

IGNYTE PLATFORM TERMS & CONDITIONS

These Platform Terms & Conditions (“**Terms & Conditions**”) are incorporated into and made a part of the one or more Platform Agreements (“**Platform Agreement**”) signed by MAFAZO LLC dba Ignyte Assurance Platform, an Ohio corporation, with its principal place of business at 3432 Myna, OH 45342 (“**Ignyte**”), and the client identified in the Platform Agreement (“**Client**”). (“**Party**” or “**Parties**” means, individually, Client or Ignyte and, collectively, Client and Ignyte, respectively. These Terms & Conditions, the Platform Agreement, and Annex A to the Platform Agreement, and all present and future incorporated annexes, attachments, schedules, appendices, addenda, and written amendments, are collectively referred to as “**Agreement**”).

1. OTHER DEFINITIONS

“**Additional Services**” means any services, other than the provision of Maintenance and Support (as defined in Section 3.1 below), to be provided by Ignyte and identified in Annex A of the Platform Agreement or as otherwise provided in this Agreement.

“**Authorized Users**” means employees, independent contractors, agents, representatives, or vendors of Client designated and authorized by Client to access and use the Platform. Access and use of the Platform are for Client’s Authorized Users only, with accounts designated to individual users which cannot be shared or used concurrently by more than one user. Platform access and use may be reassigned to new Authorized Users replacing former individuals who no longer require access.

“**Client Data**” means all data and information submitted, uploaded or otherwise entered by Client or its Authorized Users into the Platform, including without limitation, any data submitted, uploaded or otherwise entered or provided through email, documents, spreadsheets or other methods, including third-party content.

“**Confidential Information**” means (a) all nonpublic information concerning the business, technology, products, services, internal structure and strategies of the disclosing Party, specifically including, without limitation, the Platform, Maintenance and Support, and Additional Services, and content and information made available in conjunction therewith, Documentation, end-user materials, Deliverables, pricing, proposals, designs, concepts, methodologies, inventions, source or object code, developments, research, programs, databases, referral sources, customers, prospective customers, inventions, developments, know-how, procedures, infrastructure, security, financial information or licensing policies, and Client Data; and (b) any other information clearly labeled by the disclosing Party in writing as “confidential” or without labeling as such, would reasonably be considered to be confidential prior to its disclosure. The following information will not be considered Confidential Information: (i) information which was in the public domain prior to its disclosure; (ii) information which becomes part of the public domain by any means other than through violation of this Agreement; (iii) information independently developed by the receiving Party without reference to the disclosing Party’s Confidential Information, (iv) information rightfully known by the receiving Party at the time of its initial disclosure; or (iv) information rightfully received by the receiving Party from a third party not under any obligations of confidentiality.

“**Deliverables**” means all deliverables and related Intellectual Property delivered by Ignyte to Client pursuant to the applicable this Agreement.

“**Documentation**” shall mean the standard written materials regarding the specifications of the Platform, including, but not limited to, the on-line user documentation.

“**Fees**” shall mean the fees, costs, expenses and any other charges for the Platform, Maintenance and Support, and for any Additional Services as set forth in the Platform Agreement, including its Annex A.

“**Intellectual Property**” means all intangible legal rights or interests evidenced by or embodied in (a) any idea, design, concept, technique, invention, discovery or improvement, regardless of patentability, but including patents, patent applications, trade secrets, and know-how; (b) any work of authorship, regardless of copyright ability, but including copyrights and any moral rights recognized by law; (c) any trademark, trade name or service mark; and (d) any other intellectual property, proprietary or similar rights, including all goodwill pertaining thereto and in each case, on a worldwide basis.

“**Platform**” means the software application known as Ignyte Assurance Platform (including Documentation, content, and materials provided in conjunction therewith), including any changes, modifications, improvements and enhancements, provided on a software-as-a-service basis pursuant to this Agreement.

2. IGNYTE LICENSE

2.1. Ignyte License Grant

Effective upon the payment in full of the Fees and subject to Client’s compliance with the terms of this Agreement, Ignyte grants to Client a worldwide, non-transferable, non-sublicensable, non-exclusive license to use for internal business purposes, the Platform’s software provided pursuant to this Agreement in accordance with the applicable Documentation and the restrictions set forth in this Agreement, subject to the user, version, module and quantity limitations specified. Client is responsible for ensuring that only Authorized Users access and use the Platform using Authorized User account information, that Authorized Users have been trained in proper use of the Platform, and that Authorized Users do not make unauthorized use of the Platform. Client is responsible for the security and confidentiality of any usernames or passwords granted to Authorized Users to access the Platform, and shall not disclose such usernames and passwords to other parties. Client is responsible for any authorized or unauthorized access to or use of the Platform using such usernames and passwords, and any actions taken thereunder. Client shall use its best efforts to ensure that Ignyte’s Confidential Information and the Ignyte Intellectual Property are kept secure and protected from unauthorized access or disclosure. Client must provide and maintain accurate and complete registration information with the Platform, including, without limitation, name, email address and other contact information.

