for same from EverString.

(d) All data and information obtained by EverString from a publicly available source or third party, and any data generated by EverString through the analysis, processing, scoring, or enrichment of any subject data (collectively, "EverString Data") shall, as between EverString and Customer, be and remain the proprietary information of EverString, notwithstanding the fact that such information may be the similar or identical to any Customer Data, and notwithstanding whether any Customer Data may have been used or accessed in connection with the query, identification, generation, evaluation, scoring, enrichment, or other processing of data constituting EverString Data. Customer's use of EverString Data is expressly limited to use of that EverString Data that Customer have a right to access under the terms of this Agreement for authorized purposes, and for no other purpose.

(e) Protection of Data. EverString maintains certain administrative, physical, and technical safeguards designed to improve the security, confidentiality, and integrity of Data, as described in the Documentation. Those safeguards will include, but will not be limited to, measures designed to prevent access, use, modification or disclosure of Data by EverString's personnel except (i) to provide the Services and prevent or address service or technical problems, (ii) as compelled by law in accordance with this Agreement, or (iii) as Customer expressly permits in writing. Customer acknowledges and agrees that no such measures are capable of guaranteeing complete security, including with respect to technological failures, human error, and concerted efforts to breach. EverString disclaims all implied warranties as to the security it provides in connection with the Data.

(f) Delegation/Subcontracting. Customer acknowledges that EverString, for the provisioning of the Services, may use the services of third party subcontractors, including the Hosted Environment provider(s), and Customer consents to the corresponding subcontracting of EverString's obligations under this Agreement. EverString shall be responsible for any act or omission by said third party subcontractors which, if performed by EverString, would constitute a breach of EverString's obligations under this Agreement.

(g) Delivery of Data. Customer may transmit, upload, or otherwise create Data to or within the Service. Customer grants EverString a royalty-free, fully-paid right and license to view, store, copy, and delete or otherwise process Data to the extent required for EverString's development, provision, support, and maintenance of the Services and Customer irrevocably consent and agree to the processing of Data by EverString for such purpose, including using such Data in aggregate form in a manner that does not identify Customer as the source of such Data in the provision of the Service to its other customers. Customer is responsible for ensuring adequate protection of the information systems, data, content or applications that Customer deploys and/or accesses. This includes, but is not limited to, any level of data transfer, data delivery, communication, data encryption, access controls, roles and permissions granted to Customer's internal, external, and third party users.

(h) Regulatory Compliance. Customer represents and warrants that Customer's use of the Services will be in compliance with any and all applicable laws, rules and regulations (including regulations on the transmission of unsolicited marketing messages), and that Customer has sufficient rights, title and interests in and to any Data for uploading and using the same within the scope of the Services, and for granting EverString the authorization set forth in this Agreement. Without limiting the generality of the foregoing, Customer represents and warrants that it has a published privacy policy that adequately discloses Customer's use of the Service to process any applicable Data in accordance with applicable law and industry guidelines. Furthermore, during the term of this Agreement and not more than twice per year (unless circumstances warrant additional audits as described below), EverString reserves the right to audit Customer's record(s) to ensure compliance for selected and purchased database size upon at least 10 business days' written notice. Notwithstanding the foregoing, the parties agree that EverString reserves the right to conduct an audit at any time in the event of investigations of claims of misappropriation, fraud, or business irregularities of a potentially criminal nature or otherwise as EverString determines in its reasonable discretion.

3. Customer's Responsibilities and Usage Restrictions.

(a) Only Users appointed by Customer in accordance with the terms set forth herein are entitled to use the Services. Customer is responsible for the use of the Services by its Users, as well as for use of the Services by any third party that uses the Services through Customer's Credentials. Customer is responsible for implementing Customer's own security measures in order to safeguard Customer's Credentials and to prevent disclosure of the same to any third party not designated as a User. Customer is responsible for (i) its Users' compliance with this Agreement, (ii) the accuracy, quality and legality of Data and the means by which Customer

acquired Data, and (iii) preventing unauthorized access to or use of Services and Content, and notifying EverString promptly of any such unauthorized access or use. Customer will reasonably cooperate with any of EverString's investigations into Service outages, security problems, and/or suspected breaches of the Agreement.

(b) Customer shall be solely responsible for: (i) the provision of its own reliable, high speed internet connectivity to and from the Services, for each location that needs access to the Services; (ii) its own equipment, including but not limited to administrator and end user workstations and compatible web browsers; (iii) configuration, use and operation of the Services to suit Customer's environment; and (iv) providing up to date contact information for Customer's primary contacts.

