Master Subscription Services Agreement

BY PROCEEDING TO DOWNLOAD, INSTALL, ACCESS OR USE THE SOFTWARE IN WHICH THIS AGREEMENT IS ELECTRONICALLY EMBEDDED OR BY OBTAINING A LICENSE KEY FOR, OR ACCESS TO, THIS SOFTWARE, YOU HEREBY ACKNOWLEDGE AND AGREE TO BE BOUND BY THE FOLLOWING TERMS AND CONDITIONS. IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, THEN CLICK "DO NOT ACCEPT," DO NOT INSTALL, ACCESS OR USE THE SOFTWARE AND DELETE THE SOFTWARE FROM YOUR COMPUTER SYSTEM. BY INSTALLING, ACCESSING, OR USING THE SOFTWARE OR BY CLICKING ON "ACCEPT" YOU ACKNOWLEDGE AND AGREE THAT ON BEHALF OF YOURSELF AND YOUR EMPLOYER YOU HAVE READ THIS MASTER SUBSCRIPTION SERVICE AGREEMENT CAREFULLY, THAT YOU AND YOUR EMPLOYER AGREE TO BE BOUND BY THIS AGREEMENT AND THAT IF APPLICABLE YOUR EMPLOYER HAS INFORMED YOU OF THE RELEVANT PROVISIONS OF THIS AGREEMENT WHICH MAY BE APPLICABLE TO YOU. THIS AGREEMENT, SHALL GOVERN YOUR INSTALLATION, ACCESS AND USE OF THE SOFTWARE IN WHICH THIS AGREEMENT IS ELECTRONICALLY EMBEDDED OR REFERENCED IN AN ORDER FORM. PERSPECTIUM URGES YOU TO CAREFULLY READ THIS AGREEMENT AND ASSESS YOUR USE OF THE SOFTWARE PRIOR TO INSTALLING, ACCESSING, OR USING THE SOFTWARE OR MAKING ANY DECISION TO USE OR PURCHASE IT.

This agreement (the “Agreement”) is entered into as of __________ (the “Effective Date”) between Perspectium Corporation, a Delaware corporation (“Perspectium”), whose business mailing address is 10801 North Mopac Expressway, Building 1, Suite 100, Austin, TX 78759, United States, and _________ (“Subscriber”), whose principal business address ________________.

WHEREAS, Perspectium desires to grant the Subscriber, and the Subscriber desires to accept, authorization to access and use the subscription services and any associated software and Documentation provided by Perspectium (the “Subscription Services”) and to provide certain configuration services (the “Configuration Services”) as set forth on one or more order forms executed by Subscriber and Perspectium (each, an “Order Form”), each provided in accordance with the terms and conditions of this Agreement. “Documentation” means the online documentation, policies, FAQs, security procedures, or other reference materials relating to access to, or use of, the Service made available to Subscriber on the Perspectium website.

THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, the parties intending to be legally bound, agree as follows:

1. **Provision of Services.** Perspectium authorizes Subscriber to access and use the purchased Subscription Services, including the Perspectium portal and website (“Site”), and shall provide any Configuration Services as agreed in an applicable Order Form during the term in accordance with the terms and conditions of this Agreement. Collectively, the Subscription Services, Software (as defined below) and any Configuration Services shall be referred to as the “Services”).

2. **Provision of Software.** Solely in order to facilitate the use of the purchased Subscription Services, Perspectium may provide Subscriber with software to operate on Subscriber-provided machines (“Software”). To the extent applicable for the use of the Subscription Services, Perspectium grants to Subscriber a limited, personal, worldwide, non-exclusive, non-transferrable, non-sub-licensable, revocable license during the term of this Agreement to install and execute the Software. The Software may include code that is licensed under third party agreements, the terms of which will be binding upon Subscriber. Software is licensed and not sold.

