

# INNOVATION RESEARCH AND TRAINING, INC.

## SOFTWARE AS A SERVICE AGREEMENT

### V.1 12092019

PLEASE READ THIS AGREEMENT CAREFULLY. BY CLICKING THE AGREE BUTTON, OR BY ACCESSING OR USING THE SERVICES, YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO ALL THE TERMS OF THIS AGREEMENT, YOU MAY NOT ACCESS OR USE THE SERVICES.

This Software and Services Agreement (“Agreement”) is entered into by innovation Research and Training, Inc. (“Provider”) and you (“You” or “Customer”) as of the date You first access the Services (“Effective Date”) and governs Your access and use of the Services (defined below). If You are accessing or using the Services on behalf of a company or other legal entity, You represent and warrant that You are an authorized representative of that entity and have the authority to bind such entity to this Agreement, in which case the terms “You” shall refer to such entity. You and Provider hereby agree as follows:

#### 1. Definitions

1.1 “**Access Credentials**” means any user name, identification number, password, license or security key, security token, PIN, or other security code, method, technology, or device used, alone or in combination with others, to verify an individual's identity and authorization to access and use the Services.

1.2 “**Action**” means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena, or investigation of any nature, civil, criminal, administrative, regulatory, or other, whether at law, in equity, or otherwise.

1.3 “**Affiliate**” of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person.

1.4 “**Agreement**” has the meaning set forth in the preamble.

1.5 “**Authorized User**” means Customer's employees, consultants, contractors, agents, or individuals who participate in the Customer's school(s), workplace(s), or program(s) (a) who are authorized by Customer to access and use the Services under the rights granted to Customer pursuant to this Agreement; (b) who have been provided with appropriate Access Credentials by the Customer; and (c) for whom access to the Services has been purchased hereunder.

1.6 “**Confidential Information**” has the meaning set forth in Section 9.1.

1.7 “**Customer**” has the meaning set forth in the preamble.

1.8 “**Customer Data**” means information, data, and other content, in any form or medium, that is collected, downloaded, or otherwise received, directly or indirectly from Customer or an Authorized User by or through the Services or that incorporates or is derived from the Processing of such information, data, or content by or through the Services. For the avoidance of doubt, Customer Data does not include Resultant Data or any other information reflecting the access or use of the Services by or on behalf of Customer or any Authorized User.

1.9 “**Customer Failure**” has the meaning set forth in Section 4.2.

1.10 “**Customer Indemnitee**” has the meaning set forth in Section 12.1.

1.11 "**Customer Systems**" means the Customer's information technology infrastructure, including computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated directly by Customer or through the use of third-party services.

1.12 "**Disclosing Party**" has the meaning set forth in Section 9.1.

1.13 "**Documentation**" means any manuals, instructions, or other documents or materials the Provider provides or makes available to Customer in any form or medium and which describe the functionality, components, features, or requirements of the Services or Provider Materials, including any aspect of the installation, configuration, integration, operation, use, support, or maintenance thereof.

1.14 "**Effective Date**" has the meaning set forth in the preamble.

1.15 "**Fees**" has the meaning set forth in Section 8.1.

1.16 "**Force Majeure Event**" has the meaning set forth in Section 15.9.

1.17 "**Harmful Code**" means any software, hardware, or other technology, device, or means, including any virus, worm, malware, or other malicious computer code, the purpose or effect of which is to (a) permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede in any manner any (i) computer, software, firmware, hardware, system, or network; or (ii) any application or function of any of the foregoing or the security, integrity, confidentiality, or use of any data Processed thereby; or (b) prevent Customer or any Authorized User from accessing or using the Services or Provider Systems as intended by this Agreement. Harmful Code does not include any Provider Disabling Device.

1.18 "**Indemnitee**" has the meaning set forth in Section 12.3.

1.19 "**Indemnitor**" has the meaning set forth in Section 12.3.

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

1.21 "**Law**" means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, or other requirement of any federal, state, local, or foreign government or political subdivision thereof, or any arbitrator, court, or tribunal of competent jurisdiction.

1.22 "**Losses**" means any and all losses, damages, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

1.23 "**Permitted Use**" means any use of the Services by an Authorized User for the benefit of the Customer in the ordinary course of its internal business operations, or for personal use by the Customer and/or its Authorized Users.

1.24 "**Person**" means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association, or other entity.

1.25 "**Personal Information**" means information that does or can identify a specific individual or by or from which a specific individual may be identified, contacted, or located. Personal Information includes all "nonpublic personal information" as defined under the Gramm-Leach-Bliley Act, "protected health information" as defined under the Health and Insurance Portability and Accountability Act of 1996, "Personal Data" as defined

in the EU Data Protection Directive (Directive 95/46/EEC), "Personal Information" as defined under the Children's Online Privacy Protection Act of 1998, and all rules and regulations issued under any of the foregoing.

1.26 "**Privacy Policy**" has the meaning set forth in Section 7.1.

1.27 "**Process**" means to take any action or perform any operation or set of operations that the Services are capable of taking or performing on any data, information, or other content, including to collect, receive, input, upload, download, record, reproduce, store, organize, compile, combine, log, catalog, cross-reference, manage, maintain, copy, adapt, alter, translate, or make other derivative works or improvements, process, retrieve, output, consult, use, perform, display, disseminate, transmit, submit, post, transfer, disclose, or otherwise provide or make available, or block, erase, or destroy. "**Processing**" and "**Processed**" have correlative meanings.