2.2. Unauthorized Use

Unauthorized use includes, without limitation: (a) attempts to gain access to other user accounts or data of other Ignyte’s clients; (b) accessing the Platform through any technology or means other than through the user account information provided to Authorized Users or through Ignyte’s website(s); (c) use of the Platform to disseminate, store or transmit viruses, Trojan horses or any other malicious code or programs; (d) entering into or transmitting any information using the Platform that is unlawful, false, offensive, defamatory or infringes the rights of any person; (e) using the Platform or any information obtained through the Platform for purposes other than for which it was provided or in excess of the rights granted in this Agreement; (f) disseminating or otherwise making available any proprietary materials or information made available through the Platform to third parties unrelated to Client’s internal business needs without the prior written consent of Ignyte; and (g) any use of the Platform or the information contained in the Platform in violation of any applicable statute, law, rule or regulation or the legal rights of a third person.

2.3. Installation

Ignyte will install, configure, and provide access to the Platform for Client. The date upon which the Platform is available for Client’s use is considered the “Go Live Date”.

2.4. Prohibitions

Under no circumstances may Client modify, create derivative works based on, decompile, reverse compile, disassemble or reverse engineer the Platform or any component of the Platform, or grant any other person or entity the right or access to do so, without the advance written consent of Ignyte (except as specifically allowed under applicable copyright or other laws). Except as expressly authorized by this Agreement, Client shall not unbundle, sublicense, assign, transfer, display, distribute, rent, or lease access to the Platform or any portion thereof to any third party. Client may not access or utilize the Platform for competitive purposes or to develop applications or services competitive with Ignyte’s products or services. The following have been identified as competitors to Ignyte that Client may not provide access or utilize the Platform: Relational Security Corporation (RSAM), Dell EMC Archer and SAI Global. Ignyte may supplement this list upon written notice to Client.

2.5. Reserved Rights

All rights not specifically granted to Client hereunder are reserved by Ignyte. Nothing herein shall prevent Ignyte or its licensors from promoting, providing, or selling licenses for the use of or access to the Platform or providing any services to other parties.

3. OBLIGATIONS OF THE PARTIES

3.1. Maintenance and Support

Effective upon the payment in full of the Fees and subject to compliance with the terms of this Agreement, Ignyte will provide to Client the following **“Maintenance and Support”** relating to the Platform during the Term on the following terms: (a) Ignyte will accept an unlimited number of good faith telephone or electronic mail inquiries and consultations from the contact person designated by Client as the responsible point of contact between Ignyte and Client with authority to request and approve client support services provided under this Agreement (**“Client Contact”**) regarding use of the Platform and any related problems and changes. Such telephone or electronic mail support will be available Monday through Friday during normal business hours, excluding reasonable business holidays, (**“Business Day”**) with 24 x 7 access to Ignyte’s web support portal. Ignyte will provide any new patches or updates made to the Platform which are generally made available at no additional charge to all of its current clients (**“Updates”**). Maintenance and Support includes **“Upgrades”** to the Platform, which include future versions, modifications, enhancements, and releases made by Ignyte to the Platform. Services not provided for in this Section 3.1, including, without limitation, additional reports, modified or additional data entry screens or methods, interfaces between the Platform and any of Client’s other automated systems, database administration services, database revisions, training, and technical assistance to data processing staff are not covered under the Maintenance and Support. Any such Additional Services requested by Client and shall be addressed under the terms of separate provisions of this or additional executed Platform Agreements.

Ignyte shall use all reasonable efforts to resolve defects in the Platform according to the Target Resolution Time set forth below, however, Client acknowledges that such metrics are only targets and are not guaranteed.

INCIDENT SEVERITY LEVEL	RESPONSE TIME	TARGET RESOLUTION TIME
P1 – Critical Outage	30 Minutes	One Hour
P2 – High Priority	Two Business Day Hours	Eight Business Day Hours
P3 – Medium Priority	Eight Business Day Hours	Within Three Business Days
P4 – Low Priority	Within Three Business Days	Within Two Weeks

P1 – Critical Outage Incident: A P1 incident is applicable when the issue impacts more than 30% of Authorized Users in the production instance, and the situation is an emergency for Client, and any one or more of the following is the case: 1. Inability for all Authorized Users to connect to the production instance. 2. A critical function within the Platform ceases to operate.