3. **Security.** Perspectium will maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of its systems from unauthorized access by physical and electronic intrusion; provided, however, Subscriber shall be solely responsible for acquiring and maintaining technology and procedures for maintaining the security of Subscribers link to the Internet, and any systems owned or managed by Subscriber. Subscriber is solely responsible for properly configuring the encryption of the Data prior to its transmission via the Services. Perspectium will promptly report to Subscriber any unauthorized access to Subscriber’s Data upon discovery and will use commercially reasonable efforts to promptly remedy a breach of

Perspectium Confidential
Version 020623ns

Page 1
security caused by Perspectium resulting in such unauthorized access. Subscriber shall be solely responsible for all expenses associated with any notifications to data subjects as required by applicable law.

4. **Use Restrictions.** The Services shall be used in accordance with this Agreement, the Order Form, any applicable Documentation and any applicable third-party license terms. Subscriber will not (i) license, sub-license sell, re-sell, rent, lease, transfer, modify, or distribute, or otherwise make the Services available to any third party, (ii) disrupt, disable, disassemble or reverse engineer or decompile the Services, (iii) upload or transmit any form of virus, worm, trojan horse or other malicious code; (iv) interfere in any way with the proper functioning of the Site or Services, or interfere with or disrupt any servers or networks connected to the Site or Services, (v) disobey any requirements, procedures, policies or regulations of networks connected to the Site, or Services or (vi) use the Services in any way that violates applicable law. Subscriber will not, and will ensure that any agent of Subscriber does not, delete or in any manner alter the copyright, trademark and other proprietary rights notices of Perspectium or violate the intellectual property rights of a third party.

5. **Fees and Payment Terms**

5.1. Subscriber shall pay to Perspectium the recurring subscription services fees ("Subscription Fees") and any other Configuration Services fees (jointly "Fees") in U.S dollars for the Services listed and, in the amounts set forth, on the Order Form. Subscription Fees are payable annually in advance and all invoices shall be payable in full, without deduction or offset, thirty (30) days from the date of the applicable invoice. All prices are final, and all Fees are non-refundable during each annual period of the Term except (i) as may be applicable pursuant to Section 9(c); or (ii) as otherwise provided by law.

5.2. Fees do not include any sales, use, gross receipts, value added, or other taxes, customs, duties, fees, or other charges assessed or imposed by any governmental authority ("Taxes"). Subscriber is solely responsible for any Taxes applicable to Subscribers purchase of the Services, other than taxes measured by Perspectium net income. Unless Subscriber provides a timely and valid tax exemption certificate to Perspectium, Subscriber will pay Taxes included on an invoice issued by Perspectium for any Services. Subscriber will pay Fees without reduction for Taxes, unless Subscriber is required by law to withhold any Taxes from its payment to Perspectium, in which case, Subscriber must provide Perspectium with an official tax receipt or other appropriate documentation to support such withholding. Notwithstanding the foregoing sentence, if, under applicable tax laws and regulations, the Services are subject to value added tax ("VAT") and Subscriber is required to withhold local VAT from amounts payable to Perspectium, the amount payable by Subscriber for the Services will be increased (i.e., grossed up) by the amount of the applicable VAT and the grossed up amount will be regarded as a VAT inclusive price such that the net amount payable to Perspectium equals the amount as would otherwise be payable to Perspectium. Subscriber will defend, indemnify, and hold harmless Perspectium from and against any claim related to Subscriber’s tax obligations or Subscriber’s failure to collect or remit any applicable taxes.

5.3. Without prejudice to Perspectium’s other rights and remedies under the Agreement, Perspectium may suspend Subscriber’s use of the Services, and/or terminate this Agreement for cause, and pursue other available rights and remedies in the event that Subscriber is delinquent in payment of the Fees set forth in the Order Form for more than thirty (30) calendar days following written notice by Perspectium of such delinquency. Furthermore, Perspectium may charge, and, if charged, Subscriber will pay interest at the rate of 1.5% per month (or the highest rate permitted by law, if less) from the payment due date until paid in full. Subscriber will be responsible for all reasonable expenses (including attorneys’ fees) incurred by Perspectium in collecting such delinquent amounts.

