

MASTER SERVICES AGREEMENT

This Master Services Agreement is made between BiltOn Technologies Inc. (“**BiltOn**”) and You, including its subsidiaries (“**Customer**”) and effective as of the date last set forth on the Project Order (the “**Effective Date**”), together with Exhibits, Schedules and Project Orders attached hereto and/or incorporated herein by reference, (as defined below) (the “**Agreement**”).

AGREEMENT

1. **Definitions.** Capitalized terms not defined in herein shall have the meanings set forth in [Schedule 1](#).
2. **Access and Use of Platform; Equipment.**
 - 2.1. **License Grant.** Subject to Customer’s compliance with the terms and conditions of the Agreement, including timely payment of all Fees, BiltOn hereby grants Customer during the relevant Subscription Term, a revocable, non-exclusive, non-sublicensable, non-transferable (except in compliance with [Section 13.1](#)) license and right to permit Customer’s Authorized Users to access and use the Platform identified in such Project Order, solely in or for Customer’s internal business operations.
 - 2.2. **Subscriptions.** The Platform is provided on a subscription basis, with details of the subscription provided for in Project Orders.
 - 2.3. **Authorized Users & Credentials.** Customer is responsible for all Authorized Users’ activity relating to the Platform. Customer must maintain confidentiality of credentials, and ensure access is through secure systems. Customer shall make all Authorized Users aware of the Agreement’s provisions as applicable to such Authorized User’s use of the Platform and shall cause Authorized Users to comply with such provisions.
 - 2.4. **Restrictions.** Customer shall not at any time, directly or indirectly, and shall not permit any Authorized User or third party to (a) use any BiltOn Materials for any purposes beyond the scope of the access granted herein, (b) except as expressly authorized under the Agreement, distribute, publish, copy, modify, or create derivative works of, or provide to any third parties, any BiltOn Materials, (c) sublicense or otherwise transfer access to the Platform to any third party, (d) decompile, reverse engineer or otherwise attempt to derive source code from the Platform, (e) remove, obscure or alter any proprietary notices or circumvent any securities measures or use restrictions in the Platform, (f) use the Platform in order to build a competitive product or service, (g) use BiltOn Materials in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right, (h) use BiltOn Materials for any unauthorized purpose or in any manner that damages, interferes with or disrupts the integrity or performance of the Platform, or (i) attempt to do any of the foregoing. Customer acknowledges that its breach or threatened breach of this Section may cause BiltOn irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, BiltOn will be entitled to 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 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. No licenses are granted by either party except for those expressly set forth in the Agreement and all rights not expressly licensed hereunder are expressly reserved.
 - 2.5. **Updates.** BiltOn may update the Platform and other BiltOn Materials as deemed necessary (“**Updates**”). BiltOn will use commercially reasonable efforts to give notice of Updates to the extent that such Updates require a responsive action by Customer. Customer shall make all necessary actions identified as mandatory within a reasonable timeframe specified by BiltOn.
 - 2.6. **Third Party Products.** The Platform may include Third Party Products. Customer Data may be processed or stored on hardware owned or controlled by third parties.
 - 2.7. **Equipment.** BiltOn will provide Equipment for use in connection with the Platform, to the extent set forth herein or a Project Order. The Equipment may be leased or sold by BiltOn to Customer, as shall be set forth in the Project Order. Customer will use the Equipment solely in connection with the authorized use of the Platform, and

in compliance with the terms of [Schedule 6](#) (Equipment), any instructions in the Documentation or as otherwise provided by BiltOn.

3. Professional Services; Support and Maintenance; Subcontractors.

3.1. Professional Services. Subject to Customer's compliance with the terms and conditions of the Agreement, including timely payment of all Fees, BiltOn shall, during the relevant Subscription Term, provide the installation, training or other Professional Services purchased in the applicable Project Order, as well as Support and Maintenance in accordance with the Service Level Agreement in [Schedule 4](#).

