

## SERVICES AGREEMENT

This SERVICES AGREEMENT is entered into with Jebbit, Inc. (“**Jebbit**”), a Delaware corporation, with its business offices located at 280 Summer Street, 7 FL, Boston, MA 02210.

### 1. **The Services:**

(a) Subject to the terms and conditions of this Agreement, Jebbit will provide the website and application optimization services set forth in Exhibit A hereto (the “**Jebbit Services**”) to Company.

(b) Jebbit will use commercially reasonable efforts to ensure that the Jebbit Services are available to Company throughout the Term (as defined below). As between the parties, Jebbit will be responsible for (i) operating, hosting, and making available the Jebbit Services; and (ii) reasonably assisting Company to resolve problems or issues with the Jebbit Services.

(c) Company will be responsible for (i) making Company’s website (or other appropriate landing page or creative ad content of Company) (“**Company’s Website**”) available as reasonably necessary for Company to utilize the Jebbit Services; (ii) the creation of campaigns directed to end users of Company’s Website (“**End Users**”) to enhance the effectiveness of Company’s Website (“**Campaigns**”) using the Jebbit Services and (iii) the provision of all brand incentives, rewards or other consideration to each End User as provided in the applicable Campaign (“**Awards**”).

### (d) **Access and Use of the Jebbit Services:**

(i) To facilitate Company’s use of the Jebbit Services, Jebbit shall provide Company access to Jebbit’s client web-interface available via the Jebbit Services (the “**Client Portal**”) using login and password credentials assigned to Company by Jebbit (“**Login Credentials**”). Company may utilize the Client Portal to establish, manage and modify one or more Campaign(s) and to obtain information regarding the progress of its Campaign(s). All Campaigns will be based on the premise of provision of questions to End Users and provision of Awards for correct answers to those questions (each such correct answer, an “**Engagement**”). All Campaigns are subject to Jebbit’s review and approval.

(ii) Company shall protect the security and confidentiality of its Login Credentials; provided that Company acknowledges and agrees that all actions performed through the Client Portal concerning the Jebbit Services with use of the Company’s Login Credentials are considered performed by Company, are Company’s sole responsibility and Jebbit shall not bear responsibility for unauthorized use of Company’s Login Credentials by third parties.

### 2. **Company Responsibilities:**

(a) Subject to the terms and conditions of this Agreement, Company will reasonably cooperate with Jebbit as necessary for Jebbit to perform the Jebbit Services.

(b) Company shall not, directly or indirectly, manipulate, alter, copy, modify or interfere with the operation of the Jebbit Services. Company shall utilize the Jebbit Services solely to implement its own Campaigns and not to operate campaigns or otherwise provide or resell services to any third party. In addition, Company shall promptly notify Jebbit if Company suspects that any third party may be tampering

with, abusing or manipulating the Jebbit Services. Further, Company shall not change the appearance of the Jebbit Services to the End User except as permitted by Jebbit on a case-by-case basis.

(c) Company shall be solely and exclusively responsible for Campaigns, the Company Data (as defined below) and the Company's Website(s). Jebbit shall have no responsibility to review, approve or monitor the Company Data or the Company's Website(s). Company may utilize the Jebbit Services to establish a Campaign, but Company is solely responsible for ensuring that each Campaign is compliant with all applicable laws and regulations. Company shall not infringe or misappropriate the intellectual property of any third party in connection with its conduct of any Campaigns using the Jebbit Services. Company shall be solely responsible for procuring any Awards necessary for a Campaign and for utilizing the Jebbit Services to provide such Awards to End Users.

### 3. **Data and Information Generally:**

- a. Jebbit shall provide Company with access to online reports of Jebbit Services, which reports shall include details regarding the level of online interaction between each End User and the Company ("**Reports**").
- b. Jebbit may receive and store data and information passed about individual End Users who use the Jebbit Services, including without limitation, End Users' gender, age and other demographic information, user log files, behavioral, contextual, geo-location, contact information and other data observed or collected by Jebbit regarding End Users in connection with the Jebbit Services (collectively "**End User Information**"). All Personally Identifiable Information and End User Information shall be the property of Company.
- c. Company grants to Jebbit a royalty-free, worldwide, perpetual license to use End User Information, in aggregate and anonymized, to improve its products and services as part of routine analysis and platform improvement. Solely as permitted by [Jebbit's privacy policy](#) and applicable laws, Jebbit may include in the Reports de-identified aggregated End User Information. Jebbit shall never sell, trade, or share End User Information, Personally Identifiable Information, or Company Data used in connection with its products and services.
- d. Notwithstanding anything to the contrary contained herein, Company agrees that it shall use the End User Information only: (i) in accordance with all applicable federal, state and local laws and regulations; (ii) in accordance with the Jebbit privacy policy under which the End User Information was obtained; and (iii) for the purpose of conducting Campaigns using the Jebbit Services.
- e. All data and content originating with Company and owned or controlled by Company that Company provides to Jebbit to enable or facilitate Jebbit Services ("**Company Data**") is and will remain the property of Company. Company represents and warrants that neither the content nor form of the Company Data, nor the use by Jebbit of the Company Data in accordance with the terms of this Agreement, shall violate any rights of third parties or any applicable laws, rules and regulations. Company hereby grants Jebbit and its affiliates a non-exclusive, royalty-free, worldwide license to use, copy, distribute, format, display and/or modify such Company Data in connection with Jebbit's performance of the Jebbit Services. Jebbit may retain such Company Data and use it as part of the Jebbit Services provided to Company. Jebbit may not share this data with any other party or use this data as part of the