P2 – High Priority Incident: A P2 incident is applicable when the issue impacts or affects a function within the production instance and in which the functionality affected is mission critical, and any one or more of the following is the case: 1. Severe impact to a critical function that materially impacts Client’s ability to conduct routine business or to meet Client’s own service levels. 2. A subset of Authorized Users is negatively impacted causing an extreme degradation in productivity.

P3 – Medium Priority Incident: A P3 incident is applicable when the issue affects any Client business process or function that does not qualify as a Critical Outage or High Priority Incident.

P4 – Low Priority Incident: A P4 incident is a minor issue that does not adversely impact any process or function that may be seen more as an inconvenience that requires a minor workaround to restore functionality.

3.2. Cooperation

Client will cooperate with and assist Ignyte in performing Maintenance and Support. Among other things, Client shall provide to Ignyte timely access to complete and accurate Client Data and will provide Ignyte other resources and information as reasonably requested by Ignyte. Client’s failure to do so will relieve Ignyte of responsibility for any related deficiencies in its performance.

3.3. Support Exclusions

Ignyte will have no obligation of any kind to support third-party software not provided by Ignyte. Ignyte will have no obligation of any kind to provide Maintenance and Support for problems in the operation or performance of the Platform to the extent caused by any of the following (each, a **“Client-Generated Error”**): (a) modification, alteration or damage not permitted, authorized or

reasonably anticipated by Ignyte; (b) failure to use the then-current version of the Platform or two Upgrades back; (c) failure of Client to install any Updates provided by Ignyte; or (d) use of the Platform not in accordance with this Agreement and the Documentation. If Ignyte determines that it is necessary to perform Additional Services for a problem in the operation or performance of the Platform that is caused by a Client-Generated Error, Ignyte will have the right, if it elects in its sole discretion, to perform such Additional Services and to invoice Client at Ignyte's then-current time and materials rates for all such Additional Services.

3.4. Operations

Client is responsible for the operational aspects of accessing the Platform, including, but not limited to, (a) acquiring, installing, and maintaining computer equipment and computer software programs at its premises compatible with and as necessary to use the Platform, (b) obtaining access to the Internet, (c) downloading from and installing any necessary plug-ins, (d) determining the accuracy of all data it uploads to and downloads from the Platform, and (e) adopting reasonable policies, procedures, and quality assurance measures to limit Client's exposure with respect to potential losses and damages arising from use, non-use, errors and omissions of the Platform or the results thereof, and system downtime, including, but not limited to, examining and confirming data prior to use, identifying and correcting errors and omissions, preparing and storing backup data, replacing lost or damaged data or media, reconstructing data, and providing network security.

3.5. Regulatory Compliance; Suitability

Client shall be solely responsible for ensuring that its Authorized Users' use of the Platform and all related Client policies and procedures are in compliance with all applicable laws and regulations governing its operations or business. Client shall be solely responsible for determining the suitability of the Platform for its operations and whether the Platform will achieve the results Client desires.

3.6. Client Data

Ignyte allows Client to upload Client Data into the Platform. Because Client Data is selected and uploaded by Client and its Authorized Users, Ignyte does not control such Client Data. In connection with Client Data, Client affirms, represents and warrants that it owns or has the necessary licenses, rights, consents and permissions to use, and authorize Ignyte to use, Client Data and to enable inclusion and use of the Client Data in the manner contemplated hereunder. As between the Parties, Client retains all ownership rights in the Client Data. Client is solely responsible for the accuracy, content, currency, completeness and delivery of the Client Data. Ignyte has no obligation to update or maintain licensing compliance for any third-party content that is part of the Client Data. Ignyte may access Client's Authorized User accounts, including Client Data, solely to respond to system or technical problems or at Client's request, and for the purposes of hosting the Client Data in connection with the provision of the Platform to Client and Client's Authorized Users. Ignyte shall use industry standard security measures, including standard encryption protocols, penetration testing, secure hosting platform to protect and guard the availability and security of all Client Data and shall be strictly prohibited from using the Client Data in any fashion other than that defined above.

3.7. Audit

Ignyte may, no more than once per year, conduct audits to ensure that Client and its Authorized Users are in compliance with this Agreement. Such audits will be conducted during normal business hours upon reasonable advanced notice, and Client will provide Ignyte with reasonable access necessary to verify compliance. Ignyte will use best efforts to minimize disruption to the normal operation of Client's business during such audits. If an audit reveals that Client's use of the Platform during the period being audited exceeds the scope of Client's license or authorized access rights, then Ignyte may invoice Client for all such excess use based on Ignyte's rates in effect at the time of the use, and Client shall pay such invoice within 30 days of such invoice. If such excess use exceeds ten percent of the subscribed-for use, Client shall also pay Ignyte's reasonable and documented costs of conducting the audit.