3.2. Subcontractors. BiltOn may in its discretion engage third parties to assist in providing Professional Services in the fulfillment by BiltOn of its obligations hereunder (each, a "Subcontractor"). BiltOn shall be responsible for such Subcontractor's compliance with the terms and conditions of the Agreement.

4. Additional Customer Responsibilities.

4.1. Customer Data. Customer is responsible for the accuracy, quality, and legality of all Customer Data. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THE AGREEMENT, BILTON HAS NO OBLIGATION OR LIABILITY FOR ANY LOSS, ALTERATION, DESTRUCTION, DAMAGE, CORRUPTION OR RECOVERY OF CUSTOMER DATA.

4.2. Notification of Unauthorized Use. If Customer becomes aware of or suspects that any Credentials or any portion of the Platform has been compromised in any way Customer shall immediately notify BiltOn. BiltOn shall have the right to suspend access to the Platform for any Authorized User until any issues related to such compromises are resolved.

5. Cooperation. Customer agrees to provide BiltOn with such cooperation, reasonably necessary to allow BiltOn to successfully provide the Professional Services, the Platform, and Support and Maintenance and agrees that BiltOn's obligations hereunder are conditioned upon Customer providing such cooperation.

6. Intellectual Property Ownership; Feedback.

6.1. BiltOn Materials. Except for the limited license expressly granted under [Section 2.1](#), as between the parties, BiltOn suppliers, and licensors own and retain all rights, title, and interest in and to the BiltOn Materials, and any related services provided hereunder, and Documentation and all worldwide Intellectual Property Rights in each of the foregoing and all derivative works of each of the foregoing (including all copies, components thereof and all upgrades, modifications, enhancements, and derivative works thereof). Customer acknowledges and agrees that it shall have no rights concerning any preceding other than the limited license rights expressly outlined in this Agreement. Customer shall not copy the BiltOn Materials and/or the Software and/or its Documentation or any other written materials regarding the Software. The BiltOn Materials and related software are protected by applicable intellectual property laws, treaties, and international copyright law. The Customer will not knowingly do anything to impair BiltOn's proprietary rights in the BiltOn Materials or seek to acquire or register any rights in BiltOn's proprietary marks, copyrights, or information.

6.2. Customer Data. As between the parties, Customer owns all right, title, and interest, including all intellectual property rights therein, in and to the Customer Data. Customer hereby grants to BiltOn a non-exclusive, non-transferable (except as set forth herein), worldwide, royalty-free, license to, and to permit its Subcontractors to, access, receive, download (as applicable), store, reproduce, distribute, modify and otherwise use the Customer Data to: (a) provide the Platform to Customer and its Authorized Users and to provide the Professional Services and Support and Maintenance; (b) to improve the Platform, the Professional Services or the Support and Maintenance; (c) for all internal purposes; and (d) as otherwise permitted by the Agreement or an applicable Project Order.

6.3. Performance Data. Without limiting [Section 5.1](#), as between the parties, BiltOn owns all Performance Data. Performance Data does not include any Customer Data or Customer-specific output resulting from the use of the Platform ("Customer Output"), but may include aggregated or anonymized information derived from Customer Output. BiltOn may use Performance Data as a part of analytical models created to monitor and improve the Platform, to develop additional services and offerings, and for all other internal purposes. In addition, BiltOn may make such Performance Data commercially available; provided, that BiltOn (a) will take steps to ensure that

Customer's identity will not be discernable to third parties in any such Performance Data, and (b) will not include any Personal Data in any such Performance Data.

6.4. **Feedback.** If Customer or any of its employees, contractors or agents provide Feedback to BiltOn, Customer hereby grants to BiltOn (on Customer's behalf, and on behalf of its employees, contractors and/or agents), all right, title, and interest in and to such Feedback, including all intellectual property rights therein, including the right to use and incorporate, without any attribution or compensation to any party, such Feedback for any purpose whatsoever.