6. **Intellectual Property.** Ownership, access and use of intellectual property shall be as set forth herein:

6.1. **Perspectium Intellectual Property.** As between Subscriber and Perspectium, all rights, title and interest in and to all intellectual property rights in the Services, including any names, logos,
trademarks, service marks, brand identities, characters, trade names, graphics, designs, copyrights, trade dress, appearing in and used to operate the Site and Services, and the organization, compilation, look and feel, illustrations, artwork, software and other works on and any derivative thereof are owned by Perspectium or used with permission or under license from a third party, and are protected under copyright, trademark and other intellectual property and proprietary rights laws. All brand names, product names, titles, slogans, logos, or service names and other marks used on the Perspectium Site and Services, are registered and/or common law trade names, trademarks or service marks of Perspectium. To the extent Subscriber provides suggestions, proposals, ideas recommendations or other feedback regarding improvements to Perspectium’s Services, Subscriber grants Perspectium a royalty-free, fully paid, sublicensable, transferable, non-exclusive, worldwide, irrevocable, perpetual license to make, use, sell, offer for sale, import and otherwise exploit such feedback without restriction.

6.2. **Subscriber Data.** Subscriber retains ownership of data and Subscriber information provided for use in the Services, including without limitation data contributed, transmitted, imported or exported via the Services ("Data"). Subscriber hereby grants to Perspectium and its sub-processors a worldwide, non-exclusive, sublicensable, royalty-free, fully paid-up, limited, revocable right to use, reproduce, distribute, configure, display such Data provided on the Site and Services for the purposes of operating and providing the Subscription Services, and the ongoing right to use and disclose any De-Identified Data both during and after the Term, in order to, among other things, improve the Service. Notwithstanding Subscriber’s retention of ownership of the Data, any template, layout, manner or method in which such data is arranged, analyzed, displayed, presented or manipulated during the provision of the Services, including any capabilities, tools and features made available through the Site and Services are not proprietary to Subscriber and remain the sole intellectual property of Perspectium. “De-Identified Data” means any Data that has been anonymized, de-identified or aggregated, such that identifying any Subscriber, data subject, or individual from such Data is not possible. To the extent any Data includes personal data originating from a country from the European Union ("EU Data"), Subscriber will be the Data Controller of such EU Data and Perspectium will act solely as a Data Processor. Perspectium will only use EU Data as specified in Section 6.2 and as otherwise authorized under this Agreement. To the extent required by applicable law, any transfer of Data to a country outside of the EU will be governed by the standard contractual clauses annexed to the EU Commission Decision 2010/87/EU of 5 February 2010 for the Transfer of Personal Data to Processors established in Third Countries under the Directive 95/46/EC, or any successor standard contractual clauses that may be adopted pursuant to an EU Commission decision.

6.3. **Non-Exclusivity.** Nothing in this Agreement or otherwise shall restrict Perspectium’s ability to provide Subscription Services or perform similar Configuration Services for any other Subscriber.

6.4. **Privacy Policy.** Perspectium uses, collects, discloses, and otherwise processes Data as described in Perspectium’s Privacy Policy, as amended from time to time and available on Perspectium’s website. Subscriber consents to Data being transferred to, and processed in, the United States or any other country in which Perspectium operates.

7. **Indemnification.**

7.1. **By Perspectium.** Perspectium will defend, indemnify and hold harmless Subscriber from and against any third-party claims, suits, actions, proceedings, damages, losses, costs, liabilities and expenses (including, but not limited to, reasonable attorneys’ fees) to the extent arising solely from an allegation that the Services infringes or misappropriates any patent, copyright, trademark, trade secret, trade dress, mask work, moral right, right of attribution or integrity, right to privacy, personality or publicity or other proprietary or intellectual property right ("Intellectual Property Rights") of such third party (any such claim, an “IP Dispute”). Perspectium’s obligations under this paragraph will only apply to the extent that: (a)
Subscriber promptly notifies Perspectium in writing of the IP Dispute; (b) Perspectium has sole control of
the defense and all related settlement negotiations relating to the IP Dispute; provided, however, any
settlement requiring Subscriber to admit liability, pay money, or take (or refrain from taking) any action,
will require Subscriber’s prior written consent, not to be unreasonably withheld, conditioned, or delayed;
and (c) Subscriber provides Perspectium with the assistance, information and authority reasonably
necessary to perform the above. In no event will Perspectium have any obligation or liability under this
paragraph for any IP Dispute if the IP Dispute or action is caused by, or results from: (i) Subscriber’s
unauthorized use of the Service, including but not limited to, usage contrary to the terms of this Agreement,
Documentation or applicable law; (ii) combination, operation or use of the Services with software or other
materials not supplied by Perspectium; (iii) any alteration or modification of the Services by anyone other
than Perspectium; or (iv) Subscriber’s continued use of the Services after being notified of the IP Dispute
(or possibility thereof) or continued use of the unmodified Services after being provided with modifications
that would have avoided the alleged infringement.