4. ADDITIONAL SERVICES

4.1. Additional Services

Client may engage Ignyte to provide certain Additional Services, such as professional, educational, operational, support and/or technical services in connection with the Platform. Subject to the terms and conditions of this Agreement, Ignyte will provide Client

with Additional Services as set forth in a Platform Agreement, including its Annex A. Each Platform Agreement will include, at a minimum: (a) a description of the Additional Services and any Deliverables to be developed and/or provided to Client; (b) the scope of Additional Services; and (c) the applicable fees and payment terms for such Additional Services. All statements of work set forth in any applicable Platform Agreement are part of and subject to this Agreement.

4.2. Cooperation

Client will cooperate with and assist Ignyte in performing the Additional Services. Among other things, Client shall provide Ignyte timely access to complete and accurate Client Data and will provide Ignyte other resources and information as reasonably requested by Ignyte. Client's failure to do so will relieve Ignyte of responsibility for any related deficiencies in its performance.

4.3. Change Management Process

In the event that Client or Ignyte requests a change in any of the specifications, requirements, Deliverables, or scope (including drawings and designs) of the Additional Services, the Party seeking the change shall propose the applicable changes by written notice. Within five business days of receipt of the written notice, each Party's project leads shall meet, either in person or via telephone conference, to discuss and agree upon the proposed changes. Ignyte will prepare a change order describing the proposed changes and the applicable change in fees and expenses, if any (each, a "**Change Order**"). Change Orders are not binding unless and until they are executed by both Parties. Executed Change Orders are part of, and subject to, this Agreement. In the event that the Parties disagree about the proposed changes, the Parties shall promptly escalate the change request to their respective senior management officers for resolution. Notwithstanding the foregoing, Ignyte reserves the right to change the fees for certain Additional Services at any time during the Term upon 30 days' prior written notice to Client.

4.4. Place of Performing Additional Services

Unless otherwise noted in a Platform Agreement, Ignyte will perform the Additional Services pursuant to this Agreement at (a) Ignyte's premises, (b) Client's premises Monday through Friday, 8:00 a.m. to 5:00 p.m., or (c) any other time or location as set forth in any applicable Platform Agreement.

4.5. Additional Services Warranty

Ignyte warrants that: (a) it and each of its employees, consultants and subcontractors, if any, that it uses to provide and perform Additional Services has the necessary knowledge, skills, experience, qualifications, and resources to provide and perform the services in accordance with the applicable Platform Agreement; and (b) the Additional Services will be performed for and delivered to Client in a good, diligent, workmanlike manner in accordance with industry standards, laws and governmental regulations applicable to the performance of such services. Ignyte's ability to successfully perform hereunder is dependent upon Client's provision of timely information, access to resources, and participation. If through no fault or delay of Client the Additional Services do not conform to the foregoing warranty, and Client notifies Ignyte within 60 days of Ignyte's delivery of the Additional Services, Client's sole and exclusive remedy is to have Ignyte re-perform the non-conforming portions of the Additional Services.

5. FEES AND PAYMENT

5.1. Fees

Client shall pay Ignyte the Fees in the amount, at the times and in the manner set forth in the applicable Platform Agreement. Fees are based on licenses acquired and not actual usage. Payment obligations are non-cancelable and fees paid are non-refundable. Client may add additional licenses at any time during the Term with additional Platform Agreement(s). Fees for Maintenance and Support for additional licenses are adjusted to be coterminous with the then-current Term. Fees for Maintenance and Support are based on monthly periods that begin on the Go Live Date and each monthly anniversary thereof; therefore, fees for Maintenance and Support assessed in the middle of a monthly period will be charged for that full monthly period and the monthly periods remaining in the then-current Term. Unless otherwise specified in a Platform Agreement, fees for Additional Services and related expenses will be invoiced by Ignyte as incurred and are due upon receipt.

5.2. Taxes

Fees do not include any applicable taxes or duties, including without limitation, state and local use, sales and property taxes and duties. Client is responsible for all taxes and duties incurred as a result of its license and use of or access to the Platform and any Additional Services (except for any taxes levied upon Ignyte's income). Exempt organizations shall provide Ignyte with proof of exception status.