1.28 "**Provider**" has the meaning set forth in the preamble.

1.29 "**Provider Disabling Device**" means any software, hardware, or other technology, device, or means (including any back door, time bomb, time out, drop dead device, software routine, or other disabling device) used by Provider or its designee to disable Customer's or any Authorized User's access to or use of the Services automatically with the passage of time or under the positive control of Provider or its designee.

1.30 "**Provider Indemnitee**" has the meaning set forth in Section 12.2.

1.31 "**Provider Materials**" means the Services, Documentation, and Provider Systems and any and all other information, data, documents, materials, works, and other content, devices, methods, processes, hardware, software, and other technologies and inventions, including any deliverables, technical or functional descriptions, requirements, plans, or reports, that are provided or used by Provider in connection with the Services or otherwise comprise or relate to the Services or Provider Systems. For the avoidance of doubt, Provider Materials include Resultant Data and any information, data, or other content derived from Provider's monitoring of Customer's access to or use of the Services, but do not include Customer Data.

1.32 "**Provider Personnel**" means all individuals involved in the performance of Services as employees, agents, or independent contractors of Provider.

1.33 "**Provider Systems**" means the information technology infrastructure used by or on behalf of Provider in performing the Services, including all computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated directly by Provider or through the use of third-party services.

1.34 "**Receiving Party**" has the meaning set forth in Section 9.1.

1.35 "**Representatives**" means, with respect to a party, that party's employees, officers, directors, consultants, agents, or legal advisors.

1.36 "**Resultant Data**" means data and information related to Customer's use of the Services that is used by Provider in an aggregate and anonymized manner, including to compile statistical and performance information related to the provision, perform research, and operation of the Services.

1.37 "**Services**" means the software-as-a-service ("SaaS") offering which Customer has selected on the drop-down menu on the purchase page of the website, which is incorporated by reference.

1.1 "**Specifications**" for the computer include using Microsoft Windows 7 or higher, with Intel Pentium II 450 MHz and 256MB of RAM, OR Macintosh PowerPC® G3 500MHz or Intel Core Duo 1.33GHz and 256MB of RAM, OR Linux 800 MHz with 512MB of RAM, 128MB of graphics memory with a display resolution of 1024 x 768 (minimum), speakers or headphones, and Adobe Acrobat Reader; as well as for web

access including Broadband internet connection (1.5 Mbps or faster recommended), Internet Explorer 6.0 or higher, OR Firefox 1.5 or higher, OR Opera 6 or higher, OR other modern web browser.

1.2 "Term" has the meaning set forth in Section 14.1.

1.3 "Third-Party Materials" means materials and information, in any form or medium, including any open-source or other software, documents, data, content, specifications, products, equipment, or components of or relating to the Services that are not proprietary to Provider.

## 2. Services.

2.1 Access and Use. Subject to and conditioned on Customer's and its Authorized Users' compliance with the terms and conditions of this Agreement and the End User License Agreement attached hereto as **Exhibit A**, Provider hereby grants Customer a non-exclusive, non-transferable (except in compliance with Section 15.8) right to access and use the Services, meaning the software as a service described in Exhibit A, during the Term, solely for use by Authorized Users in accordance with the terms and conditions herein. Such use is limited to Customer's internal use. Provider shall provide to Customer the Access Credentials within a reasonable time following the Effective Date. The total number of Authorized Users will not exceed the number set forth the number selected by you upon purchase, except as expressly agreed to in writing by the parties and subject to any appropriate adjustment of the Fees payable hereunder.

2.2 Documentation License. Provider hereby grants to Customer a non-exclusive, non-sub-licensable, non-transferable (except in compliance with Section 15.8) license to use the Documentation during the Term solely for Customer's internal business purposes in connection with its use of the Services.

2.3 Service and System Control. Except as otherwise expressly provided in this Agreement, as between the parties:

(a) Provider has and will retain sole control over the operation, provision, maintenance, and management of the Provider Materials; and

(b) Customer has and will retain sole control over the operation, maintenance, and management of, and all access to and use of, the Customer Systems, and sole responsibility for all access to and use of the Provider Materials by any Person by or through the Customer Systems or any other means controlled by Customer or any Authorized User, including any: (i) information, instructions, or materials provided by any of them to the Services or Provider; (ii) results obtained from any use of the Services or Provider Materials; and (iii) conclusions, decisions, or actions based on such use.

2.4 Reservation of Rights. Nothing in this Agreement grants any right, title, or interest in or to (including any license under) any Intellectual Property Rights in or relating to, the Services, Provider Materials, or Third-Party Materials, whether expressly, by implication, estoppel, or otherwise. All right, title, and interest in and to the Services, the Provider Materials, and the Third-Party Materials are and will remain with Provider and the respective rights holders in the Third-Party Materials.

2.5 Changes. Provider reserves the right, in its sole discretion, to make any changes to the Services and Provider Materials that it deems necessary or useful to: (a) maintain or enhance: (i) the quality or delivery of Provider's services to its customers; (ii) the competitive strength of or market for Provider's services; or (iii) the Services' cost efficiency or performance; or (b) to comply with applicable Law.

