

# Terms and Conditions for Use of Offerings Procured via Azure Marketplace

Version: 2024-06-03

This Contract ("Agreement") is between you ("you" or "Customer") and us the ("Publisher") from which you are procuring Offerings (defined below) and governs your use of Offerings purchased through either Microsoft AppSource or Azure Marketplace (collectively, "Marketplace").

This Agreement is the parties' entire agreement on this subject and merges and supersedes all related prior and contemporaneous agreements. By agreeing to these terms, you represent and warrant that you have the authority to accept this Agreement, and you also agree to be bound by its terms. This Agreement applies to all Orders entered into under this Agreement. Capitalized terms have the meanings given under "Definitions."

## 1. LICENSE TO OFFERINGS

**1.1 License grant.** Offerings are licensed and not sold. Upon acceptance of an Order, and subject to Customer's compliance with this Agreement, Publisher grants Customer a nonexclusive and limited license to use the ordered Offerings. These licenses are solely for Customer's own use and business purposes and are nontransferable except as expressly permitted under this Agreement or applicable law.

Offerings may contain or be provided with components that are subject to open-source software licenses. Any use of those components may be subject to additional terms and conditions and Customer agrees that any applicable licenses governing the use of the components will be incorporated by reference in this Agreement.

**1.2 Duration of licenses.** Licenses granted on a subscription basis expire at the end of the applicable subscription period set forth in the Order, unless renewed. Licenses granted for metered Offerings billed periodically based on usage continue as long as Customer continues to pay for its usage of the Offerings. All other licenses become perpetual upon payment in full.

**1.3 End Users.** Customer will control access to and use of the Offerings by End Users and is responsible for any use of the Offerings that does not comply with this Agreement.

**1.4 Reservation of Rights.** Publisher reserves all rights not expressly granted in this Agreement. Offerings are protected by copyright and other intellectual property laws and international treaties. No rights will be granted or implied by waiver or estoppel. Rights to access or use Offerings on a device do not give Customer any right to implement Publisher's patents or other intellectual property in the device itself or in any other software or devices.

**1.5 Restrictions.** Except as expressly permitted in this Agreement, Documentation or an Order, Customer must not (and is not licensed to):

- a.** copy, modify, reverse engineer, decompile, or disassemble any Offering, or attempt to do so;
- b.** install or use any third-party software or technology in any way that would subject Publisher's intellectual property or technology to any other license terms;

- c. work around any technical limitations in an Offering or restrictions in Documentation;
- d. separate and run parts of an Offering on more than one device;
- e. upgrade or downgrade parts of an Offering at different times;
- f. use an Offering for any unlawful purpose or malicious activity, including but not limited to hacking, phishing, or any activity designed to harm Publisher, End Users, or third parties;
- g. transfer parts of an Offering separately;
- h. distribute, sublicense, rent, lease, or lend any Offerings, in whole or in part, or use them to offer hosting services to a third party;
- i. use any intellectual property, trade secrets, or proprietary elements associated with the Offering to build or develop their own products, solutions, or derivative works; or
- j. engage in any activity that infringes upon or misappropriates Publisher's intellectual property rights.

**1.6 License transfers.** Customer may not be able to transfer licenses.

**1.7. Maintenance.** Publisher reserves the right to perform maintenance, updates, or modifications to the Offering, including code changes or other adjustments necessary to ensure the Offering's proper functioning, security, or performance. Such maintenance may be conducted without prior notice to the Customer, provided that: (1) The Offering remains operational and functional as intended; (2) All changes are thoroughly tested to prevent disruptions or unintended consequences. Publisher may, at its discretion, notify the Customer of significant maintenance activities before or after completion, particularly if those changes materially affect the Offering's operation.

**1.8 Feedback.** Any Customer feedback is given voluntarily, and the Customer grants to the Publisher, without charge, exclusive license under provider's owned or controlled non-patent intellectual property rights to make, use, modify, distribute, and commercialize the Feedback as part of any of Publisher products and services, in whole or in part and without regard to whether such Feedback is marked or otherwise designated by the Customer as confidential. The Customer retains all other rights in any Feedback and limits the rights granted under this section to licenses under its owned or controlled non-patent intellectual property rights in the Feedback (which do not extend to any technologies that may be necessary to make or use any product or service that incorporates, but are not expressly part of, the Feedback, such as enabling technologies).