5.3. Payment

Client shall pay a monthly service charge of 1.5% on all such amounts not paid within 30 days of the due date. If Client fails to pay any of such amounts for 60 days, Ignyte shall have the right to suspend Client's access to the Platform and suspend Maintenance and Support and the Additional Services. Client shall reimburse Ignyte for all reasonable costs of collection of past due amounts, including, but not limited to, attorney fees and collection agency charges.

5.4. Reimbursement of Expenses

Unless otherwise noted in a Platform Agreement, Client shall reimburse Ignyte for any reasonable out-of-pocket expenses actually incurred by Ignyte and approved in advance by Client relating to Ignyte's performance of its obligations under this Agreement.

6. TERM & TERMINATION

6.1. Term

This Agreement remains in effect from the Effective Date specified in the Platform Agreement and continue for the initial term specified in the Platform Agreement. Thereafter, this Agreement shall automatically renew for successive renewal terms of one year each, unless and until this Agreement is otherwise terminated in accordance with this Agreement. (The initial term and any renewal terms are collectively referred to as "**Term**").

6.2. Termination for Convenience

Either Party may terminate this Agreement as of the end of any term upon 90 days' prior written notice to the other Party.

6.3. Termination for Adverse Status

Either Party may terminate this Agreement upon 30 days' prior written notice to the other Party, if the other Party ceases to carry on operations as contemplated by this Agreement, makes an assignment for the benefit of creditors, is adjudged bankrupt or insolvent, has a receiver appointed over its assets, or becomes subject to any similar action in consequence of debt.

6.4. Termination for Default

Failure by either Party to comply with any material term or condition of this Agreement shall constitute default. The non-defaulting Party shall be entitled to give written notice to the defaulting Party requiring it to cure the default. The notice shall include a detailed description of the act or omission that constitutes default. If (a) the defaulting Party has not cured the default within 30 days after receipt of the notice or, (b) if the default is not reasonably curable within such 30-day period and the defaulting Party has not taken commercially reasonable measures within such 30-day period to begin curing the default and fails to work diligently thereafter to cure the default, the non-defaulting Party may terminate this Agreement by giving written notice to take effect upon receipt. If the default, by its nature, cannot be effectively cured, the non-defaulting Party may terminate this Agreement immediately upon written notice to the defaulting Party. The right to terminate this Agreement is in addition to any other rights and remedies provided under this Agreement or otherwise under law.

7. WARRANTY DISCLAIMERS & LIMITATION OF LIABILITY

7.1. Warranty

Ignyte represents and warrants that: (a) it has full power and authority to execute and deliver this Agreement and any applicable Platform Agreements; (b) during the Term, the Platform shall perform materially in accordance with the Documentation; (c) it will employ reasonable safeguards, consistent with industry standards, against harmful or malicious code, files, scripts, agents, or programs; and (d) as provided by Ignyte to Client, the Platform does not infringe the Intellectual Property rights of any third party.

7.2. Insurance

Ignyte will maintain, through the term of this Agreement, at its own expense, the appropriate levels of insurance coverage for all services being provided and comply with all insurance requirements. Such insurance shall be written with reputable and financially responsible insurance carriers.

7.3. Disclaimer

TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW AND EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, THE PLATFORM, MAINTENANCE AND SUPPORT, AND ANY ADDITIONAL SERVICES ARE PROVIDED “AS IS” AND “AS AVAILABLE” WITHOUT WARRANTY OF ANY KIND AND IGNYTE HEREBY DISCLAIMS ANY WARRANTIES, EXPRESS OR IMPLIED, RELATING TO THE PLATFORM, MAINTENANCE AND SUPPORT, AND ANY ADDITIONAL SERVICES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, OR ANY WARRANTY, GUARANTEE, OR REPRESENTATION REGARDING THE USE OR THE RESULTS OF THE USE OF THE PLATFORM, MAINTENANCE AND SUPPORT, AND ANY ADDITIONAL SERVICES. IGNYTE DOES NOT VERIFY, ERROR-CHECK OR WARRANT THE ACCURACY OR FITNESS OF ANY INFORMATION UPLOADED OR ENTERED INTO THE PLATFORM. IGNYTE IS NOT RESPONSIBLE FOR ANY DEFECT CAUSED BY OR THAT OTHERWISE RESULTS FROM MODIFICATIONS, MISUSE OR DAMAGE TO THE PLATFORM MADE, PERMITTED OR OTHERWISE CAUSED BY CLIENT IN WHOLE OR IN PART.

