

GAINSIDE, LLC
MASTER MANAGED SERVICES AGREEMENT
Last Updated: 3/11/2024

This Master Managed Services Agreement (this “**Agreement**”) is between Gainside, LLC (“**Company**”) and the person or entity agreeing to the terms of this Agreement (“**Customer**”) pursuant to a Statement of Work entered into by Company and Customer referencing this Agreement. This Agreement is effective upon execution of the initial Statement of Work by Customer and Company (the “**Effective Date**”).

BY INDICATING YOUR ACCEPTANCE TO THIS AGREEMENT, INCLUDING, BY ENTERING INTO OR ACCEPTING ANY STATEMENT OF WORK: (1) YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTAND, AND AGREE TO BE BOUND BY THIS AGREEMENT (INCLUDING ALL OF THE TERMS AND CONDITIONS SPECIFIED OR REFERENCED BELOW); AND (2) YOU REPRESENT THAT YOU HAVE FULL LEGAL AUTHORITY TO ENTER INTO THIS AGREEMENT (INCLUDING ALL OF THE TERMS AND CONDITIONS SPECIFIED OR REFERENCED BELOW) ON BEHALF OF THE CUSTOMER AND TO BIND THE CUSTOMER TO THE TERMS OF THIS AGREEMENT.

1. Definitions. Capitalized terms not otherwise defined in this Agreement shall have the following meanings:

“**Affiliate**” means an entity controlled, controlling or under common control with a Party, where control means at least 50% ownership or power to direct an entity’s management.

“**Authorized Users**” means employees and contractors of Customer, and any others if permitted in the Statement of Work and/or Third-Party System Terms.

“**Customer Materials**” means the information, documents, data and/or other materials owned or licensed by Customer that are specified in the applicable Statement of Work or are otherwise reasonably necessary for Company to provide and perform the Managed Services.

“**Customer Systems**” means the computers, software, hardware, databases, networks, internet access, telecommunications, tools, programs, hosting environments, and systems owned, licensed, utilized and/or controlled by Customer outside the System.

“**Designated Site(s)**” means the Customer facility(ies) identified in the applicable Statement of Work.

“**Documentation**” means the then-current user manuals, operating manuals, and instructions, specifications, and other documents and materials which describe the operation, use, support, or maintenance of the applicable System components.

“**Company Personnel**” means all individuals involved in the performance of Services as employees or independent contractors of Company or Third-Party subcontractors engaged by Company.

“**Hardware**” means the hardware, computers, devices, or other equipment that is made available by Company to Customer as part of the System.

“**Intellectual Property Rights**” means any and all registered and unregistered rights granted, applied for or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

“**Managed Services**” means the provision of access to the System and the applicable installation, implementation, configuration, Support and other managed services System specified in a Statement of Work to be provided by Company to Customer pursuant to this Agreement.

“**Permitted Use**” means Customer’s use of the System and Managed Services: (a) only by and for the benefit of Customer and solely for or in the ordinary course of Customer’s internal business operations, unless otherwise set forth in the applicable Statement of Work, (b) in accordance with in accordance with this Agreement, the applicable Documentation, and any applicable Third-Party System Terms, and (c) subject to and in accordance with the Usage Parameters.

“**Service Term**” means the term specified in the applicable Statement of Work, including any renewals thereof as set forth in this Agreement, during which Company will provide the System and Managed Services to Customer pursuant to this Agreement such Statement of Work.

"Software" means the software, including, but not limited to software programs, applications, code, application interfaces, software platforms, open source software, embedded or integrated software, and/or software-as-a-service, that is made available by Company to Customer as part of the System.

"Statement of Work" means Company's standard form statement of work (which may be in written or electronic format) entered into by the Parties in accordance with this Agreement, that sets forth the Managed Services (including the fees and any applicable specifications, delivery and/or performance schedules) to be provided by Company to Customer pursuant to this Agreement.

"System" means the Hardware and/or Software specified in the applicable Statement of Work that Company will make available to Customer on a subscription basis as part of the Managed Services pursuant to this Agreement. The System expressly excludes any Customer Systems.

"Third-Party System Terms" means the applicable license terms and conditions identified in the Statement of Work that are applicable to any Hardware or Software components of the System made available under such Statement of Work that are owned or controlled, or otherwise licensed to Company, by a Third-Party.

"Usage Parameters" means any parameters or limitations (by way of example, only, the maximum number of permitted users and/or seats for the use of the System) set forth in the applicable Documentation, specified in the Statement of Work, or otherwise in writing by Company regarding the scope of use of the System by Customer and/or its Authorized Users.

2. Provision of Managed Services

2.1 Statements of Work; Changes. Each Statement of Work must reference this Agreement and will be deemed incorporated into and made a part of this Agreement by this reference upon execution by the Parties. If any terms of a Statement of Work conflict with the terms of this Agreement, the terms of this Agreement will govern unless the Statement of Work specifically cites the Section of this Agreement it is modifying or deleting. Either Party may, at any time during the applicable Service Term, request in writing changes to the Managed Services. Company will advise Customer of any increased costs, delays or other consequences of the proposed changes. Changes to a Statement of Work shall only be implemented if the Parties agree in writing to modify the Statement of Work or enter into a new Statement of Work.

2.2 Performance. Subject to the terms and conditions of this Agreement (including the payment of applicable fees), Company will perform the Services in accordance with the terms of this Agreement and the applicable Statement of Work. Company will use commercially reasonable efforts to meet any performance dates specified in the Statement of Work, provided that any such dates are estimates only. Company will provide, at its own expense, a place of work and all equipment, tools, and other materials (other than Customer Materials) necessary to complete the Managed Services under each Statement of Work. Company shall not be obligated to provide, procure, manage and/or administer any hardware, equipment, materials, software, products, applications, services for, Customer except as specifically identified and included in the Managed Services and/or System as set forth in the applicable Statement of Work (collectively, the **"Excluded Materials"**). Company will comply with Customer's reasonable access policies, rules and procedures that have been communicated to Company while performing Services on-premises or remotely through network connections, and access to Customer's hardware, software, equipment, tools, networks, and other materials and/or systems.

2.3 Support. Company will provide Customer the support services related to maintenance and support for the use of the System by Customer, including bug fixes, repairs, updates, upgrades, and any other support services specified under the terms of a Statement of Work (**"Support"**) in accordance with Company's terms as defined in the SOW, as updated by Company from time to time (the **"Support Terms"**). In the event of any conflict between this Agreement and the Support Terms, the Support Terms shall control solely with respect to the provision of Support.