7.2. Remedy for Infringement. If Perspectium reasonably believes that the Services might
infringe a third party’s Intellectual Property Rights, then Perspectium may, at its sole option and expense:
(i) procure the right for Subscriber to continue using the Services ; (ii) modify the Services to make it non-
infringing without materially reducing its functionality; or (iii) replace the Services with a non-infringing,
functionally equivalent alternative. Notwithstanding the foregoing, if Perspectium determines, in its sole
discretion, that none of the options in the preceding sentence are commercially reasonable, then
Perspectium may suspend or terminate the impacted Services as described in Section 14 of this Agreement.
Without affecting either party’s termination rights, Section 8.1 (Perspectium Indemnities) and this Section
8.2 (Remedy for indemnification) set forth Subscriber’s sole and exclusive remedy under this Agreement
for any infringement, violation, or misappropriation of any third-party Intellectual Property Right related to
any Services.

7.3. Subscriber Indemnities. Subscriber will defend, indemnify and hold harmless Perspectium from
and against any third party claims, suits, actions, proceedings, damages, losses, costs, liabilities and
expenses (including, but not limited to, reasonable attorneys’ fees) arising out of, or related to: (i)
unauthorized use of any Site or the Services by Subscriber; (ii) violation of any terms of this Agreement by
Subscriber; (iii) violation or non-compliance with applicable law related to Subscriber’s access or use of the
Services; or (iv) any alleged or actual infringement, violation, or misappropriation of any Intellectual
Property Right by Subscriber related to any Data. Subscriber will provide Perspectium prompt written notice
of any assistance Subscriber may reasonably request to help Subscriber defend any claim against which
Perspectium is to be indemnified under this Agreement. Subscriber will pay or reimburse all the costs and
expenses reasonably incurred by Perspectium in connection with any such assistance. Subscriber will not
have any right to settle any such claim without Perspectium’s written consent, if such settlement contains
a stipulation to or admission or acknowledgement of, any wrongdoing (whether in contract, tort or
otherwise) on the part of Perspectium or otherwise requires Perspectium to take or refrain from taking any
material actions (such as the payment of fees). Perspectium will have the right to approve the counsel
Subscriber selects for the defense of any such claim, which approval will not be unreasonably withheld.
Further, Perspectium may, at its option and expense, participate in or assume control of the defense and
settlement of any such claim at any time by providing Subscriber with written notice.

8. Confidentiality.

8.1. “Confidential Information” means all information disclosed orally or in writing by one party to the
other party that is identified as confidential or confidential nature of which is reasonably apparent.
Confidential Information of Perspectium shall include, but is not limited to, product architecture, product
research and development plans, non-public financial data, and roadmaps, whether marked as confidential
or not. The receiving party may use the Confidential Information that it receives from the disclosing party
solely for the purpose of performing activities contemplated under this Agreement. Confidential
Information shall not include information which: (i) is or becomes a part of the public domain through no fault of the receiving party; (ii) was in the receiving party’s lawful possession prior to the disclosure; (iii) is lawfully disclosed to the receiving party by a third party without restriction on disclosure or any breach of confidence; (iv) is independently developed by the receiving party; or (v) De-Identified Data.