WHILE IGNYTE AND ITS CONTENT PROVIDERS USE COMMERCIALY REASONABLE EFFORTS TO UPDATE THE PLATFORM WITH CONTINUALLY CHANGING LAWS, CODES, STANDARDS, REQUIREMENTS AND REGULATIONS (COLLECTIVELY, “LAWS”), INFORMATION AND FORMS, CLIENT MUST ALWAYS EXAMINE THE MOST CURRENT LAWS, INFORMATION, AND FORMS AND MAKE DETERMINATIONS AS TO THEIR APPLICABILITY TO CLIENT’S SITUATION TO ENSURE THAT CLIENT IS IN FULL COMPLIANCE WITH ANY AND ALL APPLICABLE LAWS. IGNYTE DOES NOT WARRANT THAT USE OF THE PLATFORM WILL RESULT IN CLIENT’S COMPLIANCE WITH ANY APPLICABLE LAWS, AND CLIENT UNDERSTANDS AND ACKNOWLEDGES THAT CLIENT IS SOLELY RESPONSIBLE FOR ENSURING ITS COMPLIANCE WITH ANY APPLICABLE LAWS.

7.4. Limitation of Liability

EXCEPT WITH RESPECT TO SECTION 3.6 (CLIENT DATA), SECTION 7.5 (INDEMNIFICATION BY CLIENT), SECTION 7.6 (INDEMNIFICATION BY IGNYTE), AND SECTION 9 (INTELLECTUAL PROPERTY RIGHTS), TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE TO THE OTHER OR TO ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES FOR ANY MATTER ARISING FROM OR RELATING TO THIS AGREEMENT, THE PLATFORM, MAINTENANCE AND SUPPORT, ANY ADDITIONAL SERVICES, OR THE INTERNET GENERALLY, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT OR OTHERWISE AND EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES AND. IN ADDITION, EXCEPT FOR LIABILITY ARISING OUT OF THE SECTIONS LISTED AT THE BEGINNING OF THIS SECTION 7.4, NEITHER PARTY’S TOTAL LIABILITY FOR DIRECT DAMAGES WILL EXCEED THE AMOUNT EQUAL TO THE TOTAL FEES PAID BY CLIENT TO IGNYTE WITHIN THE IMMEDIATELY PRECEDING TWELVE-MONTH PERIOD.

7.5. Indemnification by Client

Client shall indemnify, defend and hold Ignyte, and its officers, shareholders, directors, employees, agents and affiliates (each, a **“Ignyte Indemnified Party”**) harmless from and against any and all costs, liabilities, losses and expenses, including, but not limited to, reasonable attorneys’ fees resulting from or arising out of any claim, suit, action, arbitration or proceeding brought or threatened by a third party against any Ignyte Indemnified Party relating to infringement or misappropriation of any Intellectual Property rights of any third party by Client or its employees, independent contractors, agents, representatives, or vendors, or any Client Data uploaded by Client or its Authorized Users in the Platform; provided that, such cost, liability, loss or expense was not caused by the negligence or misconduct of Ignyte. Client’s obligation to indemnify is conditioned on Ignyte giving Client prompt notice of any indemnifiable claim, allowing Client to control the defense and negotiations, and cooperating fully in resolving or defending such claims.

7.6. Indemnification by Ignyte

Ignyte shall indemnify, defend, and hold Client and its officers, shareholders, directors, employees, agents and affiliates (each, a **“Client Indemnified Party”**) harmless from and against any and all costs, liabilities, losses and expenses, including, but not limited to, reasonable attorneys’ fees resulting from or arising out of any claim, suit, action, arbitration or proceeding brought by a third party against any Client Indemnified Party relating to infringement of any Intellectual Property right by Client’s use of the Platform or any Deliverable; provided that, such cost, liability, loss, or expense was not caused by an unauthorized change, combination, modification or adaptation of the Platform or Deliverable made by or at the direction of Client or by any third party. Ignyte may, at its option, secure at its own expense a right for Client to continue to use the Platform or Deliverable, replace the Platform or Deliverable with items of comparable type, quality and specifications that do not infringe a third party’s rights, or terminate this Agreement and refund a pro rata portion of any Fees prepaid by Client. Ignyte’s obligation to indemnify is conditioned upon Client giving Ignyte prompt notice of any charge of infringement, allowing Ignyte to control the defense and negotiations, and cooperating fully in resolving or defending such charges.