## **2. PRIVACY**

**2.1 EU Standard Contractual Clauses.** To the extent applicable, the parties will abide by the requirements of European Economic Area and Swiss data protection law regarding the collection, use, transfer, retention, and other processing of Personal Data from the European Economic Area and Switzerland. All transfers of Customer Data out of the European Union, European Economic Area, and Switzerland will be governed by the Standard Contractual Clauses, as designated by the European Commission, made available by the Publisher at the applicable URL for such terms or as otherwise communicated to Customer.

**2.2 Personal Data.** Customer consents to the processing of Personal Data by Publisher and its Affiliates, and their respective agents and Subcontractors, as provided in this Agreement. Before providing Personal Data to Publisher, Customer will obtain all required consents from third parties (including Customer's contacts, partners, distributors, administrators, and employees) under applicable privacy and Data Protection Laws.

**2.3 Processing of Personal Data; GDPR.** To the extent Publisher is a processor or subprocessor of Personal Data subject to the GDPR, this agreement govern that processing and the parties also agree to the following terms in this subsection ("Processing of Personal Data; GDPR"):

**a. Processor and Controller Roles and Responsibilities.** Customer and Publisher agree that Customer is the controller of Personal Data and Publisher is the processor of such data, except when (a) Customer acts as a processor of Personal Data, in which case Publisher is a subprocessor or (b) stated otherwise in any Offering-specific terms. Publisher will process Personal Data only on documented instructions from Customer. In any instance where the GDPR applies and Customer is a processor, Customer warrants to Publisher that Customer's instructions, including appointment of Processor as a processor or subprocessor, have been authorized by the relevant controller.

**b. Processing Details.** The parties acknowledge and agree that:

- i. the subject-matter of the processing is limited to Personal Data within the scope of the GDPR;
- ii. the duration of the processing will be for the duration of the Customer's right to use the Offering and until all Personal Data is deleted or returned in accordance with Customer instructions or the terms of this Agreement;
- iii. the nature and purpose of the processing will be to provide the Offering pursuant to this Agreement;
- iv. the types of Personal Data processed by the Offering include those expressly identified in Article 4 of the GDPR; and
- v. the categories of data subjects are Customer's representatives and end users, such as employees, contractors, collaborators, and customers, and other data subjects whose Personal Data is contained within any data made available to Publisher by Customer.

**c. Data Subject Rights; Assistance with Requests.** Publisher will make information available to Customer in a manner consistent with the functionality of the Offering and Publisher's role as a processor of Personal Data of data subjects and the ability to fulfill data subject requests to exercise their rights under the GDPR. Publisher will comply with reasonable requests by Customer to assist with Customer's response to such a data subject request. If Publisher receives a request from Customer's data subject to exercise one or more of its rights under the GDPR in connection with an Offering for which Publisher is a data processor or subprocessor, Publisher will redirect the data subject to make its request directly to Customer. Customer will be responsible for responding to any such request including, where necessary, by using the functionality of the Offering. Publisher will comply with reasonable requests by Customer to assist with Customer's response to such a data subject request.

**d. Use of Subprocessors.** Customer consents to Publisher using the subprocessors listed at the applicable Publisher URL or as otherwise communicated to Customer. Publisher remains responsible for its subprocessors' compliance with the obligations herein. Publisher may update its list of subprocessors from time to time, and it is the Customer's responsibility to regularly review the applicable Publisher URL for updates.

**e. Records of Processing Activities.** Publisher will maintain all records required by Article 30(2) of the GDPR and, to the extent applicable to the processing of Personal Data on behalf of Customer, make them available to Customer upon request.

**2.4 Security.** Publisher will take appropriate security measures that are required by Data Protection Laws and in accordance with good industry practice relating to data security.

**2.5 Support Data.** Publisher may collect and use Support Data internally to provide technical support for the Offering. Publisher will not use Support Data for any other purpose unless otherwise agreed in writing by the parties. However, Publisher may use aggregated data in anonymized form derived from Support Data for marketing purposes.

**2.6 Promotion Rights.** Customer grants Publisher the right to display information about the Offering, including but not limited to, the Customer's name and logo, on the Marketplace or Publisher's website. Such display will be solely for the purpose of promoting the Offering and the Publisher's relationship with the Customer. Customer may revoke this right by providing written notice to Publisher. Publisher agrees to remove such information within 30 days of receiving the notice.