(c) Usage Restrictions. Customer will not, and will not permit any other party to (i) make any Service or Content available to, or use any Service or Content for the benefit of, anyone other than Customer or Users, (ii) sell, resell, license, sublicense, distribute, rent or lease any Service or Content, or include any Service or Content in a service bureau or outsourcing offering, (iii) use a Service 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, (iv) use a Service to store or transmit Malicious Code, (v) interfere with or disrupt the integrity or performance of any Service or third-party data contained therein, (vi) attempt to gain unauthorized access to any Service or Content or its related systems or networks, (vii) copy a Service, Content, Documentation, or any part, feature, function or user interface thereof, (viii) access any Service or Content in order to build a competitive product or service, or (l) reverse engineer, reverse assemble, or decompile any Service (to the extent such restriction is permitted by law).

4. Fees and Payment.

(a) Generally. Customer will pay all fees specified in the Order, provided that EverString may revise the fees on a going forward basis for subsequent renewal terms by providing written notice at least thirty (30) days prior to the end of the then current term. Except as otherwise specified herein or in an Order, payment obligations are non-cancelable and fees paid are non-refundable.

(b) Taxes. The fees for the Services do not include any excise, sales, use, value added or other taxes, tariffs or duties that may be applicable to the Services. When EverString has the legal obligation to collect such taxes, tariffs or duties, the amount of such taxes, tariffs and duties will be invoiced to Customer and Customer will pay such amount unless Customer provides EverString with a valid tax exemption certificate authorized by the appropriate taxing authority. All payments by Customer for the Services will be made free and clear of, and without reduction for, any withholding taxes. Any such taxes which are otherwise imposed on payments to EverString will be Customer's sole responsibility. Customer will provide EverString with official receipts issued by the appropriate taxing authority or such other evidence as is reasonably requested by EverString to establish that such taxes have been paid.

(c) Invoicing and Payment. EverString will invoice Customer in advance and otherwise in accordance with the relevant Order. Unless otherwise stated in the Order, fees are due net thirty (30) days from the invoice date. Customer is responsible for providing complete and accurate billing and contact information to EverString and notifying EverString of any changes to such information. Payments more than 30 days overdue are subject to interest of 1.5% per month on any overdue amounts, or the maximum permitted by law, whichever is less. EverString may suspend Service in the event of late payment, upon ten (10) days' prior written notice and/or condition future subscription renewals and Orders on shorter payment terms.

5. Intellectual Property Rights.

(a) Customer's Rights. Customer retains all Customer's rights, title, and interests in and to Data. Nothing set forth herein shall be of nature to assign or transfer any rights in Data to EverString.

(b) EverString's Rights. As between EverString and Customer, EverString owns all right, title and interest in and to all elements of the EverString Engine and all other aspects of the Services and Documentation, including all applicable patents, copyrights, trademarks and other proprietary and intellectual property rights therein. Except for the limited rights expressly granted in this section, Customer has no rights in or to the foregoing, and any rights not expressly granted are reserved by EverString and its licensors.

6. Term, Termination and Suspension.

(a) The term of this Agreement will begin upon the first provision of Services to Customer and, unless terminated earlier as provided in this Agreement, will continue until the date on which the term of the last effective Attachment expires or is terminated. In the event no Attachment contains a term, the term of this Agreement will continue until 11:59 P.M. U.S. Pacific time on the date that is one day prior to the first anniversary of the date upon which the most recent Order was executed by EverString, and will automatically renew for subsequent periods of one year each, unless either party provides written notice to the other, no later than thirty (30) days prior to the expiration of the then-current period, of its intention that the Agreement not renew.

(b) Termination for Cause. Either party may terminate this Agreement by means of a written notification in accordance with this Agreement in case of the other party failing to perform any material obligation under this Agreement, with such breach (if capable of being remedied) remaining uncured following a ten (10) days written notice. In case such breach is not capable of being remedied, termination may occur forthwith by means of a written notification.

(c) Payment upon Termination. If this Agreement is terminated by EverString in accordance with the preceding subsection, Customer will pay any unpaid fees covering the remainder of the term of all Orders. In no event will termination relieve Customer of Customer's obligation to pay any fees payable to EverString for the period prior to the effective date of termination.

(d) Suspension of Services. EverString may suspend the Services in case of: (i) any outstanding invoice not being paid within thirty (30) days from the invoice date; (ii) EverString's becoming aware of what EverString deems a credible claim that Customer's use of the Services violates any applicable law, rules or regulations or infringes upon third party rights; (iii) Customer's use of the Services in violation of this agreement, or in a manner that interferes with the normal operation of the Services or Hosted Environment; (iv) the security of the Services, of the Data, or of the Hosted Environment or Customer's access rights being compromised, or in any event wherein EverString determines that suspension of the Services is needed to protect the integrity of the Services or Hosted Environment; or (v) in any event where EverString is entitled to terminate this Agreement for cause. In each case of suspension as per above, EverString will give Customer an advance twelve (12) hours' notice, unless EverString reasonably determines that giving a shorter or no notice is necessary to protect EverString's interests, Customer's interests, or the interests of any third party.