2.6 Suspension or Termination of Services. Provider may, directly or indirectly, and by use of a Provider Disabling Device or any other lawful means, suspend, terminate, or otherwise deny Customer's, any Authorized User's, or any other Person's access to or use of all or any part of the Services or Provider Materials, without incurring any resulting obligation or liability, if: (a) Provider receives a judicial or other governmental demand or order, subpoena, or law enforcement request that expressly or by reasonable implication requires Provider to do so; or (b) Provider believes, in its sole discretion, that: (i) Customer or any Authorized User has

failed to comply with any term of this Agreement, or accessed or used the Services beyond the scope of the rights granted or for a purpose not authorized under this Agreement or in any manner that does not comply with any instruction; (ii) Customer or any Authorized User is, has been, or is likely to be involved in any fraudulent, misleading, or unlawful activities; or (iii) this Agreement expires or is terminated. This Section 2.6 does not limit any of Provider's other rights or remedies, whether at law, in equity, or under this Agreement.

3. Use Restrictions; Service Usage and Data Storage.

3.1 Use Restrictions. Customer shall not, and shall not permit any other Person to, access or use the Services or Provider Materials except as expressly permitted by this Agreement and, in the case of Third-Party Materials, the applicable third-party license agreement. For purposes of clarity and without limiting the generality of the foregoing, Customer shall not, except as this Agreement expressly permits:

- (a) transmit or share Access Credentials with unauthorized persons;
- (b) permit the Access Credentials to be cached in proxy servers and accessed by individuals who are not Authorized Users;
- (c) permit access to the Services through a single Access Credential that is made available to multiple users of a network.
- (d) copy, modify, or create derivative works or improvements of the Services or Provider Materials;
- (e) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available any Services or Provider Materials to any Person, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud, or other technology or service;
- (f) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source code of the Services or Provider Materials, in whole or in part;
- (g) bypass or breach any security device or protection used by the Services or Provider Materials or access or use the Services or Provider Materials other than by an Authorized User through the use of his or her own then valid Access Credentials;
- (h) input, upload, transmit, or otherwise provide to or through the Services or Provider Systems, any information or materials that are unlawful or injurious, or contain, transmit, or activate any Harmful Code;
- (i) damage, destroy, disrupt, disable, impair, interfere with, or otherwise impede or harm in any manner the Services, Provider Systems, or Provider's provision of services to any third party, in whole or in part;
- (j) remove, delete, alter, or obscure any trademarks, Specifications, Documentation, EULA, warranties, or disclaimers, or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from any Services or Provider Materials, including any copy thereof;
- (k) access or use the Services or Provider Materials in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Right or other right of any third party including by any unauthorized access to, misappropriation, use, alteration, destruction, or disclosure of the data of any other Provider customer, or that violates any applicable Law;
- (l) access or use the Services or Provider Materials for purposes of competitive analysis of the Services or Provider Materials, the development, provision, or use of a competing software service or product or any other purpose that is to the Provider's detriment or commercial disadvantage;

(m) access or use the Services or Provider Materials in, or in association with, the design, construction, maintenance, or operation of any hazardous environments, systems, or applications, any safety response systems or other safety-critical applications, or any other use or application in which the use or failure of the Services could lead to personal injury or severe physical or property damage; or

(n) otherwise access or use the Services or Provider Materials beyond the scope of the authorization granted under this Section 2.1.

4. Customer Obligations.

4.1 Customer Systems and Cooperation. Customer shall at all times during the Term: (a) set up, maintain, and operate in good repair and in accordance with the Specifications all Customer Systems on or through which the Services are accessed or used; (b) notify Authorized Users that their endorsement and compliance with the EULA attached as Exhibit A is a condition of accessing the Services; (c) provide all cooperation and assistance as Provider may reasonably request to enable Provider to exercise its rights and perform its obligations under and in connection with this Agreement.

4.2 Effect of Customer Failure or Delay. Provider is not responsible or liable for any delay or failure of performance caused in whole or in part by Customer's delay in performing, or failure to perform, any of its obligations under this Agreement (each, a "**Customer Failure**").

4.3 Corrective Action and Notice. If Customer becomes aware of any actual or threatened activity prohibited by Section 3.1, Customer shall, and shall cause its Authorized Users to, immediately: (a) take all reasonable and lawful measures within their respective control that are necessary to stop the activity or threatened activity and to mitigate its effects (including, where applicable, by discontinuing and preventing any unauthorized access to the Services and Provider Materials and permanently erasing from their systems and destroying any data to which any of them have gained unauthorized access); and (b) notify Provider of any such actual or threatened activity.

5. Maintenance. Provider will use commercially reasonable efforts to schedule downtime for routine maintenance of the Services between the hours of 10 p.m. and 4 a.m., Eastern Standard Time.

6. Data Backup. The Services do not replace the need for Customer to maintain regular data backups or redundant data archives. PROVIDER HAS NO OBLIGATION OR LIABILITY FOR ANY LOSS, ALTERATION, DESTRUCTION, DAMAGE, CORRUPTION, OR RECOVERY OF CUSTOMER DATA.

7. Security.

7.1 Provider Systems and Security Obligations. Provider will employ security measures in accordance with applicable industry practice/Provider's data privacy and security policy as amended from time to time, as available on Provider's website at <http://www.irtinc.us/privacy.aspx> or a successor website address ("**Privacy Policy**").