### **3. CONFIDENTIALITY**

**3.1 Non-Disclosure Agreement.** The parties will treat all confidential information exchanged between the parties under this Agreement in accordance with the following provisions.

**3.2 Confidential Information.** "Confidential Information" is non-public information that is designated "confidential" or that a reasonable person should understand is confidential, including, but not limited to, Customer Data, Support Data, the terms of this Agreement, and Customer's account authentication credentials. Confidential Information does not include information that: (1) becomes publicly available without a breach of a confidentiality obligation; (2) the receiving party received lawfully from another source without a confidentiality obligation; (3) is independently developed; or (4) is a comment or suggestion volunteered about the other party's business, products, or services.

**3.3 Protection of Confidential Information.** Each party will take reasonable steps to protect the other's Confidential Information and will use the other party's Confidential Information only for purposes of the parties' business relationship. Neither party will disclose Confidential Information to third parties, except to its Representatives, and then only on a need-to-know basis under nondisclosure obligations at least as protective as this Agreement. Each party remains responsible for the use of Confidential Information by its Representatives and, in the event of discovery of any unauthorized use or disclosure, must promptly notify the other party.

**3.4 Disclosure required by law.** A party may disclose the other's Confidential Information if required by law, but only after it notifies the other party (if legally permissible) to enable the other party to seek a protective order.

**3.5 Duration of Confidentiality obligation.** These obligations apply: (1) for Customer Data, until it is deleted by Publisher; and (2) for all other Confidential Information, for a period of five years after a party receives the Confidential Information.

## **4. SLA AND ADDITIONAL SERVICES**

**4.1 Azure Cloud SLA.** Code execution is provided via the Azure Cloud platform within the Customer's Azure tenant and is subject to Azure's Service Level Agreement (SLA). It is the Customer's responsibility to engage Microsoft for any performance issues or outages. The Publisher may assist the Customer in engaging Microsoft by providing support or creating bug or service requests as needed. This assistance is offered to help ensure smooth operations but does not transfer the primary responsibility from the Customer.

**4.1 No Default SLA.** This Agreement does not include any default Service Level Agreement (SLA) for the Offerings provided by the Publisher. The Offerings are provided "as-is," and Publisher does not commit to specific performance metrics or availability guarantees under this Agreement.

**4.2 Optional SLA Purchase.** Customers may purchase an SLA for additional support, performance guarantees, or availability commitments by entering into a separate SLA agreement with Publisher. The terms, scope, and fees for the SLA will be specified in a separate contract mutually agreed upon by both parties.

**4.3 Additional Services.** Upon Customer's request, Publisher may provide Additional Services related to the Offering, such as custom development, consulting, or extended support. The scope, duration, and pricing of Additional Services will be mutually agreed upon and defined in a separate Order.

## **5. VERIFYING COMPLIANCE**

**5.1** Customer must keep records relating to Offerings it and its Affiliates use or distribution. At Publisher's expense, Publisher may verify Customer's and its Affiliates' compliance with this Agreement by directing an independent auditor (under nondisclosure obligations) to conduct an audit or ask Customer to complete a self-audit process. Customer must promptly provide any information and documents that Publisher or the auditor reasonably requests related to the verification and access to systems running the Offerings. If verification or self-audit reveals any unlicensed use, Customer must order sufficient licenses to cover the period of its unlicensed use. The audits may be conducted more frequently, if required by the party's auditors and/or regulators, of books and records related to this Agreement. The expenses for all such audit will be borne by the party conducting the audit. All information and reports related to the verification process will be Confidential Information and used solely to verify compliance.

**5.2** Upon request, Publisher will make available to Customer all information necessary to conduct an audit and demonstrate compliance under GDPR provisions for the processing of Personal Data. Customer may request information through a security questionnaire or self-attestation.

## 6. REPRESENTATION AND WARRANTIES

6.1 Publisher continuously represents and warrants that:

- a. it has full rights and authority to enter into, perform under, and grant the rights in, this Agreement;
- b. its performance will not violate any agreement or obligation between it and any third party;
- c. the Offering will substantially conform to the Documentation;
- d. the Offering will not:
  - i. to the best of Publisher's knowledge, infringe or violate any third party patent, copyright, trademark, trade secret, or other proprietary right; or
  - ii. contain viruses or other malicious code that will degrade or infect any products, services, software, or Customer's network or systems, and
- e. while performing under this Agreement, Publisher will comply with law, including Data Protection Laws and Anti-Corruption Laws, and will provide training to its employees regarding Anti-Corruption Laws.