2.4 Project Management. For each Statement of Work, the Parties will designate a single contact as their project managers for the Managed Services. A Party may change its project manager from time to time in its discretion. Each project manager of a Party shall (a) have the requisite authority and necessary skill, experience, and qualifications to perform in such capacity; (b) be responsible for overall management and supervision of such Party's performance under the Statement of Work; and (c) be such Party's primary point of contact for communications with respect to the Statement of Work, including with respect to giving and receiving all day-to-day approvals and consents thereunder.

2.5 Company Personnel. Company may utilize Company Personnel in the provision of the Managed Services; provided that, Company will: (a) remain primarily responsible for the performance of such Company Personnel in accordance with this Agreement; (b) be responsible and liable for the acts and omissions of each Company Personnel in the scope of its

performing any Managed Services to the same extent as if such acts or omissions were by Company; and (c) be responsible for all fees and expenses payable to any Company Personnel, including, if applicable, withholding of income taxes and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments, and disability benefits.

3. Customer Responsibilities

3.1 Customer Resources and Cooperation. Customer shall timely provide such cooperation and assistance as Company reasonably requests to enable Company to perform the Services in accordance with the Statement of Work, including any applicable performance dates set forth therein. Without limitation of the foregoing, Customer agrees to and shall timely: (a) perform all obligations identified as customer responsibilities, assistance, and/or obligations in the Statement of Work; (b) provide the Customer Materials and all such other resources as may be specified in the Statement of Work; (c) provide Company Personnel with access to the Designated Site(s), the Customer Systems, and suitably qualified personnel; (d) ensure the applicable the Designated Site(s) and Customer Systems are set up and in working order to allow Company to perform the Managed Services and deliver and, where applicable, install or deliver the System in accordance with the terms of this Agreement and the requirements of the applicable Statement of Work; and (e) provide all consents, approvals, notices, and other communications as required under this Agreement and, where applicable, as specified in the Statement of Work.

3.2 Permissions. Customer acknowledges and agrees that as a condition to receiving the Managed Services, Company or its designated Company Personnel shall and must be the administrator of, or otherwise have administrator access and permissions to, the System. Customer's removal, restriction, or revocation of Company or its designated Company Personnel as an administrator or its administrator access and permissions shall be deemed a material breach of this Agreement.

3.3 Effect of Customer Failure or Delay. Company is and shall not be responsible or liable for any late delivery or delay or failure of performance caused in whole or in part by Customer's delay in performing, or failure to perform, any of its obligations under this Agreement. In the event of any such delay or failure, Company may, in its sole discretion and by written notice to Customer, extend all such performance dates as Company deems reasonably necessary and, where applicable, amend the Statement of Work to reflect such extensions. The foregoing is in addition to, and not in lieu of, all other remedies Company may have for any such failure or delay by Customer.

3.4 Customer Infrastructure. Customer will remain responsible for obtaining, maintaining, contracting for, and supporting all Customer Services, and any other Excluded Materials needed to access and use the System and/or Managed Services, including all costs related to the foregoing.

3.5 Non-Solicitation. During this Agreement, and for a period of one (1) year immediately following its termination, Customer agrees not to solicit or induce, directly or indirectly, any Company Personnel of Company to terminate or breach its employment, contractual or other relationship with Company; provided that, nothing shall prohibit Customer from (a) the placement of a general employment advertisement (e.g., in newspapers, trade magazines or web sites), or (b) responding to a contact that is initiated by an employee and/or contractor of Company seeking employment.

4. Delivery. Company will use commercially reasonable efforts to deliver or cause to be delivered or made available to Customer the System at the Designated Site(s) in accordance with the delivery criteria set forth in the applicable Statement of Work. Except as otherwise expressly set forth in the Statement of Work, Company will deliver Software components of the System in binary code (object code) only. Customer acknowledges and agrees that Customer has no right or license under this Agreement to receive the source code for any Software included in the System. The Software components of the System will be deemed accepted upon the date Company first makes available such Software components to Customer (whether via online access or available for download or installation). Hardware components of the System will be shipped to Customer or its carrier agent at Company's facility or the facility of its contract manufacturer, at which time risk of loss and title will pass to Customer and will remain at the sole risk of the Customer throughout the Service Term and for any period thereafter until it is returned to Company's physical possession. In the absence of specific shipping instructions from Customer, Company will choose the method of shipment in its discretion. Customer will pay all freight, insurance, and other shipping expenses. The Hardware components of the System will be deemed accepted upon delivery to Customer. Customer shall be solely responsible for loss or damage to the Hardware in its possession or control and shall maintain insurance policies in sufficient coverage and amounts to satisfy its obligations under this Agreement.

5. Fees; Payment Terms

5.1 Fees & Expenses. Customer shall pay the fees set forth in the applicable Statement of Work in consideration for access to the System and Company's performance of the Managed Services under such Statement of Work (the "**Fees**").

In addition, Customer shall reimburse Company for any pre-approved out-of-pocket expenses incurred by Company, in connection with providing the Managed Services hereunder, whether such Services are provided on a remote online basis, or on-site at the Customer's premises (the "**Expenses**").

5.2 Payment Terms. Unless otherwise specified in the applicable Statement of Work: (a) if Services are provided on a time-and-materials basis, Company will invoice Customer the Fees monthly in arrears for the Managed Services rendered in the prior calendar month, (b) if Services are provided on a subscription or fixed-fee basis, Company will invoice Customer the applicable Fees for the Service Term in advance, (c) Expenses will be invoiced on a monthly basis for Expenses incurred by Company in the prior calendar month, and (d) Customer will make all payments within thirty (30) days from the date of the applicable invoice from Company. Customer shall make all payments in United States dollars, unless otherwise agreed in writing by Company. Customer shall pay all amounts due under this Agreement without setoff, deduction, recoupment, or withholding of any kind for amounts owed or payable by Company whether under this Agreement, applicable Law, or otherwise and whether relating to Company's breach, bankruptcy, or otherwise. Except to the extent otherwise set forth in this Agreement, all amounts paid by Customer hereunder are non-refundable and are not contingent on any additional services or products to be provided.

5.3 Late Payments. Outstanding balances (other than amounts disputed by Customer in accordance with Section 5.4) shall accrue a late fee at a rate equal to the lesser of one and one half percent (1.5%) per month and the maximum rate permitted by applicable law, from the due date until paid, plus reasonable costs of collection. If any invoice remains unpaid (in whole or in part, other than amounts disputed by Customer in accordance with Section 5.4) more than thirty (30) days from the applicable due date, Company may, without limiting its other rights and remedies under this Agreement or under applicable law, suspend performance of the Services until such invoice is paid. Except to the extent otherwise set forth in this Agreement, fees paid by Customer are non-refundable and are not contingent on any additional services or products to be provided.