7.2 Prohibited Data. Customer acknowledges that the Services are not designed with security and access management for Processing the following categories of information: (a) Personal Information; (b) data that is classified and or used on the U.S. Munitions list, including software and technical data; (c) articles, services, and related technical data designated as defense articles or defense services; and (d) ITAR (International Traffic in Arms Regulations) related data, (each of the foregoing, "**Prohibited Data**"). Customer shall not, and shall not permit any Authorized User or other Person to, provide any Prohibited Data to, or Process any Prohibited Data through, the Services, the Provider Systems, or any Provider Personnel. Customer is solely responsible for reviewing all Customer Data and shall ensure that no Customer Data constitutes or contains any Prohibited Data. Customer warrants and represents that when it provides Authorized Users with Access Credentials, Customer shall not enter any name and email information for any person under the age of fourteen (14).

7.3 Customer Control and Responsibility. Customer has and will retain sole responsibility for: (a) all Customer Data, including its content and use; (b) all information, instructions, and materials provided by or on behalf of Customer or any Authorized User in connection with the Services; (c) Customer's information technology infrastructure, including computers, software, databases, electronic systems (including database management systems), and networks, whether operated directly by Customer or through the use of third-party services ("**Customer Systems**"); (d) the security and use of Customer's and its Authorized Users' Access Credentials; and (e) all access to and use of the Services and Provider Materials directly or indirectly by or through the Customer Systems or its or its Authorized Users' Access Credentials, with or without Customer's knowledge or consent, including all results obtained from, and all conclusions, decisions, and actions based on, such access or use.

7.4 Access and Security. Customer shall employ all physical, administrative, and technical controls, screening, and security procedures and other safeguards necessary to: (a) securely administer the distribution and use of all Access Credentials and protect against any unauthorized access to or use of the Services; and (b) control the content and use of Customer Data, including the uploading or other provision of Customer Data for Processing by the Services.

7.5 International Data Transfers. Our Services are operated in the United States and intended for users located in the United States. If you are located outside of the United States, please be aware that information we collect, including Personal Data, will be transferred to, and processed, stored, and used in the United States in order to provide the Service to you. Where the General Data Protection Regulation applies and our processors of your Personal Data are located outside the European Economic Area, such transfer will only be to a recipient country that ensures an adequate level of data protection.

7.6 Additional Rights Provided to EU Individuals.

- **Access and Portability:** You have the right to ask us to access the information we hold about you, including Personal Data, and be provided with certain information about how we use your such information and who we share it with. Where you have provided your Personal Data to us with your consent, you have the right to ask us for a copy of this data in a structured, machine readable format and to ask us to share (port) this data to another data controller.
- **Right to deletion:** In certain circumstances, you have the right to ask us to delete the Personal Information we hold about you:
  - where you believe that it is no longer necessary for us to hold your data including Personal Information;
  - where we are processing your Personal Data on the basis of legitimate interests and you object to such processing and we cannot demonstrate an overriding legitimate ground for the processing;
  - where you have provided your Personal Data to us with your consent and you wish to withdraw your consent and there is no other ground under which we can process your Personal Data; or
  - where you believe the Personal Data we hold about you is being unlawfully processed by us.
- **Restriction:** In certain circumstances, you have the right to ask us to restrict (stop any active) processing of your Personal Data:
  - where you believe the Personal Data we hold about you is inaccurate and while we verify accuracy;
  - where we want to erase your Personal Data as the processing is unlawful, but you want us to continue to store it;
  - where we no longer need your Personal Data for the purposes of our processing, but you require us to retain the data for the establishment, exercise, or defense of legal claims; or
  - where you have objected to us processing your Personal Data based on our legitimate interests and we are considering your objection.

In addition, you can object to our processing of your Personal Data based on our legitimate interests and we will no longer process your Personal Data unless we can demonstrate an overriding legitimate ground.

To exercise any of these rights above, please contact us at [privacy@irtinc.us](mailto:privacy@irtinc.us).

Please note that these rights are limited, for example, where fulfilling your request would adversely affect other individuals where there are overriding public interest reasons or where we are required by law to retain your Personal Data.

You can withdraw your consent at any time by contacting us at [privacy@irtinc.us](mailto:privacy@irtinc.us).

- **Complaints:** In the event that you wish to make a complaint about how we process your Personal Data, please contact us in the first instance at [privacy@irtinc.us](mailto:privacy@irtinc.us) and we will endeavor to deal with your request as soon as possible. This is without prejudice to your right to raise a complaint with a relevant supervisory authority.

## 8. Fees and Payment.

8.1 Fees. Customer shall pay Provider the fees set forth on the purchase page of the website, which is incorporated by reference, ("**Fees**") in accordance with this Section 8. No fees for technical support are contained within this Agreement, and shall be quoted and contracted for in a separate agreement.

8.2 Taxes. All Fees and other amounts payable by Customer under this Agreement are exclusive of taxes and similar assessments. Without limiting the foregoing, Customer is responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Customer hereunder, other than any taxes imposed on Provider's income.

8.3 Payment. Customer shall make all payments related to access to the Services hereunder in US dollars through Provider's online e-commerce solution, or by check. Customer shall make payments to 5316 Highgate Drive, Suite 121, Durham, NC, 27713 or such other address or account as Provider may specify in writing from time to time.

8.4 Nonrefundable. All Fees for access to Services are due and payable in advance of access to the Services, and are non-refundable.

8.5 No Deductions or Setoffs. All amounts payable to Provider under this Agreement shall be paid by Customer to Provider in full without any setoff, recoupment, counterclaim, deduction, debit, or withholding for any reason.