6.2 **Disclaimer.** Except as expressly stated in this Agreement, the Offering is provided as is. To the maximum extent permitted by law, Publisher disclaims any and all other warranties (express, implied or statutory, or otherwise) including of merchantability or fitness for a particular purpose, whether arising by a course of dealing, usage or trade practice, or course of performance.

## 7. DEFENSE OF THIRD-PARTY CLAIMS

7.1 **By Customer.** Customer will defend Publisher and its Affiliates from and against any and all third party claims, actions, suits, proceedings arising from or related to: Customer's or any authorized user's violation of this Agreement or user terms (a "Claims Against Publisher"), and will indemnify Publisher and its Affiliates for all reasonable attorney's fees incurred and damages and other costs finally awarded against Publisher or its Affiliates in connection with or as a result of, and for amounts paid by Publisher or its Affiliates under a settlement Customer approves of in connection with a Claim Against Publisher. Publisher must provide Customer with prompt written notice of any Claims Against Publishers and allow Customer the right to assume the exclusive defense and control of the claim and cooperate with any reasonable requests assisting Customer's defense and settlement of such matter.

7.2 **By Publisher.** Publisher will defend Customer from and against any and all third party claims, actions, suits, proceedings, and demands alleging that: (i) the use of the Offering as permitted under the Contract infringes or misappropriates a third party's intellectual property rights and (ii) any violation of applicable law including Data Protection Laws (a "Claim Against Customer"), and will indemnify Customer for all reasonable attorney's fees incurred and damages and other costs finally awarded against Customer in connection with or as a result of, and for amounts paid by Customer under a settlement Publisher approve of in connection with a Claim Against Customer; provided, however, that the Publisher has no liability if a Claim Against Customer arises from: (1) Customer Data or non-Publisher products, including third-party software; and (2) any modification, combination or development of the Offering that is not performed or authorized in writing by

Publisher, including in the use of any application programming interface (API); or (3) any instance where Publisher has informed Customer of a risk of violating Data Protection Laws and Customer has either chosen not to act on the information or failed to provide a response. Customer must provide Publisher with prompt written notice of any Claim Against Customer and allow Publisher the right to assume the exclusive defense and control and cooperate with any reasonable requests assisting Publisher's defense and settlement of such matter. This section states Publisher sole liability with respect to, and Customer's exclusive remedy against Publisher for, any Claim Against Customer.

7.3 Notwithstanding anything contained in the above subsections (a) and (b), (1) an indemnified party will always be free to choose its own counsel if it pays for the cost of such counsel; and (2) no settlement may be entered into by an indemnifying party, without the express written consent of the indemnified parties (such consent not to be unreasonably withheld), if: (A) the third party asserting the claim is a government agency; (B) the settlement arguably involves the making of admissions by the indemnified parties; (C) the settlement does not include a full release of liability for the indemnified parties; or (D) the settlement includes terms other than a full release of liability for the indemnified parties and the payment of money.

## **8. LIMITATION OF LIABILITY**

For each Offering, each party's maximum, aggregate liability to the other under this Agreement is limited to direct damages finally awarded in an amount not to exceed the amounts Customer was required to pay for the Offerings during the term of the applicable licenses, subject to the following:

**a. Subscriptions.** For Offerings ordered on a subscription basis, Publisher's maximum liability to Customer for any incident giving rise to a claim will not exceed the amount Customer paid for the Offering during the 12 months before the incident.

For Offerings ordered on a subscription basis, Publisher's maximum liability to Customer for any unauthorized access, use, or disclosure of Customer Data due to a breach of Publisher's obligations under Section II(6) (Security), Publisher's maximum liability to Customer will not exceed two times (2x) the amount Customer paid for the Offering during the 12 month before the incident.

**b. Free Offerings and distributable code.** For Offerings provided free of charge and code that Customer is authorized to redistribute to third parties without separate payment to Publisher, Publisher's liability is liable to any damages.

**c. No Indirect Damages.** In no event will either party be liable for indirect, incidental, special, punitive, or consequential damages, or loss of use, loss of profits, or interruption of business, however caused or on any theory of liability.