6.5. **Open Source Software.** Customer acknowledges and agrees that (a) certain elements of the Platform may be subject to "open source" or "free software licenses" ("**Open Source Software**") owned by third parties, (b) such Open Source Software is not licensed under Section 2.1, and (c) such Open Source Software is instead licensed under the terms of the end-user license that accompanies such Open Source Software. Nothing in the Agreement limits Customer's rights under, or grants Customer rights that supersede, the terms and conditions of the applicable end-user license for such Open Source Software.

7. Fees and Payment.

7.1. **Subscription Fees.** Customer shall pay all fees, costs and other charges for each Subscription as specified on the applicable Project Order(s) (collectively, "**Fees**") Fees for additional Subscriptions or renewals will be at BiltOn's then-current list prices for Subscriptions unless otherwise set forth on a Project Order. If BiltOn sets a price on a Project Order for additional Subscriptions, such prices are valid during the then-current Subscription Term.

7.2. **Payment Terms.** All Fees are as set forth in the applicable Project Order and shall be paid by Customer within thirty (30) days of receipt of BiltOn's invoice unless otherwise specified in the applicable Project Order. Customer shall be responsible for all applicable taxes and withholdings. Except as set forth in Section 10.1, Fees are non-refundable upon payment. Payments will be made without right of set-off or chargeback. If Customer fails to make any payment when due, without limiting BiltOn's other rights and remedies: (a) late payments shall be subject to a service charge equal to 1.5% per month of the amount due or the maximum amount allowed by Applicable Law, whichever is less; and (b) Customer shall reimburse BiltOn or its designee for all costs incurred by BiltOn or its designee in collecting any late payments or interest.

8. Term; Termination; Suspension.

8.1. **Term and Renewals.** This Agreement will commence on the Effective Date and unless otherwise terminated as provided in this Agreement, shall continue until the last to occur of (a) the three (3) year anniversary of the Effective Date, or (b) the expiration of all then-current Subscription Terms in Project Order(s). Unless otherwise set forth in a Project Order, each Subscription Term (i) shall be for an initial period of twelve (12) months, and (ii) will automatically renew for annual terms thereafter unless either party provided written notice of nonrenewal of such Subscription Term no later than sixty (60) days prior to the end of the then-current term.

8.2. **Termination.** In addition to any other express termination right set forth in the Agreement: (a) BiltOn may terminate the Agreement or any applicable Project Order(s), effective on written notice (with email being effective) to Customer (i) if Customer fails to pay any undisputed amount when due hereunder, and such failure continues more than thirty (30) days after BiltOn's or its designee's delivery of written notice thereof, (ii) if Customer breaches any of its obligations under Section 2.4 or Section 12, or (iii) if BiltOn's legal counsel reasonably determines that BiltOn's continued performance hereunder will or is likely to violate Applicable Law; or (b) either party may terminate the Agreement (including all related Project Orders), effective on written notice to the other party, if the other party: (A) fails to cure any material breach of the Agreement (if curable) within thirty (30) days after written notice of such breach; (B) ceases operation without a successor; or (C) seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is instituted against such party (and not dismissed within sixty (60) days thereafter).

8.3. **Effect of Expiration or Termination.** Upon expiration or termination of the Agreement for any reason: (a) any outstanding Fees owed to BiltOn shall become immediately due and payable; (b) Customer shall discontinue use of the Platform and shall immediately return all leased Equipment to BiltOn, or permit BiltOn to obtain and retrieve the Equipment; (c) each party will return to the other party the Confidential Information of the other party that it obtained during the course of the Agreement; and (d) Customer must certify in writing to BiltOn that it has returned or destroyed all BiltOn Confidential Information. If the parties have provided in the Project Order that

applicable Equipment is purchased by Customer and all fees relating to such purchase have not been paid, then Customer shall make the Equipment available for retrieval by BiltOn. In the event that BiltOn terminates the Agreement, Customer will pay any unpaid fees for the remainder of the Subscription Term(s) under all Project Orders. BiltOn will preserve the Customer Data for up to 60 days following such expiration or termination, and will make Customer Data available to Customer for download via the Platform. Following the 60 days' notice period, (a) upon Customer's written request BiltOn shall make available a view-only version of the Platform for a reduced fee to enable Customer to access and download the Customer Data, and (b) otherwise BiltOn shall have no obligation to maintain or provide any such Customer Data and may delete such data.