(e) Results of Termination. Following termination of this Agreement, (i) Customer's access rights shall lapse and EverString shall no longer be required to provide any Services, and (ii) the parties shall return to each other, or destroy, within thirty (30) days from such termination, any Confidential Information received. Termination of this Agreement will not relieve a party from any accrued payment obligations.

(f) Data Portability. For a period of no longer than thirty (30) days following the effective date of termination or expiration of this Agreement, EverString will make Customer Data available for download by Customer through the Services. After such time, EverString may delete such data.

(g) Surviving Provisions. Any obligations and duties which by their nature extend beyond the expiration or termination of this Agreement will survive the expiration or termination of this Agreement. Without limiting the foregoing, Sections 1, 4(c), 5, 6, 8(c), 9, 10 and 11 will survive the expiration or termination of this Agreement.

7. Confidentiality.

(a) Definition of Confidential Information. "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's Confidential Information includes Data; EverString's Confidential Information includes the Services and Content; and Confidential Information of each party includes the terms and conditions of this Agreement and all Orders (including pricing), 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 does 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.

(b) Protection of Confidential Information. The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party except as provided in this Agreement, and (ii) limit access to Confidential Information of the Disclosing Party to those of its and its affiliates' employees and contractors who need that access for purposes consistent with this Agreement and who have written confidentiality obligations consistent with this Agreement. Receiving Party will remain primarily liable to Disclosing Party for unauthorized use or disclosure of Confidential Information by its affiliates, legal counsel or accountants.

(c) Compelled Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, in obtaining confidential treatment for any information so disclosed.

8. Representations, Warranties, Exclusive Remedies and Disclaimers.

(a) Mutual. Each party represents that it has validly entered into this Agreement and has the legal power to do so.

(b) EverString's Warranties. EverString warrants that (i) EverString will not materially decrease the overall security of the Services during a subscription term, (ii) the Services will perform materially in accordance with the applicable Documentation, and (ii) the Services and Content will not, to EverString's knowledge, introduce Malicious Code into Customer's systems. For any breach of an above warranty, Customer's exclusive remedies are to terminate this Agreement for cause as provided above.

(c) Disclaimers. EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTY OR REPRESENTATION OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. DATA IS PROVIDED "AS IS", EXCLUSIVE OF ANY WARRANTY WHATSOEVER. EACH PARTY DISCLAIMS ALL LIABILITY AND INDEMNIFICATION OBLIGATIONS FOR ANY HARM OR DAMAGES CAUSED BY ANY THIRD-PARTY.

9. Mutual Indemnification.

(a) Indemnification by EverString. Subject to Section 10 (Limitation of Liability) EverString will defend Customer against any claim, demand, suit or proceeding made or brought against Customer by a third party alleging that the use of the Service in accordance with this

Agreement infringes or misappropriates such third party's intellectual property rights (a "Claim Against Customer"), and will pay any damages, attorney fees and costs finally awarded or agreed to in settlement of any Claim Against Customer, provided Customer (i) promptly gives EverString written notice of the Claim Against Customer, (ii) gives EverString sole control of the defense and settlement of the Claim Against Customer, and (iii) gives EverString all reasonable assistance, at EverString's expense. If EverString receives information about an infringement or misappropriation claim related to the Services, EverString may in EverString's discretion and at no cost to Customer (i) modify the Service so that it no longer infringes or misappropriates, (ii) obtain a license for Customer's continued use of that portion of the Services in accordance with this Agreement, or (iii) terminate Customer's subscriptions for that portion of the Services upon thirty (30) days' written notice and refund Customer any prepaid fees covering the remainder of the term of the terminated subscriptions. The above obligations do not apply to the extent a Claim Against Customer arises out of or is related to (i) Customer's breach of this Agreement, (ii) Customer's Data, or (iii) the combination of the Service with any materials or services not provided by us ("Excluded Claims").

(b) Indemnification by Customer. Customer will defend EverString against any claim, demand, suit or proceeding made or brought against EverString by a third party arising out of or related to any claim that, if brought against EverString, would be an Excluded Claim, including claims relating to Customer's Data, Customer's use of any Service or Content in breach of this Agreement or applicable law, or, in combination with any materials or services not provided by EverString (a "Claim Against EverString"), and subject to Section 10, will pay any damages, attorney fees and costs finally awarded or agreed to in settlement of, a Claim Against EverString, provided EverString (i) promptly gives Customer written notice of the Claim Against EverString, (ii) give Customer sole control of the defense and settlement of the Claim Against EverString (except that Customer may not settle any Claim Against EverString unless it unconditionally releases EverString of all liability), and (iii) give Customer all reasonable assistance, at Customer's expense.