8.2. Each party agrees to (i) hold the other’s Confidential Information in confidence using the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care), and (ii) not use or disclose such Confidential Information other than in connection with the performance of its obligations hereunder or as otherwise authorized by this Agreement. Notwithstanding the foregoing, either party may disclose any of the other party’s Confidential Information to its employees, independent contractors, agents, or consultants that have a need to know such Confidential Information in connection with such party’s performance under this Agreement if such employees, independent contractors, agents, or consultants have agreed to be bound by confidentiality obligations similar to those in this Section 10.

8.3. The receiving party may disclose the disclosing party’s Confidential Information as required by law or court order provided: (a) to the extent legally permissible, the receiving party promptly notifies the disclosing party in writing of the requirement for disclosure; and (b) discloses only as much of the Confidential Information as is required. Subject to the terms of this Agreement, upon the written request of the disclosing party, the receiving party will either return (if technically feasible to do so) or destroy the Confidential Information and, upon the written request of the disclosing party, will certify such destruction. Notwithstanding the foregoing and provided that such information is protected in accordance with the terms of this Agreement, the receiving party may continue to maintain copies of Confidential Information: (i) that are a part of its data backup system, which will be destroyed in accordance with the receiving party’s data retention policies; or (ii) as required to comply with applicable law, which will be destroyed when such obligation is met.

8.4. The parties acknowledge that a violation by the receiving party of its obligations with respect to Confidential Information may cause irreparable harm to the disclosing party for which a remedy at law would be inadequate. Therefore, in addition to any and all remedies available at law, the disclosing party will be entitled to seek an injunction or other equitable remedies in all legal proceedings in the event of any threatened or actual violation of any or all of the provisions.


9.1. Subscriber Warranties. Subscriber represents and warrants that (i) it will comply with all applicable laws and regulations applicable to its use of the Services; (ii) it has obtained all necessary consents, rights and permissions with respect to the Data necessary to collect and process the Data using the Services; (iii) it will securely encrypt its Data submitted to Service Provider; and (iv) collecting, storing, transferring, and processing the Data using the Services will not infringe, misappropriate or violate any Intellectual Property Rights of a third party, violate any law or regulation or fail to comply with any privacy policy or notice.

9.2. Perspectium Warranties. During the term of the Agreement, Perspectium hereby warrants that (i) it will provide the Services and related Software in material conformance with the requirements of the Agreement, applicable Order Form and specifications; (ii) any Configuration Services will be provided in professional manner in accordance with generally accepted and applicable industry standards; and (iii) it has taken commercially reasonable steps to prevent the introduction of any viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs (“Malicious Code”) or any other internal components, devices or mechanisms designed to disrupt, disable, harm, or otherwise impair in any material respect the normal and authorized operation of the Services. Upon breach of this warranty, Perspectium will use commercially reasonable efforts to correct any material non-conformance within thirty (30) days after Perspectium receives written notice from Subscriber of the non-conformance.
In the event of any breach of the foregoing warranties extend for thirty (30) days or more, or in the event that Perspectium is unable to repair the Services so as to materially conform with the Documentation, Subscriber’s sole remedy shall be the termination of this Agreement and the receipt of a pro-rated refund for the unused portion of the Fees paid for the Services that have been affected by the warranty breach.

9.3. **Mutual Warranties.** Each party represents and warrants that it (i) has full corporate power and authority to enter into the Agreement; (ii) the use or provision of the Services will not violate any agreement or obligation between a party and a third party; and (iii) will not transmit to the other party any Malicious Code (except for Malicious Code previously transmitted to the warranting party by the other party).

9.4. **DISCLAIMER.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES AND THE SITE, INCLUDING THE INFORMATION, CONTENT AND MATERIALS CONTAINED THEREIN, ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, PERSPECTIUM DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE, TITLE AND NON-INFRINGEMENT AS TO THE SERVICES AND THE SITE, INCLUDING THE INFORMATION, CONTENT AND MATERIALS CONTAINED THEREIN. EXCEPT AS OTHERWISE AGREED TO IN THIS AGREEMENT, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, PERSPECTIUM DOES NOT REPRESENT OR WARRANT THAT THE SERVICES OR THE SITE, INCLUDING THE INFORMATION, CONTENT AND MATERIALS CONTAINED THEREIN, ARE ACCURATE, COMPLETE, RELIABLE, CURRENT, ERROR-FREE, OR ARE COMPATIBLE WITH SUBSCRIBER’S EQUIPMENT AND SOFTWARE CONFIGURATIONS.