5.4 Payment Disputes. Customer will not be in breach of its payment obligations under this Agreement for withholding from its payment of fees under an invoice any such amounts thereof that Customer disputes in good faith; provided that Customer notifies Company of such disputed fees within five (5) business days following receipt of the applicable invoice and timely renders all other amounts that are not in dispute.

5.5 Fee Increases. Unless Company provides a notice of fee increase to Customer at least sixty (60) days prior to the end of the then-current Service Term, the fees payable during any renewal Service Term under the applicable Statement of Work will be the same as in the preceding Service Terms.

5.6 Taxes. All Fees and other amounts payable by Customer under this Agreement are exclusive of taxes and similar assessments. Customer is responsible for all sales, use and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Customer hereunder, other than any taxes imposed on Company's income (collectively, "**Taxes**"). If Company has the legal obligation or is otherwise required to pay or collect Taxes for which Customer is responsible under this Section 5.6, Company will invoice Customer for, and Customer agrees to pay, such Taxes in accordance with Section 5.2, unless Customer provides Company with a valid tax exemption certificate authorized by the appropriate taxing authority prior to execution of the applicable Statement of Work. Taxes will not be deducted from payments to Company, except as required by law, in which case Customer will increase the amount payable as necessary so that, after making all required deductions and withholdings, Company receives and retains (free from any liability for taxes) an amount equal to the amount it would have received had no such deductions or withholdings been made. Upon Company's request, Customer will provide to Company its proof of withholding tax remittance to the respective tax authority.

6. Security & Data Protection

6.1 Security Measures. Company will implement and maintain appropriate and adequate technical and organizational security measures, attached hereto as Exhibit A, that are reasonably designed to prevent unauthorized access to and disclosure of, and otherwise protect, Customer Materials (including, any Customer PII as defined below) in Company's possession or control and/or any Customer Systems accessed by Company through its own systems. Without prejudice to Company's obligations under this Agreement, Customer is responsible for its secure use of the System and for Customer Systems, including, without limitation: (a) protecting account authentication credentials; (b) protecting the security of Customer System, Customer Materials and Customer PII using Excluded Materials and any other Third-Party tools not operated or controlled by Company; and (iii) implementing measures to allow Customer to backup and archive appropriately

in order to restore availability and access to Customer Materials and Customer PII in a timely manner in the event of a physical or technical incident.

6.2 Customer PII. To the extent Customer provides or Company is otherwise required to process any personally identifiable information of Customer's personnel or customers during or in connection with the provision of the Services ("**Customer PII**"), each Party agrees to and shall comply with all applicable data protection and privacy laws, rules and regulations with respect to such Customer PII ("**Applicable Data Laws**"). In addition, the Parties agree to work together in good faith to mutually agree upon and execute and/or enter into any documents, agreements, statements, or policies deemed necessary or appropriate by a Party in its discretion to process Customer PII in accordance with Applicable Data Laws.

7. Proprietary Rights & Licenses

7.1 Company Proprietary Rights. As between the Parties, all right, title, and interest in and to the System and Documentation, and any and all information, data, documents, materials, inventions, technologies, know-how, works, and other subject matter, including all software, hardware, systems, methods, processes, and devices, and all specifications, descriptions, requirements, plans, and reports, used or provided by Company or any Company Personnel in connection with the Managed Services (expressly excluding Customer Materials and Customer Confidential Information), or that Company or any Company Personnel otherwise conceives, discovers, designs, develops, reduces to practice, prepares, makes, modifies, or improves (without the use of any Customer Materials or Customer Confidential Information) in connection with the Managed Services or this Agreement (all of the foregoing, collectively, the "**Company Materials**").

7.2 Title to Hardware. Customer has no right or license with respect to any Company Materials except as expressly licensed under 7.3(a), in each case subject to s 7.3(b) and 7.3(c). Company expressly reserves all other rights in and to the Company Materials. Title to the Hardware shall not pass to Customer and Customer agrees that as between the Parties, the Hardware shall remain the personal property of Company and Customer shall have no right, title, or interest therein. Customer shall keep the Hardware free from all liens, attachments, encumbrances or judicial processes and shall not act, or fail to act, in any manner inconsistent with Company's or its licensors' or lessors' title including, but not limited to, not transferring, selling, assigning, sublicensing, pledging, or otherwise disposing, encumbering, or suffering a lien or encumbrance upon or against any interest in the Hardware without Company's express prior written consent. Customer shall immediately notify Company of any claim, which may be adverse to Company's or its licensors' or lessors' interest in the Hardware.

7.3 Access to the System

(a) Right to Access. Subject to and conditioned upon Customer's payment of the Fees and compliance with 7.3(c) and all other terms and conditions of this Agreement and any applicable Third-Party System Terms, Company shall provide Customer access to, and hereby grants to Customer a fully paid-up and royalty-free, non-transferable, non-sublicensable, limited license during the applicable Service Term to access and use the System solely for the Permitted Use.

(b) Third-Party System Terms. To the extent the System (or any component thereof) provided by Company to Customer is subject to any Third-Party System Terms, such Third-Party System Terms shall be specified in the Statement of Work or otherwise identified by Company to Customer on or prior to delivery of the relevant System. Customer acknowledges that Customer is responsible for reviewing, and Customer agrees to and shall comply with, all such Third-Party System Terms and any applicable updated or modified versions thereof. In the event of any conflict between the terms of this Agreement and the Third-Party System Terms, the Third-Party System shall control with respect to the applicable System (or components thereof).

(c) Software provided as part of the System, may be updated by Company, as Company evaluates new product offerings that will provide equal or greater capabilities.

(d) Company License Restrictions. Customer shall not, and shall not permit any other person to, access or use any Company Materials except as expressly permitted by this Agreement and any applicable Third-Party System Terms. For purposes of clarity and without limiting the generality of the foregoing, with respect to all Company Materials, except as this Agreement expressly permits, Customer shall not, and shall not permit any other person to: (i) copy, modify, or create derivative works or improvements of the Company Materials; (ii) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Company Materials to any

other person, including through or in connection with any time-sharing, service bureau, software as a service, cloud, or other technology or service; (iii) reverse engineer, disassemble, decompile, decode, or otherwise attempt to derive or gain access to the source code of the Company Materials or any part thereof; (iv) remove, modify, delete, alter, or obscure any trademarks or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from any Company Materials, including any copy thereof; (v) use any Company Materials in a manner or for any unlawful purpose or in a manner which violates or infringes any laws, rules, regulations, Third-Party intellectual property or privacy rights; (vi) use the Company Materials for purposes of competitive analysis of the System, the development of a competing system, product, or service, or any other purpose that is to Company's commercial disadvantage; (vii) use the System to store or transmit harmful or malicious code or routines, such as viruses, trojan horses, worms, time bombs, cancel bots, or other programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data, or information; (viii) interfere with the operation of the System or circumvent the security or authentication measures thereof; or (viii) otherwise use the System beyond the scope of the license granted under 7.2(a) or, if applicable, the Third-Party System Terms.