8.4. Suspension of Platform. Notwithstanding anything to the contrary in the Agreement, BiltOn may temporarily suspend or disable the access or right of Customer or any Authorized User to use any portion or all of the Platform if BiltOn reasonably determines that (i) there is a threat or attack on any BiltOn Materials, (ii) Customer's or any Authorized User's use of BiltOn Materials disrupts or poses a security risk to BiltOn Materials or to any other customer or vendor of BiltOn, or is used for fraudulent or illegal activities, (iii) provision of the Platform is prohibited by Applicable Law or could expose BiltOn or its network to third-party liability or violate any Applicable Law, or (v) undisputed fees under this Agreement have not been paid within ninety (90) days (any such suspension a "Use Suspension"). BiltOn shall use commercially reasonable efforts to resume providing access to the Platform as soon as reasonably possible after the event giving rise to the Use Suspension is cured.

Survival. This Section 8, Sections 6, 7, 9.2, 10, 11, 12, and 13, as well as any other provision of the Agreement that, by its nature or express terms, is intended to survive (including outstanding payment obligations) shall survive any termination or expiration of the Agreement.

9. **Warranties; Disclaimers.**

9.1. Each party represents and warrants that: (a) it is duly organized, validly existing and in good standing under the laws of its state of organization, and it has the right to enter into and perform its obligations under the Agreement; (b) the execution, delivery and performance of the Agreement does not and will not conflict with any other agreement of such party or any judgment, order, or decree by which it is bound; (c) it will comply with all Applicable Law, and satisfy all obligations owed to third parties and/or any governmental authority, in connection with the performance of its obligations hereunder; and (d) it has and shall maintain all rights, authorizations and licenses that are required for it to grant the rights and licenses herein, and to perform its obligations set forth herein. Customer represents and warrants that it has or shall obtain the right to make all Customer Data available to BiltOn for use as contemplated in this Agreement.

9.2. DISCLAIMER. EXCEPT FOR THE EXCLUSIVE WARRANTIES SET FORTH IN THIS AGREEMENT, BILTON MAKES THE BILTON MATERIALS AVAILABLE TO CUSTOMER ON AN "AS IS" AND "AS AVAILABLE" BASIS. EXCEPT AS EXPRESSLY SET FORTH IN THE AGREEMENT, NEITHER PARTY MAKES, AND EACH PARTY EXPRESSLY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES IN CONNECTION WITH THE AGREEMENT, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING BY COURSE OF PERFORMANCE OR TRADE USAGE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, BILTON DOES NOT WARRANT THAT THE PLATFORM OR ANY OTHER BILTON 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 DOCUMENTATION), BE ENTIRELY SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE OR ERRORS, OR BE FREE FROM LOSS OR DELETION OF DATA. ALL THIRD PARTY PRODUCTS ARE PROVIDED "AS IS" AND "AS AVAILABLE" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY THIRD-PARTY PRODUCTS IS STRICTLY BETWEEN CUSTOMER AND THE THIRD-PARTY OWNER OR DISTRIBUTOR OF THE THIRD PARTY PRODUCTS OR AS APPLICABLE AS SET FORTH IN [SCHEDULE 6](#).