10. **Limitation of Liability.**

10.1. NOTHING IN THIS AGREEMENT SHALL EXCLUDE OR LIMIT: (I) EITHER PARTY’S LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE; (II) ANY LIABILITY WHICH CANNOT BE EXCLUDED BY LAW; OR (III) EITHER PARTY’S OBLIGATIONS RELATED TO IP DISPUTES.

10.2. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL ONE PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR SIMILAR DAMAGES OF ANY KIND, OR FOR DAMAGES FOR LOSS OF USE, LOSS OF PROFITS OR LOSS OF DATA, WHETHER IN AN ACTION IN CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE) OR OTHERWISE, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY SERVICES.

10.3. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL THE AGGREGATE LIABILITY OF ONE PARTY TO THE OTHER PARTY, WHETHER IN CONTRACT, WARRANTY, TORT OR OTHER THEORY, ARISING OUT OF OR RELATING TO THIS AGREEMENT EXCEED THE ACTUAL AMOUNTS PAID TO PERSPECTIUM BY SUBSCRIBER, IF ANY, DURING THE 12-MONTH PERIOD PRIOR TO THE DATE OF THE EVENT GIVING RISE TO LIABILITY.

10.4. SUBSCRIBER ACKNOWLEDGES AND AGREES THAT PERSPECTIUM WILL HAVE NO LIABILITY WHATSOEVER FOR ANY CLAIMS, LOSSES, ACTIONS, DAMAGES, LIABILITIES, SUITS, PROCEEDINGS, COSTS, AND EXPENSES INCLUDING REASONABLE LEGAL EXPENSES AND FEES ARISING OUT OF, RESULTING FROM OR RELATING TO: (1) THE UNAUTHORIZED OR UNLAWFUL USE OF THE SERVICES BY SUBSCRIBER OR IT’S USERS; OR (2) LOSS OF DATA SENT, STORED, OR RECEIVED WHILE USING SERVICES.

11. **Term.** The initial term of any Services subject to this Agreement shall be as set forth in the applicable Order Form (“Initial Term”). Upon the expiration of the Initial Term, the term of the Subscription Services shall automatically renew on an annual basis for additional twelve (12) month periods, subject to any applicable fee increases, unless either party provides the other party with thirty (30) days advance notice of non-renewal prior to the expiration of the prior term or renewal term (“Renewal Term”). This Agreement shall
remain in full force an effect until the term of all Services subject to this Agreement have expired or been terminated or until earlier terminated in accordance with Section 12. Termination by Subscriber prior to the expiration of the Initial Term or any Renewal Term shall not relieve the Subscriber of its obligation to pay for undisputed services through the end of the Term unless Perspectium has materially breached its obligations under the Agreement. The Initial Term and the Renewal term shall be collectively referred to as the “Term”.

12. **Termination.**

12.1. **Termination by Either Party.** This Agreement may be terminated by either party:

(a) upon giving not less than thirty (30) days’ notice to the other party at any time when there are no active subscriptions or open orders for Services under any Order Form; or

(b) if the other commits any material breach of any term of this Agreement and which (in the case of a breach capable of being remedied) shall not have been remedied within thirty (30) days of a written request to remedy the same; or

(c) if (i) all or a substantial portion of the assets of the other party are transferred to an assignee for the benefit of creditors, to a receiver, or to a trustee in bankruptcy; (ii) a proceeding is commenced by or against the other party for relief under bankruptcy or similar laws and such proceeding is not dismissed within sixty (60) days; or (iii) the other party is adjudged bankrupt.