(e) Auditing Usage and Maintenance. The System may include a feature or functionality that reports general metric and diagnostic information about Customer's and its Authorized Users' use of the System, such as configuration files, node count, software versions, log files and other information regarding Customer's environment, but in no event will such metric and diagnostic information include any of Customer's content such as user names, passwords or other data. This feature is required to be enabled as part of the Customer's subscription and access to the System.

7.4 Customer Proprietary Rights; Customer Materials License. As between the Parties, Customer is and will remain the sole and exclusive owner of all right, title, and interest in and to the Customer Materials, including all Intellectual Property Rights therein, subject only to the license granted under this Section 7.4. Customer expressly reserves all other rights in and to the Customer Materials. Customer hereby grants to Company a fully paid-up and royalty-free, non-exclusive right and license to use, reproduce, perform, display, distribute, modify, and create derivative works and improvements of the Customer Materials solely to the extent reasonably necessary to perform the Managed Services.

7.5 Feedback. If Customer provides Company with feedback, comments, or suggestions concerning the System, the Managed Services or other Company products and services (collectively, "**Feedback**"), Company may use, and permit others to sue, such Feedback without restriction or obligation. Any such Feedback is provided "AS IS," and Company will not publicly identify Customer or any Authorized User as the source of Feedback without Customer's permission.

7.6 Working Rights. Nothing in this Agreement shall restrict or prevent Company from using any ideas, concepts, know-how, methodology, techniques, or general programming skills learned or developed by Company in connection with the Managed Services created under this Agreement ("**Working Rights**"), provided that the Working Rights shall not contain any Customer Materials or Confidential Information of Customer.

8. Confidentiality

8.1 Confidential Information. "**Confidential Information**" means certain proprietary and non-public information of a Party (the "**Disclosing Party**") that may be disclosed, provided, made available or otherwise obtained by a Party (the "**Receiving Party**") in connection with this Agreement regarding the products, services, customers, personnel, and business of the Disclosing Party, including, but not limited to, trade secrets, technical information, business forecasts and strategies, marketing plans, customer and supplier lists, personnel information, personally identifiable information of personnel or customers, financial data, and proprietary information of third parties provided to the Disclosing Party in confidence) that is labeled or identified as "confidential" or "proprietary" or that the Receiving Party otherwise knows, or would reasonably be expected to know, the Disclosing Party considers to be confidential or proprietary or that the Disclosing Party has a duty to treat as confidential.

8.2 Exclusions. These confidentiality obligations do not apply to information that the Receiving Party can document (a) is or becomes public knowledge through no fault of the Receiving Party; (b) it rightfully knew or possessed, without confidentiality restrictions, prior to receipt from the Disclosing Party; (c) it rightfully received from a Third-Party without confidentiality restrictions; or (d) it independently developed without using or referencing Disclosing Party's Confidential Information.

8.3 Protection of Confidential Information. The Receiving Party shall hold the Confidential Information of the other Party in strict confidence, and will not access or use Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with this Agreement. The Receiving Party may disclose the

Confidential Information of the Disclosing Party only to the employees, contractors, or agents (which include, with respect to Company, Company Personnel) of the Receiving Party (“**Representatives**”) who have a need to know such Confidential Information for the purposes of this Agreement and who are under a duty of confidentiality no less restrictive than the Receiving Party’s duty hereunder; provided that, the Receiving Party shall remain responsible for its Representatives’ compliance with, and be responsible and liable for any of its Representatives’ noncompliance with, the terms of this Section 8. The Receiving Party will protect and safeguard the Disclosing Party’s Confidential Information from unauthorized use, access, or disclosure in the same manner as the Receiving Party protects its own confidential or proprietary information of a similar nature and with no less than reasonable care.

8.4 Other Disclosures. The Receiving Party may disclose Confidential Information (including Customer Data) of the Disclosing Party to the extent required by applicable law, court order, administrative tribunal, or regulatory authority. If permitted by law, the Receiving Party will give the Disclosing Party reasonable advance notice of the required disclosure and reasonably cooperate, at the Disclosing Party’s expense, to obtain confidential treatment for the Confidential Information. Neither Party will disclose any terms of this Agreement to anyone other than its attorneys, accountants, and other professional advisors under a duty of confidentiality except (a) as required by law, or (b) in connection with a proposed merger, financing, or sale of such Party’s business (provided that any Third-Party to whom the terms of this Agreement are to be disclosed is under a duty of confidentiality).

8.5 Return. Promptly following the written request of the Disclosing Party, or upon termination of this Agreement, the Receiving Party will delete all Confidential Information of the Disclosing Party in the Receiving Party’s possession or control (but excluding any information or copies on backups retained in the ordinary course of business) and, provided that, the Receiving Party may retain one (1) archival copy of such information for purposes of ensuring compliance with this Agreement or as otherwise required by applicable laws, rules, or regulations.

9. Term and Termination

9.1 Term of Agreement. Unless earlier terminated in accordance with the terms herein, this Agreement will commence on the Effective Date and will continue for the Service Term as defined in the executed SOW, and thereafter will automatically renew at then current prices for the System for successive periods equal to the Service Term, unless either Party provides the other with written notice of non-renewal at least sixty (60) days prior to the expiration of the then-current term. Unless this Agreement is terminated pursuant to Section 9.3 below, this Agreement will continue to govern any then-current Statement(s) of Work until the expiration or termination of the applicable term of the applicable Statement(s) of Work.

9.2 Statements of Work. Each Statement of Work shall commence on the effective date set forth therein and continue for the Service Term, and will automatically renew for successive renewal Service Terms, unless either Party provides the other with written notice of non-renewal at least sixty (60) days prior to the expiration of the then-current Service Term.