Jebbit Services provided to any other company without the express written permission of Company.

4. **Consulting Services:**

(a) From time to time during the Term, Company may request that Jebbit perform certain consulting services, in addition to the Jebbit Services, for the Company in connection with Company's Campaign(s). Any such consulting services, if mutually agreed by the parties, shall be mutually agreed to in writing by the parties and set forth in a statement of work describing in detail the scope of the consulting services and the fees applicable to such consulting services. Jebbit shall use commercially reasonable efforts to provide consulting services to Company in accordance with any such statement of work. Jebbit shall not be liable for any deficiency or delay in performing consulting services if such deficiency or delay results from Company's failure to provide reasonable access to personnel and resources as set forth in, or as reasonably required by, the statement of work.

(b) Company acknowledges that in the course of performing the consulting services Jebbit may (i) employ pre-existing technology and/or (ii) create software, designs or other work ((i) and (ii), collectively "**Work Product**"). Subject to Company's rights in the Company's Proprietary Information (as defined below) and Company Data, and except as may be otherwise specifically set forth in a statement of work, Jebbit shall own all right title and interest in such Work Product, including all intellectual property rights therein and thereto.

5. **Fees and Payments:**

(a) Fees for Jebbit Services ("**Fees**") shall be as set forth in Services Agreement, annual fees shall be paid upfront, or longer, depending on length of agreement, unless otherwise stated by the signed Statement of Work.

(b) If Company fails to pay the Fees when due, Jebbit shall be entitled to suspend performance of the Jebbit Services until such Fees have been paid. In addition, Jebbit may charge a late fee on all past due amounts at the rate of 2.5% per month or, if lower, the maximum rate permitted by applicable law.

(c) After the first 12 months of this agreement, the Company's monthly price for Jebbit Services increases annually by a rate of 5%.

6. **Publicity:**

(a) During the Term, Jebbit may, at its discretion, disclose that Company is a customer of Jebbit, with advance written notice by Company. Company would hereby grant to Jebbit the right to display Company's logo, whether on-line or otherwise, in any list of customers of Jebbit.

(b) At its discretion, Jebbit may create a case study that frames the extension and successful results of any partnership between Jebbit and the Company, which it may share with potential and current clients. Jebbit will adhere to all client confidentiality agreements and not share information that could jeopardize the Company.

7. **Warranty and Disclaimer:**

(a) Each party represents and warrants to the other party that: (i) such party has the power and authority to enter into and perform its obligations under this Agreement; (ii) to the best of such party's

knowledge, it currently has no restrictions that would impair its ability to perform its obligations under this Agreement; and (iii) such party will comply with all federal, state and local laws and regulations applicable to the performance of its obligations hereunder and will obtain all applicable permits, permissions, and licenses required of it in connection with its obligations hereunder.

(b) Jebbit further represents and warrants to Company that (i) Jebbit has all rights necessary to create, host, operate and/or provide the Jebbit Services; and (ii) the Jebbit Services will not violate any applicable law or regulation.

(c) EXCEPT FOR THE FOREGOING, JEBBIT MAKES NO WARRANTY OF ANY KIND AND HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. JEBBIT MAKES NO WARRANTY OR GUARANTY OF ANY KIND IF CONTINUOUS OR UNINTERRUPTED USE OF THE JEBBIT SERVICES, ANY COMPLIANCE OF CAMPAIGNS WITH LAW OR REGULATION, NOR OF THE RESULTS OF ANY CAMPAIGNS.