12.2. **Suspension.** Perspectium reserves the right, without notice and in its sole discretion, to temporarily suspend Subscriber’s right to access the Services, if Perspectium determines that Subscriber or any of Subscriber’s users have failed to comply with any applicable Perspectium policies or have used the Site or Services in a way that (i) poses a security risk to the Site or Services or any third party, (ii) may adversely impact the Services or the systems of other Perspectium Subscribers, (iii) may subject any affiliates of Perspectium, or any third party to liability, or (iv) may be fraudulent (collectively, “Unauthorized Activity”) or if Subscriber has any overdue balances payable to Perspectium. Perspectium shall use commercially reasonable efforts to provide written notice of any suspension to Subscriber and to provide updates regarding resumption of access to the Services following any suspension. Perspectium’s notice pursuant to the preceding sentence may be provided through the Services. If Perspectium is unable to provide written notice through the Services, then Perspectium will use commercially reasonable efforts to provide Subscriber with written notice of termination through other means including by email or through a Service Site.

12.3. **Other Suspension.** Without limiting Section 13.2 above or any of its other rights in this Agreement, Perspectium may suspend, modify or terminate the Services if (i) Perspectium’s agreement with any applicable third party service provider is terminated or expires, or (ii) if there is a current or future governmental, quasi-governmental, regulatory or other legal requirement or obligation that: (1) subjects or may subject Perspectium or its subcontractors to any regulation or requirement not generally applicable to businesses operating there, (2) presents or may present a hardship for Perspectium or its subcontractors to continue operating the Services, and/or (3) causes Perspectium to believe these terms conflict with any such requirement or obligation. Perspectium shall use commercially reasonable efforts to provide written notice of any suspension, modification or termination to Subscriber and to provide updates regarding resumption of access to the Services following any suspension, modification or termination. Perspectium’s notice pursuant to the preceding sentence may be provided through the Services. If Perspectium is unable to provide written notice through the Services, then Perspectium will use commercially reasonable efforts to provide Subscriber with written notice of suspension or termination through other means including by email or through the Site.

12.4. **Effect of Termination.** Any termination of this Agreement pursuant to this Section 14 shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any
provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination. Upon termination of an Order Form and/or this Agreement, the right to access and use of the Services, and to the extent applicable, any related license grants to any Software, shall end. Upon termination, each party shall take reasonable steps to destroy all Confidential Information of the other or certify that it shall not use the same except for archival reasons, legal or other similar recordkeeping reasons. If Perspectium terminates this Agreement for Subscriber’s breach of this Agreement including any Unauthorized Activity (collectively, “Cause”), or if Subscriber terminates the Agreement for any reason, then Subscriber will not be eligible for any refund. If Perspectium terminates this Agreement other than for Cause, Perspectium will provide a prorated refund for the unused portion of any Fees up to the date of Termination. Perspectium shall have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Subscriber may incur as a result of a suspension or termination as described in this Section 14 of this Agreement.

13.5  Survival. Accrued payment obligations and the rights and obligations of the Parties under sections 4-13, and 14.1 shall survive termination of this Agreement.


13.1. Export Control. Subscriber acknowledges, understands, and agrees to comply with U.S. export laws and regulations and the export laws of other countries that relate to any and all products, software, technology (which includes technical data and/or services that are the subject of this Agreement. Compliance includes but is not limited to, obtaining appropriate export authorizations, and abiding by such authorizations. Subscriber will not export, re-export, transmit or otherwise transfer any such product, software, technology and/or services contrary to U.S. export laws and regulations and other countries. Subscriber’s obligations under this Section 15.1 will survive the expiration or termination of this Agreement.

13.2. Subcontractors. Perspectium may use subcontractors to provide the Services. Any such subcontractors will be permitted to use the Data only to deliver the Services for which Perspectium has obtained such subcontractor. Perspectium will remain responsible for its subcontractors’ compliance with Perspectium’s obligations in this Agreement.