9.3 Termination. Either Party may terminate this Agreement if the other Party (a) fails to cure a material breach of this Agreement or a Statement of Work within thirty (30) days after notice; (b) ceases operation without a successor; or (c) seeks protection under a bankruptcy, receivership, trust deed, creditors’ arrangement, composition or comparable proceeding, or if such a proceeding is instituted against that Party and not dismissed within sixty (60) days. Furthermore, in the event of a material breach of any of Customer’s obligations, including without limitation the failure to pay any amount when due, then, without limiting Company’s other remedies under this Agreement, Company may, at its option, suspend all licenses granted and/or suspend performance under any Statement of Work, until such material breach has been fully cured. Exercise by either Party of its right to terminate under any provision of this Agreement will not affect or impair its right to enforce its other rights or remedies under this Agreement. The foregoing rights of termination are in addition to any other rights and remedies provided in this Agreement or under applicable law.

9.4 Effect of Expiration or Termination. Upon any expiration or termination of this Agreement:

(a) All licenses and rights granted to Customer for the use of the System, and Company’s obligations to perform the Managed Services, shall automatically and immediately terminate on the effective date of such termination.

(b) Customer shall (i) immediately cease all use of the System(s) provided under this Agreement, or where applicable, the terminated Statement(s) of Work, and delete and permanently erase any Software components

of the System (and all copies thereof) installed or deployed on any Customer Systems or otherwise in Customer's possession or control, and (ii) promptly return to Company, at Company's cost using Company's designated shipping account, all units of the Hardware components of the System delivered to Customer hereunder, in good working order, reasonable and normal wear and tear excepted. Customer must use the original shipping containers to return the units. If Customer has not saved the original shipping containers, replacement shipping containers may be purchased from Company. Company agrees to use a designated third-party data cleansing provider to wipe all Customer Materials stored on the Systems. Customer shall certify to Company in a written instrument signed by Customer's duly authorized executive officer that it has complied with the requirements of this 9.4(b).

(c) Each Party shall comply with their obligations in Section 8.5.

(d) If Customer terminates this Agreement or any Statement(s) of Work pursuant to Section 9.3, Customer will be relieved of any obligation to pay any Fees hereunder for Managed Services that Company has not provided as of the effective date of termination and Company will refund to Customer Fees, on a pro-rated basis, paid in advance for such Managed Services. In all other case, all Fees that would have become payable had the Agreement remained in effect until expiration of the Term will become immediately due and payable, and Customer shall pay such Fees, together with all previously-accrued but not yet paid Fees and Expenses, on receipt of Company's invoice therefor.

9.5 Surviving Terms. The provisions set forth in the following Sections, and any other right or obligation of the Parties in this Agreement that, by its nature, should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement: Section 3.5, Section 5, Section 7.1, Section 7.2, Section 7.3(b), Section 7.3(c), and Section 7.3(d), Section 7.4, Section 7.5, Section 7.6, Section 8, Section 9.4, Section 9.5, Section 10.4, Section 10.5, Section 11, Section 12, Section 14, Section 15, Section 16, and Section 17.

10. Representations and Warranties

10.1 Mutual. Each Party represents and warrants to the other Party that: (a) it is duly organized, validly existing, and in good standing as a corporation or other entity under the Laws of the jurisdiction of its incorporation or other organization; (b) it has the full right, power, and authority to enter into, and to perform its obligations under this Agreement; (c) the execution of this Agreement by its representative whose signature is set forth at the end of this Agreement has been duly authorized by all necessary corporate or organizational action of such Party; and (d) when executed and delivered by both Parties, this Agreement will constitute the legal, valid, and binding obligation of such Party, enforceable against such Party in accordance with its terms.

10.2 Additional Customer Warranties. Customer represents and warrants that it: (a) has all rights necessary to use Customer Materials and Customer PII with the System and the Managed Services and grant the rights in Section 7.4, without violating third-party intellectual property, privacy, or other rights, and (b) has read, understands, and agrees to be bound by the Third-Party System Terms (and any applicable updated or modified versions thereof).

10.3 Additional Company Warranties; Limited Remedy. Company represents and warrants to Customer that Company will perform the Managed Services using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and will devote adequate resources to meet its obligations under this Agreement. Company will, as its sole obligation and Customer's sole exclusive remedy for any breach of the foregoing warranty, re-perform, at its own expense, any non-conforming Managed Services; provided that, such non-conforming Managed Services are reported in reasonable detail to Company by Customer in writing within thirty (30) days following the provision of such Managed Services.

10.4 Limitations. Customer acknowledges and agrees that the System (and components thereof) is owned, operated and controlled by third parties (the "**Third-Party Provider**"), links attached hereto as Exhibit B, and as such, Company does not and cannot make any representations, warranties or guarantees whatsoever regarding the System, and Customer waives any claim against Company for the performance or quality of the System. To the extent that the Third-Party Provider of the System (or applicable System components) has made any warranties to Company that Company has the right to assign or pass-through to Customer, Company agrees to assign such warranties to Customer. In addition, Company shall use its commercially reasonable efforts to enforce, on Customer's behalf, at Customer's request and sole expense, any other warranties that the applicable Third-Party Provider has made to Company with respect to the System (or any applicable System components) provided by such Third-Party Provider. Customer acknowledges that Customer is not relying on any representations made by Company with respect to the System (or System components) of Third-Party Providers.

10.5 DISCLAIMER OF WARRANTIES. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH ABOVE IN THIS SECTION 10, THE SYSTEM, DOCUMENTATION, MANAGED SERVICES AND ANY OTHER COMPANY MATERIALS ARE PROVIDED "AS IS" AND COMPANY HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHER, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, COMPANY MAKES NO WARRANTY OF ANY KIND THAT THE SYSTEM, DOCUMENTATION, MANAGED SERVICES AND ANY OTHER COMPANY MATERIALS, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES (EXCEPT IF AND TO THE EXTENT EXPRESSLY SET FORTH IN THE APPLICABLE DOCUMENTATION), OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE. NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH IN THIS AGREEMENT OR ANY STATEMENT OF WORK, THE WARRANTIES SET FORTH IN ABOVE IN THIS SECTION 10 DO NOT APPLY, AND COMPANY STRICTLY DISCLAIMS ALL WARRANTIES, WITH RESPECT, TO ANY CUSTOMER MATERIALS, CUSTOMER SYSTEMS, AND EXCLUDED MATERIALS.