**d. Exceptions.** No limitation or exclusions will apply to liability arising out of either party's: (1) violation of the other party's intellectual property rights, including breaches of section 1.5; or (2) gross negligence, willful misconduct, or fraud.

## **9. PRICING AND PAYMENT**

Microsoft will invoice and charge Customer under the terms of the Microsoft Commercial Marketplace Terms of Use and applicable Order.

## 10. TERM AND TERMINATION

10.1 **Term.** This Agreement is effective until terminated by either party.

- a. All licenses granted under this Agreement will terminate immediately.
- b. All amounts due under any unpaid invoices will become due and payable immediately. For metered Offerings billed periodically based on usage, Customer must immediately pay for unpaid usage as of the termination date.

## 11. MISCELLANEOUS

11.1 **Entire Agreement.** This Agreement supersedes all prior and contemporaneous communications, whether written or oral, regarding the subject matter covered in this Agreement. If there is a conflict between any parts of this Agreement, the following order of precedence will apply:

- a. This Agreement;
- b. Order;
- c. Service Level Agreement (SLA);
- d. Documentation

11.2 **Independent contractors.** The parties are independent contractors. Customer and Publisher each may develop products independently without using the other's Confidential Information.

11.3 **Agreement not exclusive.** Customer is free to enter into agreements to license, use, and promote the services of others.

11.4 **Amendments.** Unless otherwise agreed in a writing signed by both parties, Publisher will not change the terms of this Agreement, including privacy terms, during the term of this Agreement.

11.5 **Assignment.** Either party may assign this Agreement to an Affiliate, but it must notify the other party in writing of the assignment. Customer consents to the assignment to an Affiliate or third party, without prior notice, of any rights Publisher may have under this Agreement to receive payment and enforce Customer's payment obligations, and all assignees may further assign such rights without further consent. Furthermore, either party may assign this Agreement without the consent of the other party in connection with a merger, reorganization, acquisition, or other transfer of all or substantially all of such party's assets. Any other proposed assignment of this Agreement must be approved by the non-assigning party in writing. Assignment will not relieve the assigning party of its obligations under the assigned Agreement. Any attempted assignment without required approval will be void.

11.6 **Severability.** If any part of this Agreement is held to be unenforceable, the rest of the Agreement will remain in full force and effect.

11.7 **Waiver.** Failure to enforce any provision of this Agreement will not constitute a waiver. Any waiver must be in writing and signed by the waiving party.



**11.8 No third-party beneficiaries.** This Agreement does not create any third-party beneficiary rights except as expressly provided by its terms.

**11.9 Notices.** Notices must be in writing and will be treated as delivered on the date received at the address, date shown on the return receipt, email transmission date, or date on the courier or fax confirmation of delivery. Notices to Publisher must be sent to the address stated in the Order. Notices to Customer will be sent to the individual at the address Customer identifies on its account as its contact for notices. Publisher may send notices and other information to Customer by email or other electronic form.

**11.10 Applicable law.**

This Agreement shall be governed by the laws of the Czech Republic, without regard to any conflict of laws rule or provision that would result in the application of the substantive law of any other jurisdiction. Each party agrees to the exclusive jurisdiction of the applicable court in the Czech Republic.

**11.11 Construction.** Neither party has entered this Agreement in reliance on anything not contained or incorporated in it. This Agreement is in English only. Any translation of this Agreement into another language is for reference only and without legal effect. If a court of competent jurisdiction finds any term of the Agreement unenforceable, the Agreement will be deemed modified as necessary to make it enforceable, and the rest of the Agreement will be fully enforced to affect the parties' intent. Lists of examples following "including", "e.g.", "for example", or the like are interpreted to include "without limitation," unless qualified by words such as "only" or "solely." This Agreement will be interpreted according to its plain meaning without presuming that it should favor either party. Unless stated or context requires otherwise:

- a.** all internal references are to this Agreement and its parties;
- b.** all monetary amounts are expressed and, if applicable, payable, in U.S. dollars;
- c.** URLs are understood to also refer to successors, localizations, and information or resources linked from within websites at those URLs;
- d.** a party's choices under this Agreement are in its sole discretion, subject to any implied duty of good faith;
- e.** "written" or "in writing" means an electronic document only, except where email is expressly authorized;
- f.** "days" means calendar days;
- g.** "may" means that the applicable party has a right, but not a concomitant duty,
- h.** "partner," if used in this Agreement or related documents, is used in its common, marketing sense and does not imply a partnership;
- i.** "current" or "currently" means "as of the Effective Date" but "then-current" means the present time when the applicable right is exercised or performance rendered or measured;
- j.** "notify" means to give notice under subsection (i) above; and

k. a writing is "signed" when it has been hand-signed (i.e., with a pen) or signed via an electronic signature service by a duly authorized representative of the signing party.