(c) Exclusive Remedy. This section states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of claim for indemnification.

10. Limitation of Liability. IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS, REVENUES OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW. NEITHER PARTY'S LIABILITY WITH RESPECT TO ANY SINGLE INCIDENT ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL EXCEED THE AMOUNT PAID BY CUSTOMER HEREUNDER IN THE 12 MONTHS PRECEDING THE INCIDENT, PROVIDED THAT IN NO EVENT WILL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER HEREUNDER. THE ABOVE LIMITATIONS WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF

THE THEORY OF LIABILITY, AND REGARDLESS OF ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED HEREIN. HOWEVER, THE ABOVE LIMITATIONS WILL NOT LIMIT CUSTOMER'S OBLIGATION TO PAY FEES UNDER THIS AGREEMENT.

11. Miscellaneous.

(a) Relationship of the Parties. The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties.

(b) Entire Agreement and Order of Precedence. This Agreement is the entire agreement between Customer and EverString 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. No modification, amendment, or waiver of any provision of this Agreement will be effective unless in writing and signed by the party against whom the modification, amendment, or waiver is to be asserted. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the applicable Order, and (2) this Agreement.

(c) Force Majeure. Neither party will be responsible for, nor be in default under this Agreement due to any delays or failure of performance resulting from acts or causes beyond its reasonable control, including without limitation, acts of war, export regulations, third-party labor strikes, power failures, natural disasters or other similar events ("Force Majeure Events"). In the event that either party is unable to perform any of its obligations under this Agreement because of a Force Majeure Event, the party who has been so affected will promptly give notice to the other and will exercise all reasonable efforts to resume performance.

(d) Governing Law. This Agreement and any supplemental documents and activities shall be deemed to be a contract made under and subject to and governed by the laws of the State of California without regard to conflict of laws principles under the laws of the State of California or any other state, and any litigation between the parties shall be brought within the courts of the State of California and both parties irrevocably consent to the jurisdiction of such courts and agree that Santa Clara County shall be the proper venue.

(e) Notices. All notices and communications under this Agreement shall be in writing and shall be delivered in person, mailed (postage prepaid), or delivered by overnight express carrier, to the address of the parties listed on the applicable Order, or to any other address as a party shall designate in a written notice to the other party in accordance with this section. All notices sent as provided in this section shall be deemed received if personally delivered or faxed with confirmation of receipt, then on the date of receipt; or if sent by overnight express carrier, on the next business day immediately following the day sent; or if by mail, four days after depositing in the U.S. Mail.

(f) Assignment. Neither party may assign or transfer any rights or obligations under this Agreement (including by operation of law or otherwise) without the prior written consent of

the other party. Notwithstanding the preceding sentence, with the exception of an assignment to a competitor of the nonassigning party (which will require written consent from the nonassigning party), either party may assign this Agreement without obtaining the consent of the other party, to an affiliate or to any entity into which the assigning party is merged, or to an acquirer of all or substantially all of the business or assets of the assigning party, or as part of a business restructuring, sale of stock, or other recapitalization or reorganization. Any purported assignment of rights or transfer of obligations in violation of this section is void. This Agreement will bind each party's authorized successors and assigns.

(g) Severability. If any court of competent jurisdiction finds any portion of any provision of this Agreement to be unenforceable or contrary to applicable law, the parties agree that the provision will be deemed modified to the least extent necessary to make it enforceable, and all other provisions of this Agreement will remain unaffected.

(h) Marketing. EverString is acting solely as an independent contractor to Customer. Customer hereby authorizes EverString to disclose that Customer is a customer of EverString (e.g. in customer list, commercial proposals, sales presentations, website, conferences etc.), and use Customer's trademarks (including logos) in connection with such disclosures. EverString acknowledges and agrees that all proprietary, intellectual property and any other rights in and to Customer's name, logo, service mark and/or trademark are the sole and exclusive property of Customer.

(i) If this document is attached to an Order that is being executed manually by the parties with handwritten signatures, then this Agreement may be executed in one or more counterparts, all of which together will constitute one original document. Counterparts may be delivered via facsimile or electronic mail (including pdf or an electronic signature complying with the U.S. federal E-SIGN Act of 2000, e.g., www.docusign.com) and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes. If this document is a standalone electronic document having been referenced by URL, Customer acknowledges and agrees that it has read this document and agrees to its terms and conditions.

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