11. Indemnification

11.1 Indemnification by Company. Company will defend Customer, and its Affiliates, subsidiaries, and, officers (each a "**Customer Indemnitee**"), from and against any and all claims, actions, suits, administrative or judicial proceedings brought by a Third-Party (each, a "**Claim**"), and will pay all damages and costs awarded against Customer under a final court decision in relation with such Claim or agreed to in settlement, to the extent such Claim arises out of or relates to: (a) Company or any Company Personnel's gross negligence or willful misconduct in the performance of the Managed Services, or (b) any claim that Company's provision of the System to Customer pursuant to the terms of this Agreement violates any applicable Third-Party System Terms (except to the extent Customer or any Customer Indemnitee is responsible for the event giving rise to Company's obligation or liability under this clause (b)). The foregoing obligations do not apply to the extent that any Claim arises out of any: (i) combination or use of the System (or any components thereof) with any hardware, software, system, products, equipment, devices, service, or other materials (including, but not limited to, Customer Materials, Customer Systems or any Excluded Materials), or performance not provided by Company; (ii) modification of the System (or any components thereof) by Customer or any other Third-Party; (iii) Customer's failure to comply with its obligations and responsibilities with respect to the use of the System, including, but not limited to, any failure to timely implement any maintenance releases, modifications, upgrades, replacements, or enhancements to the System made available to Customer by or on behalf of Company; (iv) Company's compliance with any specifications or directions provided by or on behalf of Customer to the extent prepared without any contribution by Company; (v) Customer's or any Authorized User's use of the System in a manner that violates any applicable law, regulation, or the proprietary rights of others, or otherwise in breach or violation of the applicable Third-Party System Terms, or (vi) Customer's or any Authorized User's gross negligence or more culpable act or omission.

11.2 Customer Indemnification. Customer shall indemnify, defend, and hold harmless Company and its Customer Personnel and Affiliates, and each of its and their respective officers, directors, employees, agents, successors, and assigns (each, including Company, a "**Company Indemnitee**") from and against any and all damages, liabilities, losses, fines, penalties, costs and expenses (including, reasonable attorneys' fees) incurred by any Company Indemnitee in connection with Claim brought against any Company Indemnitee to the extent such Claim arises out of or relates to: (a) allegations of facts that, if true, would constitute Customer's breach of its representation and warranties set forth in Section 10.3; (b) allegations that Customer's or its Authorized Users' use of the System and/or Documentation (i) violates any applicable law, regulation, or the proprietary rights of others when used as permitted hereunder (other than a claim for which Company is obligated to indemnify Customer under Section 11.1 above) or (ii) breaches or violates this Agreement or any applicable Third-Party System Terms, or (c) Customer's or any of its Authorized User's gross negligence or willful misconduct.

11.3 Indemnification Procedure. As a condition to the foregoing indemnification and defense obligations in this Section 11, the indemnified Party must (a) promptly notify the indemnifying Party in writing upon learning of any Claim which may give rise to a Claim for indemnification hereunder (provided that the indemnifying Party will be relieved only to the extent the indemnified Party's failure prejudices defense or settlement); (b) provide the indemnifying Party with sole control of the defense and settlement of such Claim except that no compromise or settlement may be effected or committed to without the indemnified Party's written consent (unless such compromise or settlement (i) includes an unconditional release of the indemnified Party from all liability arising out of such Claim, and (ii) is solely monetary in nature and does not include a statement as to, or an admission of fault, culpability or failure to act by or on behalf of the indemnified Party); and (c) cooperate

with all reasonable requests of the indemnifying Party in defending or settling a Claim, at the indemnifying Party's expense. The indemnified Party will have the right to participate in the defense of the Claim at its own expense and with counsel of its own choosing.

12. Limitations of Liability

12.1 Exclusion of Consequential Damages. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY SHALL BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING LOST REVENUES, LOST PROFIT, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, LOSS OF DATA, LOSS OF PROSPECTIVE ECONOMIC ADVANTAGE, AND THE LIKE, ARISING OUT OF THIS AGREEMENT OR RELATING TO THE USE AND/OR INABILITY TO USE THE SYSTEM, DOCUMENTATION, MANAGED SERVICES AND/OR ANY OTHER COMPANY MATERIALS, EVEN IF A PARTY HAS BEEN ADVISED IN ADVANCE ABOUT THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING EXCLUSIONS SHALL NOT APPLY TO (A) ANY BREACH OF CONFIDENTIALITY OBLIGATIONS OF THIS AGREEMENT, (B) A PARTY'S DEFENSE AND INDEMNIFICATION OBLIGATIONS PROVIDED IN THIS AGREEMENT, (C) CUSTOMER'S USE OF THE COMPANY MATERIALS OUTSIDE THE PERMITTED USE OR THE SCOPE OF LICENSES AND RIGHTS GRANTED HEREUNDER, OR (D) CUSTOMER'S BREACH OF SECTION 3.5.

12.2 Liability Cap. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE AGGREGATE LIABILITY OF COMPANY ARISING IN CONNECTION WITH THIS AGREEMENT AND/OR ITS SUBJECT MATTER, HOWEVER CAUSED, SHALL IN NO EVENT EXCEED THE GREATER OF USD \$500,000 (FIVE HUNDRED THOUSAND DOLLARS) OR THE AMOUNT OF FEES PAID OR PAYABLE BY CUSTOMER DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

12.3 Nature of Claims. The waivers and limitations in this Section 12 apply regardless of the form of action, whether in contract, tort (including negligence), strict liability, or otherwise and will survive and apply even if any limited remedy in this Agreement fails of its essential purpose. The Sections on limitation of liability and disclaimer of warranties herein allocate the risks in the Agreement between the Parties. This allocation is an essential element of the basis of the bargain between the Parties.

13. Force Majeure. Other than an obligation for payment of money, a Party will be excused from performing under this Agreement to the extent that it is unable to perform due to extraordinary causes beyond its reasonable control, including natural disasters or emergencies, labor disputes, government requirement, act of God, earthquake, fire, civil unrest, act of terror, strikes, lockouts, riots, acts of war, pandemics, epidemics, or communication line or power failures. Such Party shall use commercially reasonable efforts to cure any such failure or delay and shall timely advise the other Party of such efforts. If such delay continues for more than sixty (60) days, either Party may, with no less than ten (10) days' prior written notice, terminate the affected Statement of Work(s).

14. Export. The Parties acknowledge that the System (and its components) may be subject to U.S. and other countries' export jurisdictions. Each Party will comply with all laws and regulations applicable to the import or export of the System, including, but not limited to, the U.S. Export Administration Regulations, International Traffic in Arms Regulations, and sanctions regulations administered by the U.S. Office of Foreign Assets Control (collectively, "**Trade Laws**"). Neither Party will take any action that causes the other Party to violate U.S. or other applicable Trade Laws. If either Party learns of a potential violation of Trade Laws relating to the performance of this Agreement, or a potential violation of the terms in this subsection, such Party will alert the other Party promptly after acquiring this knowledge. Company may suspend or terminate this Agreement to the extent that Company reasonably concludes that performance would cause Company to violate applicable Trade Laws or put Company at risk of becoming the subject of economic sanctions under such Trade Laws. Customer represents that Customer and its Authorized Users are not on any restricted party list under any applicable Trade Laws, including, but not limited to the U.S. Department of Commerce's Table of Denial Orders or Entities list, or U.S. Treasury Department's list of Specially Designated Nationals.