10. **LIMITATION OF LIABILITY AND INSURANCE.**

10.1. EXCEPT FOR (a) A PARTY’S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS UNDER SECTION 11, (b) LIABILITY CAUSED BY A PARTY’S WILLFUL MISCONDUCT, (c) PAYMENT OBLIGATIONS, AND (d) CUSTOMER’S BREACH OF SECTION 2.5 OR SECTION 4.3, , IN NO EVENT SHALL: (i) BILTON BE LIABLE FOR ANY COST OF COVER OR ANALOGOUS COSTS RELATED TO THE PROCUREMENT OF REPLACEMENT SERVICES; (ii) EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY LOSS OF USE, LOST DATA, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS, OR ANY OTHER INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE; OR (iii) EITHER PARTY’S TOTAL AGGREGATE LIABILITY FOR ANY AND ALL CAUSES OF ACTION ARISING OUT OF OR RELATED TO THE AGREEMENT EXCEED THE HIGHER OF THE FEES PAID OR PAYABLE BY CUSTOMER TO BILTON UNDER THE AGREEMENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE CLAIM AROSE (OR THE FIRST TWELVE (12) MONTH PERIOD OF THE AGREEMENT, IF THE CLAIM ARISES IN THE FIRST 12 MONTH PERIOD AS APPLICABLE), OR THE AMOUNT RECEIVED IN INSURANCE COVERAGE.

10.2. During the Term, each Party will have insurance coverage as needed to secure its obligations and potential liabilities under this Agreement (the “**Insured Party**”). The Insured Party will be solely responsible for all amounts that must be paid or retained for that insurance. The Insured Party’s insurance will include at least the following coverage, the limits of which may be satisfied by combining primary liability and umbrella excess liability coverage:

<u>Coverage Type</u>	<u>Minimum Coverage Limits</u>
Commercial General Liability (including products/completed operations, advertising, and personal injury liability)	<p>\$1,000,000 per occurrence limit</p> <p>\$2,000,000 general aggregate limit</p> <p>\$2,000,000 products/completed operations aggregate</p>
Umbrella Liability	<p>\$5,000,000 per occurrence</p> <p>\$5,000,000 aggregate limit</p> <p>\$10,000 self-insured retention</p>

The Insured Party shall further provide the other Party (the “**Beneficiary**”) with evidence of such insurance coverage within ten (10) days of the Effective Date. The Insured Party shall maintain such insurance with at least an A Best rated insurance company and name the Beneficiary as an additional insured under this Agreement. Upon the Beneficiary’s request the Insured Party will provide certificates of insurance as set forth herein.

11. **Indemnification.**

11.1. Indemnity by BiltOn. BiltOn shall indemnify Customer, from and against any, damages and or losses arising out of or related to any claim that the Platform, infringes any third party’s intellectual property right. Indemnification hereunder shall be conditioned upon: (a) Customer notifying BiltOn of the claim immediately upon becoming aware thereof, (b) Customer allowing BiltOn to assume full control of the defense and settlement of such claim, and (c) Customer reasonably cooperating with BiltOn in the defense and settlement of the claim. This Section 11.1 sets forth Customer’s sole remedies and BiltOn’ sole liability and obligation for any actual, threatened, or alleged claims that the Platform infringes, misappropriates, or otherwise violates any intellectual property rights of any third party.

11.2. Indemnity by Customer. Customer shall indemnify, defend, and hold harmless BiltOn and its affiliates, and its and their respective directors, officers, employees, subcontractors, agents, successors and assigns (collectively, the “**BiltOn Parties**”) from and against any Losses incurred in connection with any Claim resulting from: (a) the actual or alleged material breach of any of Customer’s representations, warranties or obligations hereunder; (b) the gross negligence or willful misconduct of Customer or its Authorized Users; (c) use of any of the BiltOn Materials in a manner not authorized by the Agreement; (d) use of any of the BiltOn Materials in combination with data, software, hardware, equipment or technology not provided by BiltOn or authorized by BiltOn in writing; (e) Customer Data; and/or (f) modifications to the BiltOn Materials made by or on behalf of Customer.

12. **Confidential Information; Data Security.**

12.1. No Use or Disclosure. During the Term, either party may disclose or make available Confidential Information to the other party. The receiving party shall not use the disclosing party’s Confidential Information except to the extent necessary to fulfill its obligations under the Agreement. In addition, the receiving party shall not disclose the disclosing party’s Confidential Information to any third party and shall maintain such Confidential Information using methods at least as protective as it uses to protect its own information of a similar nature, but in no event using less than a reasonable degree of care. Notwithstanding the foregoing, the receiving party may disclose the disclosing party’s Confidential Information (a) on an “as-needed” basis to its directors, officers, employees, advisors, agents, subcontractors and/or consultants who are bound by obligations materially similar to this Section 12, provided that the receiving party will remain liable for any breach by any such parties of these provisions and for any damages caused thereby, and (b) to the limited extent required (i) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with Applicable Law, provided that the party making the disclosure pursuant to the order shall first have given written notice to the other party and made a reasonable effort to obtain a protective order, or (ii) to establish a party’s rights under the Agreement, including to make required court filings.