## 8.6 Audits.

(a) Audit Procedure. Provider or its nominee (including its accountants and auditors) may, in Provider's sole discretion on ten (10) days' notice, inspect and audit Customer's use of the Services under this Agreement at any time during the Term and for three (3) following the termination or earlier expiration of this Agreement. All audits will be conducted during regular business hours. Customer shall make available all such books, records, equipment, information, and personnel, and provide all such cooperation and assistance, as may be requested by or on behalf of Provider with respect to such audit.

(b) Cost and Results of Audit. If the audit determines that Customer's use of the Services exceeded the usage permitted by this Agreement, Customer shall pay to Provider all amounts due for such excess use of the Services, plus interest on such amounts, as calculated pursuant to Section 8.3. If the audit determines that such excess use exceeds Customer's permitted level of use, Customer shall also pay to Provider all costs incurred by Provider in conducting the audit. Customer shall make all payments required under this Section 8.7 within thirty (30) days of the date of written notification of the audit results.

9. Confidentiality.

9.1 Confidential Information. In connection with this Agreement each party (as the "**Disclosing Party**") may disclose or make available Confidential Information to the other party (as the "**Receiving Party**"). Subject to Section 9.2, "**Confidential Information**" means information in any form or medium (whether oral, written, electronic, or other) that the Disclosing Party considers confidential or proprietary, including information consisting of or relating to the Disclosing Party's technology, trade secrets, know-how, business operations, plans, strategies, customers, and pricing, and information with respect to which the Disclosing Party has contractual or other confidentiality obligations. Without limiting the foregoing: all Provider Materials are the Confidential Information of Provider and the terms of this Agreement are the Confidential Information of the Provider.

9.2 Exclusions. Confidential Information does not include information that the Receiving Party can demonstrate by written or other documentary records: (a) was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information's being disclosed or made available to the Receiving Party in connection with this Agreement; (b) was or becomes generally known by the public other than by the Receiving Party's or any of its Representatives' noncompliance with this Agreement; (c) was or is received by the Receiving Party on a non-confidential basis from a third party that, was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or (d) the Receiving Party can demonstrate by written or other documentary records was or is independently developed by the Receiving Party without reference to or use of any Confidential Information.

9.3 Protection of Confidential Information. As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party shall:

- (a) not access or use Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with this Agreement;
- (b) except as may be permitted by and subject to its compliance with Section 9.4, not disclose or permit access to Confidential Information other than to its Representatives who: (i) need to know such Confidential Information for purposes of the Receiving Party's exercise of its rights or performance of its obligations under and in accordance with this Agreement; (ii) have been informed of the confidential nature of the Confidential Information and the Receiving Party's obligations under this Section 9.3; and (iii) are bound by confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this Section 9;
- (c) safeguard the Confidential Information from unauthorized use, access, or disclosure using at least the degree of care it uses to protect its sensitive information and in no event less than a reasonable degree of care;
- (d) promptly notify the Disclosing Party of any unauthorized use or disclosure of Confidential Information and take all reasonable steps/use its best efforts/cooperate with Disclosing Party to prevent further unauthorized use or disclosure; and
- (e) ensure its Representatives' compliance with, and be responsible and liable for any of its Representatives' non-compliance with, the terms of this Section 9.

Notwithstanding any other provisions of this Agreement, the Receiving Party's obligations under this Section 9 with respect to any Confidential Information that constitutes a trade secret under any applicable Law will continue until such time, if ever, as such Confidential Information ceases to qualify for trade secret protection under one or more such applicable Laws other than as a result of any act or omission of the Receiving Party or any of its Representatives.

9.4 Compelled Disclosures. If the Receiving Party or any of its Representatives is compelled by applicable Law to disclose any Confidential Information then, to the extent permitted by applicable Law, the Receiving Party shall: (a) promptly, and prior to such disclosure, notify the Disclosing Party in writing of such

requirement so that the Disclosing Party can seek a protective order or other remedy or waive its rights under Section 9.3; and (b) provide reasonable assistance to the Disclosing Party, at the Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the notice and assistance required under this Section 9.4, the Receiving Party remains required by Law to disclose any Confidential Information, the Receiving Party shall disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose and, on the Disclosing Party's request, shall use commercially reasonable efforts to obtain assurances from the applicable court or other presiding authority that such Confidential Information will be afforded confidential treatment.

9.5 Disclosure for Compliance. Each party shall have the right to identify the other party without approval of the other party to disclose the terms of this Agreement to prospective investors, sub-licensees, investment bankers, and regulatory authorities in connection with its financing, licensing, development, and stockholder relations activities or that it may deem to be required in any prospectus, offering memorandum, or other document or filing prepared in connection with its compliance obligations under applicable securities law or other applicable law or regulation.

## 10. Intellectual Property Rights.

10.1 Provider Materials. All right, title, and interest in and to the Provider Materials, including all Intellectual Property Rights therein, are and will remain with Provider and, with respect to Third-Party Materials, the applicable third-party providers own all right, title, and interest, including all Intellectual Property Rights, in and to the Third-Party Materials. Customer has no right, license, or authorization with respect to any of the Provider Materials except as expressly set forth in Section 2.1 or the applicable third-party license, in each case subject to Section 3.1. All other rights in and to the Provider Materials are expressly reserved by Provider. In furtherance of the foregoing, Customer hereby unconditionally and irrevocably grants to Provider an assignment of all right, title, and interest in and to the Resultant Data, including all Intellectual Property Rights relating thereto.