13.3. Force majeure. If the performance of any part of this Agreement by either party is prevented, hindered, delayed, or otherwise made impracticable by reason of any flood, riot, fire, judicial or governmental action, labor disputes, pandemics, or epidemics, acts of God or any other causes beyond the control of either party, that party will be excused from such to the extent that it is prevented, hindered or delayed by such causes. This Section 15.3 will not apply to any payment obligation of a party.

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

13.5. Waiver. No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right.

13.6. Notices. Perspectium may give notice to Subscriber by means of (i) a general notice in Subscriber account information, (ii) by electronic mail to Subscriber e-mail address on record, or (iii) by written communication sent by first class mail or pre-paid post to Subscriber address on record. Subscriber may give notice to Perspectium at any time by any of the following: (a) by e-mail to us at legal@perspectium.com; or (b) by letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail as follows: Perspectium Corporation, 10801 North Mopac Expressway, Building 1, Suite 100, Austin, TX 78759, United States in either case, addressed to the attention of "Legal". Notices will not be effective unless sent in accordance with the above requirements.
13.7. Modification. Neither this Agreement nor any provisions hereof will be modified, discharged, or terminated except by an instrument in writing signed by the party against whom any waiver, change, discharge, or termination is sought. Notwithstanding the foregoing and anything else to the contrary in this Agreement, Perspectium may change or modify any of the terms and conditions contained in this Agreement or any policy or any guideline of any Site or Services at any time and in its sole discretion on a prospective basis. Perspectium will provide Subscriber with notice if any such modification is made. Such notice may take the form of an email from Perspectium describing the modification, providing notice through the Site or Services, or updating the date at the top of the applicable policies or guidelines. Subscriber’s continued use of the Site or Services will constitute Subscriber’s acceptance of such modifications. If Subscriber does not agree to modifications to this Agreement, policies, or guidelines, Subscriber should immediately suspend its use of the Site and/or Services.

13.8. Communications. Perspectium may, from time to time, use electronic communications for various purposes, including but not limited to promoting new or existing products and services to Subscriber and individuals within Subscriber’s organization.

13.9. Invalidity and Severability. If any term, clause, or provision of this Agreement will be deemed unlawful, void or for any reason unenforceable, then that term, clause or provision will be deemed severable from this Agreement and will not affect the validity and enforceability of any remaining provisions.

13.10. Entire Agreement. This Agreement together with all documents and terms referenced herein, and all restrictions described on any Site, constitutes the complete and exclusive agreement between the parties with respect to the subject matter hereof, supersedes all prior or contemporaneous proposals, communications, and understandings, express or implied, oral or written. In the event of any conflict between this Agreement and any policy or other restrictions or terms, the applicable policy or other restrictions or terms will control. All additional and conflicting terms and conditions presented with a purchase order, work order or in any communication (collectively, “PO”) are hereby rejected and will be deemed null and void to the extent that they recite any terms other than price and quantity specified. In the event of a conflict between the terms of any PO and a provision herein, the terms of this Agreement will control.

13.11. No Third-Party Beneficiaries. Except as otherwise specifically provided in this Agreement, all obligations and rights hereto are imposed solely and exclusively for the benefit of each party.

13.12. Assignment and Sublicensing. Subscriber may not assign the rights granted under this Agreement, in whole or in part and whether by operation of contract, law or otherwise, without Perspectium’s prior written consent. Such consent shall not be unreasonably withheld or delayed. For purposes of this provision, a change of control shall constitute an assignment. Notwithstanding the foregoing, Subscriber may, upon written notice to Perspectium, (i) assign this Agreement to a successor in interest to all or substantially all of its assets, whether by sale, merger, or otherwise, (ii) assign this Agreement to a parent company; or (iii) assign this Agreement to a wholly-owned subsidiary. All terms and conditions of the Agreement shall be binding upon any assignee hereunder; assignee’s acceptance of these terms shall be evidenced by its performance hereunder.

13.13. Headings. Headings to paragraphs in this Agreement are for the purpose of information and identification only and shall not be construed as forming part of this Agreement.


13.15. Counterparts. This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission, is electronically signed, or e-
mail delivery of a "pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile, electronic signature, "pdf" signature page were an original thereof.

[END OF AGREEMENT]