15. Government Users. The System is a "commercial item" as that term is defined at FAR 2.101. If Customer is a Federal agency of the US Government ("**Government**"), including any executive, legislative, or judicial agency, or anyone acquiring on behalf of such agency, Company provides the System and Documentation, including any related technical data, in accordance with the following: the Government acquires, in accordance with FAR 12.211a and FAR 12.212, or DFARS 227.7202-3, as applicable, only those rights in technical data and software customarily provided to the public as provided in this Agreement, except that DFARS 252.227-7015 applies in the case of acquisition by or on behalf of any agency within the Department of

Defense. This Section 15 is in lieu of, and supersedes, any other FAR, DFARS, or other clause, provision, or supplemental regulation that addresses Government rights in computer software or technical data under this Agreement.

16. Modifications to this Agreement. Subject to this Section 16, Company reserves the right to change, modify or update this Agreement (including, the Support Terms) at any time. Except as otherwise stated in this Section, all updates and modifications to this Agreement will be effective from the day they are posted at <https://gainside.com/msa>, as indicated by the “Last Updated” date set forth above. Company will provide Customer reasonable prior notice of any material changes to this Agreement (“**Material Changes**”) by email. If Customer does not agree to any such Material Changes, then, prior to the effective date of such Material Changes (as specified in the email notice to Customer), Customer may, at its option, either:

- (a) object to such Material Changes by notifying Company of the specific objections via email at legal@gainside.com, in which case, unless otherwise mutually agreed upon by the parties in writing, the version of this Agreement prior to such Material Changes (subject to any non-material updates, which shall take effect as set forth herein and are not subject to any right of objection or termination remedies herein) shall remain in effect until the end of the then current Term, after which time the then-current version of the Agreement posted at <https://gainside.com/msa>, not including Exhibit C ‘Modifications to this Agreement’ at the end of this document, at the time of renewal will go into effect, unless Customer cancels renewal of this Agreement in accordance with Section 9.1); or
- (b) elect to terminate this Agreement by providing written notice to Company by email at legal@gainside.com, provided that, all fees due for the remainder of all then-current Statements of Work shall become immediately due and payable.

The foregoing states Customer’s sole and exclusive remedy for any changes or modifications to this Agreement that Customer does not agree with. Customer and/or its Authorized Users may be required to click to accept or otherwise agree to the modified Agreement, and in any event (unless Customer has notified Company of its objection to the modified Agreement or terminated this Agreement as set forth above) Customer’s or any of its Authorized User’s continued use of the Managed Services after the updated version of this Agreement goes into effect will constitute Customer’s acceptance of such updated version.

17. Miscellaneous

17.1 Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

17.2 Public Announcements. Neither Party shall issue or release any announcement, statement, press release, or other publicity or marketing materials relating to this Agreement or otherwise use the other Party’s trademarks, service marks, trade names, logos, domain names, or other indicia of source, affiliation, or sponsorship, in each case, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed, provided, however, that Company may, without requiring Customer’s consent, include Customer’s name and/or other indicia in its lists of Company’s current or former customers of Company in promotional and marketing materials.

17.3 Notices. Any notice required or permitted by this Agreement shall be in writing and shall be delivered as follows, with notice deemed given as indicated: (a) by personal delivery, when actually delivered; (b) by overnight courier, upon written verification of receipt; (c) upon confirmation of receipt by the intended recipient, if by e-mail; or (d) by certified or registered mail, return receipt requested, upon verification of receipt. Notice shall be sent to the addresses set forth on the initial Statement of Work entered into by the Parties, or to such other address as either Party may provide in writing in accordance with this Section 17.3.

17.4 Entire Agreement. This Agreement, including the Support Terms, and together with all Statements of Work entered into by the Parties hereunder, constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous representations, understandings, agreements, communications, or purchase orders between the Parties, whether written or oral, relating to the subject matter hereof. The terms on any purchase order or similar document submitted by Customer will have no effect and such terms are hereby deemed material, are objected to, and are hereby rejected by Company unless specifically accepted in a signed writing by Company. Section headings are provided solely for reference purposes and in no way define, limit, interpret, or describe the scope or extent of

such Section or in any way affect this Agreement. When used in this Agreement, the term “including” means “including without limitation,” unless expressly stated to the contrary.

17.5 Assignment. Except as otherwise expressly stated in this Agreement, neither Party may assign its rights or obligations under this Agreement without the other Party’s prior written consent; provided that, such consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Company may, without Customer’s consent assign this Agreement in its entirety to an Affiliate or to a successor as a result of the sale, acquisition, merger or transfer of all or substantially all of Company’s business, voting stock or assets to which this Agreement relates, so long as the assignee agrees in writing to assume all obligations and liabilities of Company hereunder. Any purported assignment, delegation, or transfer in violation of this Section 17.5 is void. This Agreement is binding upon and inures to the benefit of the Parties hereto and their respective permitted successors and assigns.

17.6 No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their respective permitted successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit, or remedy of any nature whatsoever, under or by reason of this Agreement.

17.7 Amendment and Modification; Waiver. Except as otherwise stated in Section 16, no modification, change, or amendment of this Agreement will be binding upon the Parties, unless both Parties agree to the change in a writing signed by an authorized representative of each Party. A Party’s obligations under this Agreement can only be waived in a writing signed by an authorized representative of the other Party, which waiver will be effective only with respect to the specific obligation described. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

17.8 Severability. If any provision of this Agreement is deemed by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the court will modify or reform this Agreement to give as much effect as possible to that provision, and such determination shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Any provision that cannot be modified or reformed in this way will be deemed deleted, and the remaining provisions of this Agreement will continue in full force and effect.

17.9 Governing Law; Venue. This Agreement and all disputes arising hereunder shall be governed by and construed in accordance with the laws of the State of Florida, without reference to conflict of law provisions. Any legal action or proceeding arising under, related to, or connected with this Agreement, to the extent permitted to be brought under the terms of this Agreement, will be brought exclusively in the federal (if they have jurisdiction) or state courts located in Lee County, Florida, and the Parties irrevocably consent to the personal jurisdiction and venue of such courts.