12.2. Data Availability and Security; DPA. During the Term, each party will implement and maintain appropriate administrative, technical and physical safeguards to protect the security, confidentiality and integrity of the other party’s data in its possession or control as well as any systems integrated pursuant to the Agreement. BiltOn will comply with the terms of the Data Processing Addendum set forth in Schedule 5.

13. **Miscellaneous.**

13.1. Generally. This Agreement constitutes the entire agreement between BiltOn and Customer and supersedes any previous agreements or representations, either oral or written, with respect to the subject matter of this Agreement, except to the extent that the terms of an applicable Project Order expressly state that it supersedes a specific term in this Agreement. This Agreement may only be updated or amended in an express written amendment executed by both parties. Customer shall not transfer or assign its rights or obligations under this Agreement to any third party, except to an affiliate or in the case of merger or sale of all or substantially all of the assigning party’s assets. Any purported assignment contrary to this section shall be void. If any part of this Agreement is declared invalid or unenforceable for any reason, such part shall be deemed modified to the extent necessary to make it valid and operative and in a manner most closely representing the intention of the parties, or if it cannot be so modified, then eliminated, and such elimination shall not affect the validity of any remaining portion, which shall remain in force and effect. Any failure by a party to insist upon or enforce performance by the other of any of the provisions of this Agreement or to exercise any rights or remedies under this Agreement or otherwise by law will not be construed as a waiver or relinquishment of any right to assert or rely upon the provision, right or remedy in that or any other instance. This Agreement is governed by the laws of the State of New York, without regards to its conflict of laws principles, and any dispute arising from this Agreement shall be subject to the exclusive personal jurisdiction and venue of the state and federal courts located in New York, New York. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. The parties to the Agreement are independent contractors. Neither party will have the power to bind the other or incur obligations on the other party’s behalf without the other party’s prior written consent.

13.2. Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a “**Notice**”) must be in writing and addressed to the parties at the addresses set forth on the Project Order (or

to such other address as provided by such party, and such permitted means of Notice include personal delivery, registered or certified US mail, commercial delivery service, and electronic mail.

13.3. No Third-Party Beneficiaries. Except as expressly set forth herein, the Agreement is for the sole benefit of the parties and their respective permitted successors and permitted assigns and nothing herein, shall confer upon any other person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of the Agreement.

13.4. Force Majeure. In no event shall either party be liable to the other party, or be deemed to have breached the Agreement, for any failure or delay in performing its obligations under the Agreement (except for any obligations to make payments), if and to the extent such failure or delay is caused by Force Majeure Events. In the event of such failure or delay, the date of delivery or performance will be extended for a period not to exceed the time lost by reason of the failure or delay. Each party shall notify the other in writing promptly of any failure or delay in, and the effect on, its performance.

13.5. Publicity; Attribution. Either Party may use the other Party's name, marks or logos in any manner unless authorized by Customer in writing in such instance.

13.6. Notwithstanding anything to the contrary in this Agreement, Customer agrees that in the event of any legal proceedings or claims initiated by or against a third party (excluding BiltOn), Customer will not compel or request BiltOn or any of its representatives to testify, provide an affidavit or serve as witness regarding the Services rendered in connection with this Agreement or the Platform, and/or to participate in any other capacity in such legal proceeding. Customer acknowledges that BiltOn shall not be obligated to appear or provide any testimony in relation to such legal proceedings or claims.

The Parties consent to the terms of this Agreement as of the Effective Date via the execution of the initial Project Order.