## 8. **Indemnification**

(a) **By Jebbit.** Jebbit shall defend Company and its officers, directors and affiliates (collectively, “**Company Indemnitees**”) from and against any and all claims by any third party arising from (i) infringement or misappropriation of third party U.S. intellectual property rights arising from the provision of the Jebbit Services (excluding any claims arising from combination of the Jebbit Services with any other hardware, software or services) and/or (ii) the gross negligence or willful misconduct of Jebbit, and Jebbit will indemnify and hold harmless the Company Indemnitees from and against any resulting damages, costs and expenses (including reasonable attorneys’ fees) awarded to a third party by an adjudicatory body of competent jurisdiction (“**Liabilities**”); provided that Jebbit shall have no obligation to indemnify any Company Indemnitee with respect to any Liabilities to the extent such Liabilities arise out of or relate to (A) Company’s breach of any warranty, representation or covenant hereunder; or (B) the gross negligence or willful misconduct of any Company Indemnitee.

(b) **By Company.** Company shall defend Jebbit and its officers, directors and affiliates (collectively, “**Jebbit Indemnitees**”) from and against any and all claims by any third party arising from (i) Company’s use of the Jebbit Services, including without limitation the conduct of any Campaigns and/or (ii) the gross negligence or willful misconduct of Company, and Company will indemnify and hold harmless the Jebbit Indemnitees from and against any resulting damages, costs and expenses (including reasonable attorneys’ fees) awarded to a third party by an adjudicatory body of competent jurisdiction (“**Liabilities**”); provided that Company shall have no obligation to indemnify any Jebbit Indemnitee with respect to any Liabilities to the extent such Liabilities arise out of or relate to (A) Jebbit’s breach of any warranty, representation or covenant hereunder; or (B) the gross negligence or willful misconduct of any Jebbit Indemnitee.

(c) **Indemnification Procedure:** The party seeking indemnification hereunder (the “**Indemnified Party**”) shall promptly notify the other party (“**Indemnifying Party**”) of any loss, claim, damage, liability or action in respect of which the Indemnified Party intends to claim indemnification hereunder (“**Claim**”), within thirty (30) days after the Indemnified Party has notice of such (including a copy of any claim or lawsuit); provided, however, that failure to provide such notice within such timeframe shall not relieve the Indemnifying Party of its indemnification obligations unless the Indemnifying Party was materially prejudiced by such late notice. Any Party liable to provide indemnification hereunder shall be entitled, at its option, to exercise sole and exclusive control of the defense and settlement of any claim for

which it is obligated to provide indemnification under this Article 8. The Indemnified Party shall reasonably cooperate in the investigation, defense and settlement of any claim for which indemnification is sought hereunder and shall provide prompt notice of any such claim or reasonably expected claim to the Indemnifying Party. An Indemnified Party shall have the right to retain its own separate legal counsel at its own expense.

9. **Confidentiality:**

(a) Each party agrees that all business, technical and financial information it obtains from the other party that is marked “Confidential” or “Proprietary” (“Proprietary Information”) is the confidential property of the disclosing party. Except as expressly allowed herein or as required by law, regulation or court order, the receiving party will hold in confidence and not use or disclose any Proprietary Information of the disclosing party during the Term and for two (2) years thereafter. Each party will be deemed to have met its obligations hereunder if it treats the other party’s Proprietary Information with the same degree of confidentiality it affords its own sensitive business information, but no less than a reasonable standard of care.

(b) The receiving party shall not be obligated under this Article 9 with respect to information the receiving party can document: (i) is or has become readily publicly available without restriction through no fault of the receiving party or its employees or agents; (ii) is received without restriction from a third party lawfully in possession of such information; (iii) was rightfully in the possession of the receiving party without restriction prior to its disclosure by the other party; or (iv) was independently developed by employees or consultants of the receiving party without access to such Proprietary Information.

(c) To the extent the receiving party is required to disclose Proprietary Information of the disclosing party by a court of competent jurisdiction, by any governmental agency having supervisory authority over the business of the disclosing party, or by any administrative body or legislative body (including a committee thereof) with jurisdiction to order the receiving party to divulge, disclose or make accessible such information; the receiving party shall have the right to disclose such Proprietary Information; provided that, the receiving party shall (i) promptly notify the disclosing party of such order (to the extent permitted under applicable law or regulation), (ii) at the written request of the disclosing party, cooperate with the disclosing party to contest such order at the sole expense of the disclosing party, (iii) at the written request of the disclosing party, seek to obtain at the sole expense of the disclosing party such confidential treatment as may be available under applicable laws for any information disclosed under such order; and (iv) disclose only such Proprietary Information as is reasonably required to be disclosed.

(d) Upon termination or expiration of this Agreement, or at the request of the disclosing party, the receiving party shall (at its option) return the disclosing party’s Proprietary Information to the disclosing party, or destroy it and, upon the disclosing party’s request, certify that it has taken such action.