8. RELATIONSHIP OF THE PARTIES

8.1. Relationship of the Parties

The relationship of Ignyte and Client established by this Agreement shall be solely that of independent contractors, and nothing herein shall create or imply any other relationship. Nothing in this Agreement shall be construed to give either Party the power to direct or control the daily activities of the other Party. Ignyte does not grant Client or any of Client’s Authorized Users or representatives the power or authority to make or give any agreement, statement, representation, warranty, or other commitment on behalf of Ignyte, or to enter into any contract or otherwise incur any liability or obligation, express or implied, on behalf of Ignyte, or to transfer, release, or waive any right, title, or interest of Ignyte. Ignyte shall have the right to determine the method, details, and means of providing the Platform and performing Maintenance and Support and any Additional Services. Ignyte shall have the sole right to designate the appropriate personnel, subcontractors or service partners necessary to provide the Platform, Maintenance and Support, or any Additional. Ignyte reserves the right to substitute personnel, subcontractors and service partners for any reason and in its own discretion.

8.2. Client Expenditures

Client acknowledges and agrees that any expenses it incurs in furtherance of this Agreement are voluntary in nature and are made with the knowledge that this Agreement may expire or be terminated as provided herein. Client shall make no claim against Ignyte, and Ignyte shall not be liable with respect to the recoupment of any expenditures or investment made by Client.

9. INTELLECTUAL PROPERTY RIGHTS

9.1. Ignyte Intellectual Property

As between the Parties, Ignyte has and retains sole ownership of all Intellectual Property comprising the Platform as well as any changes, modifications, improvements and enhancements made or developed by Ignyte at the request, suggestion or otherwise in conjunction with Client or its Authorized Users, excluding Client Data, (collectively, the **“Ignyte Intellectual Property”**). This Agreement does not transfer title or other interest in or to the Ignyte Intellectual Property or any other information and materials.

Client shall use its best efforts to ensure that all Authorized Users afforded access to the Ignyte Intellectual Property and any other information and materials produced or disclosed in connection therewith protect the same against unauthorized use, dissemination or disclosure.

9.2. Ownership of Deliverables

Deliverables, with the exception of any content consisting of Client Data, are owned by Ignyte and nothing in this Agreement operates to transfer ownership to Client. Conditioned upon full payment of all Fees and expenses due, Ignyte grants to Client a non-exclusive, non-transferable, limited right to use copies of the Deliverables for the Term. In the event Deliverables include customizations or developments related to the Platform, such customizations and development are provided on the same terms as the Platform is provided. Notwithstanding anything to the contrary, nothing in this Agreement is construed to assign or transfer any Intellectual Property rights in the proprietary tools, libraries, know-how, techniques and expertise (“**Tools**”) used by Ignyte to develop any Deliverables, and to the extent such Tools are delivered with or as part of any Deliverables, they are licensed, not assigned, to Client, on the same terms as the Deliverables.

9.3. Confidential Information

As a result of Client’s access to the Platform and Ignyte’s access to Client Data, each Party will have access to certain Confidential Information of the other Party. Each Party shall maintain the secrecy of all such Confidential Information disclosed and shall not use, disclose or otherwise exploit any Confidential Information for any purpose not specifically authorized pursuant to this Agreement or otherwise in writing by the disclosing Party; provided that, such Party may produce information in compliance with any law, court or administrative order. Each Party shall give the other Party reasonable notice under the circumstances and to the extent permitted by law that such Confidential Information is being sought by a third party under any law, court or administrative order, so as to afford that Party the opportunity to limit or prevent such disclosure. All files, lists, records, documents, documentation, end-user materials, equipment and computer programs that incorporate or refer to any Confidential Information shall be returned, deleted or destroyed promptly upon termination or expiration of this Agreement.

9.4. Notification

Client shall promptly notify Ignyte of any determination, discovery, or notification that any person or entity is or may be misusing or infringing any Ignyte Intellectual Property.

9.5. Remedies

Client agrees that its breach of Section 2 (Ignyte License) or Section 9 (Intellectual Property Rights) will cause Ignyte irreparable injury and damage. The Parties expressly agree that Ignyte shall be entitled to injunctive and other equitable relief to prevent such a breach, in addition to any other remedy to which Ignyte might be entitled. The Parties waive the posting of any bond or surety prior to the issuance of an injunction hereunder. All remedies for such a breach shall be cumulative and the pursuit of one remedy shall not be deemed to exclude any other remedy with respect to the subject matter hereof.

10. GENERAL PROVISIONS

10.1. Entire Agreement; Amendment

This Agreement and any documents or other agreements specifically referenced in this Agreement and incorporated by this reference, constitutes the entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior agreements, both oral and written, with respect to such subject matter. Except as otherwise provided in this Agreement, no amendment or modification of this Agreement is effective unless in writing and signed by the Parties. The terms and conditions of any inconsistent present or future Platform Agreement submitted by Client shall not alter the terms of this Agreement unless expressly consented to in writing by Ignyte.