10.2 Customer Data. As between Customer and Provider, Customer is and will remain the sole and exclusive owner of all right, title, and interest in and to all Customer Data, including all Intellectual Property Rights relating thereto, subject to the rights and permissions granted in Section 10.3.

10.3 Consent to Use Customer Data. Customer hereby irrevocably grants all such rights and permissions in or relating to Customer Data as are necessary or useful to Provider, its independent contractors, and the Provider Personnel for any research purpose whatsoever, including publication in scientific journals, to enforce this Agreement, and to exercise Provider's, and the Provider Personnel's rights and perform Provider's, and the Provider Personnel's obligations hereunder.

## 11. Representations and Warranties.

11.1 Mutual Representations and Warranties. Each party represents and warrants to the other party that:

(a) it is duly organized, validly existing, and in good standing as a corporation or other entity under the Laws of the jurisdiction of its incorporation or other organization;

(b) it has the full right, power, and authority to enter into and perform its obligations and grant the rights, licenses, consents, and authorizations it grants or is required to grant under this Agreement;

(c) the execution of this Agreement by its representative whose signature is set forth at the end of this Agreement has been duly authorized by all necessary corporate or organizational action of such party; and

(d) when executed and delivered by both parties, this Agreement will constitute the legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms.

11.2 Additional Provider Representations, Warranties, and Covenants. Provider represents, warrants, and covenants to Customer that Provider will perform the Services using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and will devote adequate resources to meet its obligations under this Agreement.

11.3 Additional Customer Representations, Warranties, and Covenants. Customer represents, warrants, and covenants to Provider that Customer owns or otherwise has and will have the necessary rights and consents in and relating to the Customer Data so that, as received by Provider and Processed in accordance with this Agreement, they do not and will not infringe, misappropriate, or otherwise violate any Intellectual Property Rights, or any privacy or other rights of any third party or violate any applicable Law.

11.4 DISCLAIMER OF WARRANTIES. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN SECTION 11.1 AND SECTION 11.2, ALL SERVICES AND PROVIDER MATERIALS ARE PROVIDED "AS IS." PROVIDER SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, PROVIDER MAKES NO WARRANTY OF ANY KIND THAT THE SERVICES OR PROVIDER 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, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE. ALL THIRD-PARTY MATERIALS ARE PROVIDED "AS IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY THIRD-PARTY MATERIALS IS STRICTLY BETWEEN CUSTOMER AND THE THIRD-PARTY OWNER OR DISTRIBUTOR OF THE THIRD-PARTY MATERIALS.

## 12. Indemnification.

12.1 Provider Indemnification. Provider shall indemnify, defend, and hold harmless Customer, Customer's officers, directors, employees, agents, and Authorized Users (each, a "**Customer Indemnitee**") from and against any and all Losses incurred by Customer Indemnitee resulting from any Action by a third party other than an Affiliate of a Customer Indemnitee, that Customer's or an Authorized User's use of the Services (excluding Customer Data and Third-Party Materials) in accordance with this Agreement infringes or misappropriates such third party's US Intellectual Property Rights. The foregoing obligation does not apply to the extent that the alleged infringement arises from:

- (a) Third-Party Materials or Customer Data;
- (b) access to or use of the Provider Materials in combination with any hardware, system, software, network, or other materials or service not provided by Provider or specified for Customer's use in the Documentation;
- (c) modification of the Provider Materials other than: (i) by or on behalf of Provider; or (ii) with Provider's written approval in accordance with Provider's written specification;
- (d) failure to timely implement any modifications, upgrades, replacements, or enhancements made available to Customer by or on behalf of Provider; or
- (e) act, omission, or other matter described in Section 12.2(a), Section 12.2(b), Section 12.2(c), or Section 12.2(d), whether or not the same results in any Action against or Losses by any Provider Indemnitee.

12.2 Customer Indemnification. Customer shall indemnify, defend, and hold harmless Provider, Affiliates, and each of its and their respective officers, directors, employees, agents, independent contractors successors, and assigns (each, a "**Provider Indemnitee**") from and against any and all Losses incurred by such Provider Indemnitee resulting from any Action by a third party other than an Affiliate of a Provider Indemnitee to the extent that such Losses arise out of or result from, or are alleged to arise out of or result from:

(a) Customer Data, including any Processing of Customer Data by or on behalf of Provider in accordance with this Agreement;

(b) any other materials or information (including any documents, data, specifications, software, content, or technology) provided by or on behalf of Customer or any Authorized User, including Provider's compliance with any specifications or directions provided by or on behalf of Customer or any Authorized User to the extent prepared without any contribution by Provider;

(c) allegation of facts that, if true, would constitute Customer's breach of any of its representations, warranties, covenants, or obligations under this Agreement; or

(d) negligence or more culpable act or omission (including recklessness or willful misconduct) by Customer, any Authorized User, or any third party on behalf of Customer or any Authorized User, in connection with this Agreement.