17.10 Dispute Resolution. The Parties acknowledge that most disputes can be resolved without resort to litigation. The Parties will use their best efforts to settle any dispute directly through consultation with each other before initiating a lawsuit or arbitration. If, after good faith negotiations the Parties are unable to resolve the dispute, any disputes arising out of or in any way relating to this Agreement, including without limitation its existence, validity or termination, shall be resolved according to Florida law and exclusively by binding arbitration before a single arbitrator with the Judicial Arbitration and Mediation Service (“**JAMS**”) and pursuant to the then-existing arbitration rules at JAMS.

If the Parties cannot agree upon selection of an arbitrator, then JAMS will appoint an arbitrator experienced in the enterprise software industry. The place of the arbitration will be Fort Myers, Florida, unless otherwise agreed upon by the Parties. The arbitration will be conducted in English. The arbitrator must provide detailed written findings of fact and conclusions of law in support of any award. Judgment upon any such award may be enforced in any court of competent jurisdiction. The existence of a dispute, submission to arbitration, and any arbitration award under this Agreement is deemed the Confidential Information of both Parties.

Notwithstanding anything to the contrary in this Section 17.10, any disputes, claims, or controversies concerning either Party’s intellectual property rights or claims of piracy or unauthorized use of the System are not subject to arbitration but instead must be heard in the venue specified in Section 17.9.

17.11 Equitable Relief. Notwithstanding anything to the contrary in this Agreement, each Party acknowledges and agrees that a breach or threatened breach by such Party of any of its obligations under 8 or, in the case of Customer, 7.3(c), would cause the other Party irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, the other Party will be entitled to seek equitable relief, including a restraining order, an injunction, specific performance, and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate

remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise.

17.12 Attorneys' Fees. In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by either Party hereto against the other Party arising out of or related to this Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and court costs from the non-prevailing Party.

EXHIBIT A
GAINSIDE, LLC
SECURITY POLICY - TECHNICAL AND ORGANIZATIONAL SECURITY MEASURES

1. Information security policies and standards. Company shall implement and maintain security requirements and measures for staff and all subcontractors, vendors, and agents who have use, retrieve, store, transfer, access, or otherwise obtain, handle, or process (each, as applicable) (collectively, “**Access**”) any Customer Materials or Customer Confidential Information (“**Customer Data**”). These requirements shall, at a minimum:
 - Prevent unauthorized persons from gaining access to any processing, storage, database, network communication, equipment, or source code control systems (as applicable) in Company’s possession or control which store, host, process, contain, connect to, or otherwise Access any Customer Data (collectively, “**Company Systems**”);
 - Prevent Company Systems being used without authorization;
 - Ensure that persons entitled to use a Company System gain access only to such Customer Data as they are entitled to access in accordance with their access rights and that, in the course of Accessing and after storage, the Customer Data cannot be read, copied, modified or deleted without authorization;
 - Ensure that the Customer Data cannot be read, copied, modified or deleted without authorization during electronic transmission, transport or storage, and that the target entities for any transfer of Customer Data by means of data transmission facilities can be established and verified;
 - Ensure the establishment of an audit trail to document whether and by whom Customer Data have been entered into, modified in, or removed from Company Systems;
 - Ensure that Customer Data are Accessed solely in accordance with the instructions; and
 - Ensure that Customer Data are protected against accidental destruction or loss.
 - Company shall ensure that these measures are kept up to date, and revised whenever relevant changes are made to the Company System that uses or houses Customer Data, or to how that system is organized.
2. Physical security. Company shall maintain industry best standard security systems at all Company and Approved Subcontractor sites at which a Company System that uses or houses Customer Data is located. Company shall ensure that such Company Systems reasonably restricts access to such Customer Data as appropriate.
3. Organizational security. Company shall ensure that when media are to be disposed of or reused, procedures have been implemented to prevent any subsequent retrieval of any Customer Data stored on them before they are withdrawn from the inventory. Company shall ensure that all security incidents involving Customer Data are managed in accordance with appropriate incident response procedures.
4. Network security. Company shall maintain and implement network security using commercially available equipment and industry best standard techniques, including firewalls, intrusion detection and/or prevention systems, access control lists, and routing protocols.
5. Transmission. Any Customer Data transmitted must be encrypted. Any files containing Customer Data that Company transmits to or from any third party network must only traverse encrypted channels and utilize file-level encryption. Without limiting the foregoing, any Sensitive Data must be continuously encrypted throughout the data stream during transmission.
6. Storage and use of Sensitive Data. Sensitive Data must be encrypted at rest and Company must do all things reasonably necessary to ensure its protection while it is in use.
7. Access control. Company shall ensure that only authorized staff can grant, modify or revoke access to a Company System that uses or houses Customer Data. Company shall implement and maintain commercially reasonable physical and electronic security to create and protect passwords.
8. Personnel. Company shall implement and maintain a security awareness program to train personnel about their security obligations. Company shall ensure this program includes training about data classification obligations, physical security controls, security practices and security incident reporting.

EXHIBIT B THIRD-PARTY SYSTEM TERMS

The following are GainSide's supplied products. Per the terms of your SOW, you may or may not be purchasing all elements of these Software Components in your System. By signing this Agreement, you agree to the terms of the products purchased.

- [Cisco Umbrella \(Employee Security Protection\)](#)
(https://www.cisco.com/c/dam/en_us/about/doing_business/legal/Cisco_General_Terms.pdf)
- [ProofPoint \(Email/Information Security\)](#)
<https://www.proofpoint.com/us/legal/license>
- [Antivirus \(ESET PROTECT Elite\)](#)
<https://www.eset.com/au/terms-and-conditions/>
- [Basic Training and Testing \(usecure\)](#)
<https://www.usecure.io/en/terms-of-service>
- [Monitoring/Remote Access \(Atera\)](#)
<https://www.atera.com/terms-of-use/#:~:text=Atera%20takes%20no%20responsibility%20or,i>
- [Drive/Email Backup \(Acronis\)](#)
<https://www.acronis.com/en-us/support/platform-terms-conditions/>
- [Password Management \(Keeper\)](#)
<https://www.keepersecurity.com/termsfuse.html>
- [Geofencing \(Prey\)](#)
<https://community.preyproject.com/tos>
- [Cisco Meraki \(Firewall Subscription\)](#)
(https://www.cisco.com/c/dam/en_us/about/doing_business/legal/Cisco_General_Terms.pdf)
- [LiquidWeb \(Private Hosted Cloud\)](#)
<https://www.liquidweb.com/about-us/policies/terms-of-service/>
- [Miradore \(Mobile Device Management\)](#)
<https://www.goto.com/company/legal/terms-and-conditions>

**EXHIBIT C
MODIFICATIONS TO THIS AGREEMENT**

No current modifications