10. **Limited Liability:** EXCEPT WITH REGARD TO THEIR RESPECTIVE INDEMNIFICATION OBLIGATIONS UNDER ARTICLE 8 ABOVE OR WITH RESPECT TO DAMAGES ARISING FROM BREACH OF THE CONFIDENTIALITY OBLIGATIONS OF ARTICLE 9, IN NO EVENT SHALL JEBBIT BE LIABLE TO COMPANY UNDER CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL THEORY FOR (I) ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, (II) ANY AMOUNT IN AGGREGATE OF THE REVENUE RECEIVED BY JEBBIT PURSUANT TO THIS

AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE DATE ON WHICH THE CAUSE OF ACTION AROSE OR (III) ANY COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES.

11. **Term and Termination:**

(a) In the event of a substantial, material breach of this Agreement by a party, the non-breaching party may request to terminate this Agreement by delivery of written notice of termination to the breaching party, specifying the details of the breach known to such party; such request must be made thirty (30) days after the date of such breach unless the breaching party cures such breach within that thirty (30) day period and is agreed upon by both parties.

(b) Upon expiration or termination of this Agreement, this Agreement shall automatically renew for a subsequent twenty four (24) month agreement with a ninety-day written notice if the Company does not choose to continue utilizing the Jebbit technology.

12. **Notice:** All notices and requests in connection with this Agreement shall be deemed given when personally delivered, upon delivery via overnight courier (*e.g.*, FedEx), or certified or registered, return receipt requested, and addressed as follows or such other address as such party last provided to the other by written notice.

13. **Miscellaneous:**

(a) Each party shall be and act as an independent contractor and not as partner, joint venturer, or agent of the other. Nothing contained herein shall be deemed to create a relationship of joint venture, principal and agent, partnership or similar relationship between the parties and neither party shall hold itself out to the contrary. Nothing contained herein shall be deemed to allow either party to create or assume any obligations on behalf of the other party for any purpose whatsoever.

(b) This Agreement and the rights, obligations and licenses herein, shall be binding upon, and inure to the benefit of, the parties hereto and their respective heirs, successors, assigns, and personal representatives. Neither party shall assign this Agreement in whole or part without the prior written consent of the other party except that either party may assign this Agreement without consent in connection with a merger, reorganization or sale of a substantial all of a party's assets.

(c) This Agreement, including all exhibits and appendices hereto, contains the entire understanding of the parties regarding its subject matter and supersedes any and all other agreements and understandings, whether oral or written, with respect to the subject matters covered herein. No changes or modifications or waivers are to be made to this Agreement unless evidenced in writing and signed for and on behalf of both parties.

(d) If any portion of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, that portion shall be restated, eliminated or limited to the minimum extent necessary so that this

Agreement shall reflect as nearly as possible the original intention of the parties and the remainder of this Agreement shall remain in full force and effect.

(e) This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without regard to the conflicts of laws provisions thereof.

(f) Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof, shall be finally settled by binding arbitration conducted in the English language in Boston, Massachusetts under the commercial arbitration rules of the American Arbitration Association (“AAA”). The arbitration shall be conducted by a single arbitrator jointly appointed by the parties; provided, however, that if they cannot agree within thirty (30) days after the initiation of the arbitration, then the arbitrator shall be appointed by the President of the AAA. Disputes about arbitration procedure shall be resolved by the arbitrator or failing agreement, by the AAA in Boston, Massachusetts. The arbitrator may proceed to an award notwithstanding the failure of the other party to participate in the proceedings. Discovery shall be limited to mutual exchange of documents relevant to the dispute, controversy or claim; depositions shall not be permitted unless agreed to by both parties. The arbitrator shall be authorized to grant interim relief, including to prevent the destruction of goods or documents involved in the dispute, protect trade secrets and provide for security for a prospective monetary award. The limitations on liability set out in Section 10 shall apply to an award of the arbitrator(s).

(g) This Agreement may be executed in separate counterparts which, taken together, shall constitute one agreement.

(h) The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

(i) Ambiguities, inconsistencies or conflicts in this Agreement will not be strictly construed against either party but will be resolved by applying the most reasonable interpretation under the circumstances, giving full consideration to the parties’ intentions at the time this Agreement is entered into and common practice in the industry.

## **EXHIBIT A: Jebbit Services**

### A. Jebbit Services:

1. Provision of Jebbit's standard self-serve platform (and the Client Portal to such platform), solely via remote hosted services as provided by Jebbit to its client.
2. The Jebbit Platform includes, but is not limited to: Experience Builder, Attributes Portal, Audience Segmentation & Insights, Reporting & Analytics, Admin Controls, Customer Support and Knowledgebase, and Data Export optionality.
3. Reasonable customer support services regarding use of the Client Portal to create Campaigns.
4. Jebbit Content & Creative Services, Consulting & Strategy Services, and/or Tech Services, if so purchased by Client as part of this agreement.