12.3 Indemnification Procedure. Each party shall promptly notify the other party in writing of any Action for which such party believes it is entitled to be indemnified pursuant to Section 12.1 or Section 12.2, as the case may be. The party seeking indemnification (the "**Indemnitee**") shall cooperate with the other party (the "**Indemnitor**") at the Indemnitor's sole cost and expense. The Indemnitor shall promptly assume control of the defense and shall employ counsel of its own choice to handle and defend the same, at the Indemnitor's sole cost and expense. The Indemnitee may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing. The Indemnitor shall not settle any Action on any terms or in any manner that adversely affects the rights of any Indemnitee without the Indemnitee's prior written consent, which shall not be unreasonably withheld or delayed. If the Indemnitor fails or refuses to assume control of the defense of such Action, the Indemnitee shall have the right, but no obligation, to defend against such Action, including settling such Action after giving notice to the Indemnitor, in each case in such manner and on such terms as the Indemnitee may deem appropriate. The Indemnitee's failure to perform any obligations under this Section 12.3 will not relieve the Indemnitor of its obligations under this Section 12, except to the extent that the Indemnitor can demonstrate that it has been materially prejudiced as a result of such failure.

12.4 Sole Remedy. THIS SECTION 12 SETS FORTH CUSTOMER'S SOLE REMEDIES AND PROVIDER'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SERVICES AND PROVIDER MATERIALS OR ANY SUBJECT MATTER OF THIS AGREEMENT INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

### 13. Limitations of Liability.

13.1 EXCLUSION OF DAMAGES. IN NO EVENT WILL PROVIDER OR ANY OF ITS LICENSORS, SERVICE PROVIDERS, OR SUPPLIERS BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (a) LOSS OF PRODUCTION, USE, BUSINESS, REVENUE, OR PROFIT OR DIMINUTION IN VALUE; (b) IMPAIRMENT, INABILITY TO USE OR LOSS, INTERRUPTION OR DELAY OF THE SERVICES; (c) LOSS, DAMAGE, CORRUPTION OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY; (d) COST OF REPLACEMENT GOODS OR SERVICES; (e) LOSS OF GOODWILL OR REPUTATION; OR (f) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH

LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

13.2 CAP ON MONETARY LIABILITY. NO EVENT WILL THE COLLECTIVE AGGREGATE LIABILITY OF PROVIDER AND ITS LICENSORS, SERVICE PROVIDERS, AND SUPPLIERS ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING UNDER OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE TOTAL AMOUNTS PAID TO PROVIDOR UNDER THIS AGREEMENT IN THE TWELVE MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM. THE FOREGOING LIMITATIONS APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

14. Term and Termination.

14.1 Term. The term of this Agreement commences as of the Effective Date and, unless terminated earlier pursuant any of the Agreement's express provisions, will continue in effect until the expiration date, as described in the Services description at the time of purchase (the "**Term**").

14.2 Termination. In addition to any other express termination right set forth elsewhere in this Agreement:

(a) Provider may terminate this Agreement, effective on written notice to Customer, if Customer: (i) fails to pay any amount when due hereunder, and such failure continues more than sixty (60) days after Provider's delivery of written notice thereof; or (ii) breaches any of its obligations under Section 3.1, Section 7.3 or Section 9;

(b) either party may terminate this Agreement, effective on written notice to the other party, if the other party breaches this Agreement, and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured ten (10) days after the non-breaching party provides the breaching party with written notice of such breach; and

(c) either party may terminate this Agreement, effective immediately upon written notice to the other party, if the other party: (i) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (ii) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency Law; (iii) makes or seeks to make a general assignment for the benefit of its creditors; or (iv) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

14.3 Effect of Termination or Expiration. Upon any expiration or termination of this Agreement, except as expressly otherwise provided in this Agreement:

(a) all rights, licenses, consents, and authorizations granted by Provider to Customer will immediately terminate;

(b) notwithstanding anything to the contrary in this Agreement, with respect to information and materials then in its possession or control: (i) Provider may retain Customer Data and utilize any Customer Data for research purposes; and (ii) Provider may also retain Customer Data in its backups, archives, and disaster recovery systems until such Customer Data is deleted in the ordinary course.

(c) Provider may disable all Customer and Authorized User access to the Provider Materials;

14.4 Surviving Terms. The provisions set forth in the following sections, and any other right or obligation of the parties in this Agreement that, by its nature, should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement: Section 3.1, Section 9, Section 11.4, Section 12, Section 13, Section 14.3, this Section 14.4, and Section 15.

15. Miscellaneous.

15.1 Further Assurances. On a party's reasonable request, the other party shall, at the requesting party's sole cost and expense, execute and deliver all such documents and instruments, and take all such further actions, as may be necessary to give full effect to this Agreement.

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

15.3 Public Announcements. Neither party shall issue or release any announcement, statement, press release, or other publicity or marketing materials relating to this Agreement or, unless expressly permitted under this Agreement, otherwise use the other party's trademarks, service marks, trade names, logos, domain names, or other indicia of source, association, or sponsorship, in each case, without the prior written consent of the other party, which consent shall not be unreasonably withheld, provided, however, that Provider may, without Customer's consent, include Customer's name and other indicia in its lists of Provider's current or former customers of Provider in promotional and marketing materials.

15.4 Notices. Any notice, request, consent, claim, demand, waiver, or other communications under this Agreement have legal effect only if in writing and addressed to a party as follows (or to such other address or such other person that such party may designate from time to time in accordance with this Section 15.4):

If to Provider:           Innovation Research and Training, Inc.  
5316 Highgate Drive, Suite 121  
Durham, NC 27713  
Email: info@irtinc.us  
Attention: President

If to Customer:           Provided by Customer upon registration in Providers system.

Notices sent in accordance with this Section 14.4 will be deemed effectively given: (a) when received, if delivered by hand, with signed confirmation of receipt; (b) when received, if sent by a nationally recognized overnight courier, signature required; and (c) when sent, if by facsimile or email, with confirmation of transmission, if sent during the addressee's normal business hours, and on the next business day, if sent after the addressee's normal business hours.