10.2. Counterparts; Electronic Agreement

This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. This Agreement may be agreed to and executed electronically. The Parties consent to the use of electronic methods of acknowledgement and electronic signatures and agree that their electronic signature as affixed to writings and documents relating to this Agreement is the legal equivalent of a manual signature on such documents. The Parties also agree that no certification authority or other third party verification is necessary to validate their electronic signature, and the lack of such certification or third party verification will not in any way affect the enforceability of an electronic signature or any resulting agreement between the Parties.

10.3. Severability

If any term or provision of this Agreement is held to be invalid, illegal or unenforceable, the remaining terms and provisions of this Agreement remains in full force and effect, and such invalid, illegal or unenforceable term or provision is not a part of this Agreement.

10.4. Governing Law; Venue

This Agreement is governed by and construed, interpreted, and enforced in accordance with the laws of the State of Ohio, without reference to its conflicts or choice of law principles. The sole and exclusive jurisdiction and venue for any and all actions, suits or proceeding initiated by Client against Ignyte relating to this Agreement shall be in any trial court located in or having jurisdiction over Montgomery County, Ohio and each of the Parties hereby irrevocably submits and consents to personal jurisdiction in the State of Ohio. The sole and exclusive jurisdiction and venue for any and all actions, suits or proceedings initiated by Ignyte against Client relating to this Agreement shall be in any trial court located in or having jurisdiction over the county and/or state in which Client's office is located as set forth on the applicable Platform Agreements and each of the Parties hereby irrevocably submits and consents to personal jurisdiction in such county and state.

10.5. Notices

Any notice required by this Agreement shall be delivered by hand, by courier service, or by certified mail (return receipt requested, postage prepaid) to the address provided by the Party to be notified. The Parties may change the referenced addresses and contact information by written notice in accordance with this Section 10.5. Notices are effective: (a) as of the date personally delivered if by hand or (b) for notices sent by certified mail, five business days after the postmark date, or (c) upon receipt if sent by courier service such as Federal Express, U.P.S., or DHL. Notices also may be delivered by electronic means (including, without limitation, via email or posting via Ignyte accounts) and notices so delivered are effective upon actual receipt of the electronic transmission.

10.6. Survival

The provisions of Sections 1, 2.2, 2.4, 3.7, 5.3, 7, 8, 9 and 10 shall survive the termination or expiration of this Agreement and shall remain in full force and effect.

10.7. Customer Reference

Client agrees that Ignyte may identify Client as a user of the Platform and use Client logo in sales presentations, marketing materials and press releases, and (ii) to develop a brief Client profile for use by Ignyte on ignyteplatform.com for promotional purposes.

10.8. Waiver

Except as specifically provided in a written waiver signed by a duly authorized representative of the Party seeking enforcement, the failure to enforce or the waiver of any term of this Agreement does not constitute the waiver of such term at any time or in any circumstances and does not give rise to any restriction on or condition to the prompt and strict enforcement of this Agreement.

10.9. Assignment; Benefit

The Parties may not assign this Agreement without the prior written consent of the other Party; provided that either Party may assign this Agreement in connection with its sale to or merger with a third party or the sale or disposition of substantially all of its assets or business operations to a third party. This Agreement is binding upon and inures to the benefit of Ignyte and Client and their successors and permitted assigns, subject to the other provisions of this Section 10.9.

10.10. Force Majeure

Each Party to this Agreement are excused from any delay or failure in its performance hereunder, other than for payment of money, caused by any disruption or slow speed of the Internet, break-downs of security or introduction of computer viruses (and the like) by third parties, any government requirement, act of God, or any other cause beyond its reasonable control.

10.11. Third Parties

Nothing in this Agreement, express or implied, creates or confers upon any person or entity not a named Party to this Agreement any legal or equitable rights, remedies, liabilities or claims with respect to this Agreement, except as expressly provided in this Agreement.

10.12. Export Restrictions

Client and its Authorized Users shall comply with the export laws and regulations of the United States and other applicable jurisdictions in using the Platform. Without limiting the generality of the above, Client represent that: (a) Client is not named on or acting on behalf of any person or entity named on any U.S. or other applicable government list of persons or entities prohibited from engaging in transactions; and (b) Client shall not access or use the Platform or any Deliverables in violation of any U.S. or other applicable countries' export embargo, prohibition or restriction. Client recognizes and acknowledges that some countries have restrictions on the use of encryption within their borders or the import or export of encryption even if only for temporary personal or business use, and Client further acknowledges and agrees that Client is ultimately responsible for complying with any and all government import, export and other applicable laws.