## **12. DEFINITIONS**

"Additional Services" means any ancillary services provided by Publisher to Customer related to the Offering, including but not limited to custom development, consulting, training, or extended support, as specified in a separate Order. Additional Services are subject to mutually agreed terms, including scope, duration, and pricing.

"Affiliate" means any legal entity that controls, is controlled by, or is under common control with a party.

"Anti-Corruption Laws" means all laws against fraud, bribery, corruption, inaccurate books and records, inadequate internal controls, money-laundering, and illegal software, including the U.S. Foreign Corrupt Practices Act.

"Control" means ownership of more than a 50% interest of voting securities in an entity or the power to direct the management and policies of an entity.

"Confidential Information" is defined in the "Confidentiality" section.

"Customer Data" means all data, including all text, sound, software, image or video files that are provided to Publisher or its Affiliates by, or on behalf of, Customer and its Affiliates through use of the Offering. Customer Data does not include Support Data.

"Data Protection Law" means any law applicable to Publisher or Customer, relating to data security, data protection and/or privacy, including Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to processing of personal data and the free movement of that data ("GDPR"), and any implementing, derivative or related legislation, rule, regulation, and regulatory guidance, as amended, extended, repealed and replaced, or re-enacted.

"Documentation" means all user manuals, handbooks, training material, requirements, and other written or electronic materials Publisher makes available for, or that result from use of, the Offering.

"End User" means any person Customer permits to use an Offering or access Customer Data.

"Feedback" means ideas, suggestions, comments, input, or know-how, in any form, that one party provides to the other in relation to recipient's Confidential Information, products, or services. Feedback does not include sales forecasts, future release schedules, marketing plans, financial results, and high-level plans (e.g., feature lists) for future products.

"Insolvent" means admitting in writing the inability to pay debts as they mature; making a general assignment for the benefit of creditors; suffering or permitting the appointment of a trustee or receiver for all or any of its (i.e., the non-terminating party's) assets, unless such appointment is vacated or dismissed within 60 days from the date of appointment; filing (or having filed) any petition as a debtor under any provision of law relating to insolvency, unless such petition and all related proceedings are dismissed within 60 days of such filing; being adjudicated insolvent or bankrupt; having wound up or liquidated; or ceasing to carry on business.

"Offering" means all services, websites (including hosting), solutions, platforms, and products identified in an Order and that Publisher makes available under or in relation to this Agreement, including the software, equipment, technology, and services necessary for Publisher to provide the foregoing. Offering availability may vary by region.

"Order" means a document or electronic record used to transact the Offering or Additional Services under this Agreement. An Order specifies the scope, duration, pricing, and other terms agreed upon by the parties for the provision of Offerings or Additional Services. Orders may be created through the Marketplace or directly between the Customer and Publisher. Each Order is subject to the terms of this Agreement and, in the event of a conflict, will be governed by the precedence outlined in this Agreement.

"Personal Data" means any information relating to an identified or identifiable natural person.

"Representatives" means a party's employees, Affiliates, contractors, advisors and consultants.

"Standard Contractual Clauses" means the standard data protection clauses for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection, as described in Article 46 of the GDPR.

"Subcontractor" means any third party: (1) to whom Publisher delegates its obligations under this Agreement, including a Publisher Affiliate not contracting directly with Customer through an Order; or (2) who, in performing under a contract between it and Publisher or a Publisher Affiliate, stores, collects, transfers or otherwise processes Personal Data (obtained or accessed in connection with performing under this Agreement) or other Customer Confidential Information.

"Support Data" means all data, including all text, sound, video, image files, or software, that are provided to Publisher by or on behalf of Customer (or that Customer authorizes Publisher to obtain from an Offering) through an engagement with Publisher to obtain technical support for the Offering covered under this Agreement.

"Use" means to copy, download, install, run, access, display, use or otherwise interact with.