15.5 Interpretation. For purposes of this Agreement: (a) the words "include," "includes," and "including" are deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; (c) the words "herein," "hereof," "hereby," "hereto," and "hereunder" refer to this Agreement as a whole; (d) words denoting the singular have a comparable meaning when used in the plural, and vice-versa; and (e) words denoting any gender include all genders. Unless the context otherwise requires, references in this Agreement: (x) to sections, exhibits, schedules, attachments, and appendices mean the sections of, and exhibits, schedules, attachments, and appendices attached to, this Agreement; (y) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. The parties intend this Agreement to be construed without regard to any presumption or rule requiring construction

or interpretation against the party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments, and appendices referred to herein are an integral part of this Agreement to the same extent as if they were set forth verbatim herein.

15.6 Headings. The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.

15.7 Entire Agreement. This Agreement, together with its exhibits, and documents incorporated by reference herein, constitutes the sole and entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements made in the body of this Agreement, the related exhibits, schedules, attachments, and appendices other than an exception expressly set forth as such therein, the following order of precedence governs: (a) first, this Agreement, excluding its exhibits, schedules, attachments, and appendices; (b) second, the exhibits, schedules, attachments, and appendices to this Agreement as of the Effective Date; and (c) third, any other documents incorporated herein by reference.

15.8 Assignment. Customer shall not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance under this Agreement, in each case whether voluntarily, involuntarily, by operation of law, or otherwise, without Provider's prior written consent. For purposes of the preceding sentence, and without limiting its generality, any merger, consolidation, or reorganization involving Customer (regardless of whether Customer is a surviving or disappearing entity) will be deemed to be a transfer of rights, obligations, or performance under this Agreement for which Provider's prior written consent is required. No assignment, delegation, or transfer will relieve Customer of any of its obligations or performance under this Agreement. Any purported assignment, delegation, or transfer in violation of this Section 15.8 is void. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective successors and permitted assigns.

15.9 Force Majeure.

(a) No Breach or Default. In no event will Provider or responsible to Customer, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by any circumstances beyond Provider's reasonable control (a "**Force Majeure Event**"), including acts of God, flood, fire, earthquake or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the date of this Agreement, national or regional emergency, strikes, labor stoppages or slowdowns or other industrial disturbances, passage of Law or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota, or other restriction or prohibition or any complete or partial government shutdown, or national or regional shortage of adequate power or telecommunications or transportation. Either party may terminate this Agreement if a Force Majeure Event continues substantially uninterrupted for a period of thirty (30) days or more.

(b) Affected Party Obligations. In the event of any failure or delay caused by a Force Majeure Event, Provider shall give prompt written notice to Customer stating the period of time the occurrence is expected to continue and use commercially reasonable efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

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

15.11 Amendment and Modification; Waiver. No amendment to or modification of this Agreement is effective unless it is in writing and signed by an authorized representative of each party. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so

waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

15.12 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

15.13 Governing Law; Submission to Jurisdiction. This Agreement is governed by and construed in accordance with the internal laws of the State of North Carolina without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of North Carolina. Any legal suit, action, or proceeding arising out of or relating to this Agreement or the licenses granted hereunder will be instituted in the Durham County, North Carolina, or the federal court encompassing Durham County and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding. Service of process, summons, notice, or other document by mail to such party's address set forth herein shall be effective service of process for any suit, action, or other proceeding brought in any such court.

15.14 Equitable Relief. Customer acknowledges and agrees that a breach or threatened breach by Customer any of its obligations under Section 9 would cause Provider irreparable harm for which monetary damages would not be an adequate remedy and that, in the event of such breach or threatened breach, Provider 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 post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise.

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

## EXHIBIT A

### END-USER LICENSING AGREEMENT (“EULA”) V.1 12092019

INNOVATION RESEARCH AND TRAINING, INC. (“iRT”). BY CLICKING THE "YES" BUTTON BELOW AND USING iRT'S SERVICES (“Services”), YOU (“You”) ARE ENTERING INTO AN AGREEMENT WITH iRT. YOUR ACCEPTANCE OF THIS END USER LICENSE AGREEMENT (“Agreement”) ACKNOWLEDGES THAT YOU (i) REPRESENT THAT YOU ARE DULY AUTHORIZED TO ACCESS AND USE THE SERVICES; AND (ii) ACCEPT THESE AUTHORIZED USER TERMS AND AGREE THAT YOU ARE LEGALLY BOUND BY THEM. IF YOU DO NOT AGREE TO THESE TERMS OF USE, DO NOT CLICK THE "YES" BUTTON AND YOU WILL HAVE NO LICENSE TO, AND MUST NOT ACCESS OR USE, THE SERVICES.

1. **Parental Consent and Contact Information.** You acknowledge that you have either (i) purchased a Service for your child directly on this website or (ii) been provided with access to the Services through your relationship with a third-party organization. If you have a child participating in the Services, You acknowledge that iRT has properly acquired your online contact information through this third-party organization (“Customer”). You acknowledge that iRT has received your online contact information, so that iRT may inform you about the Services or your child’s activities relating to the Services. In the event iRT becomes aware that we have collected personal information from any child under the age of sixteen (16), we will dispose of that information as quickly as possible. If you are a parent or guardian and you believe that your child under the age of sixteen (16) has provided us with personal information, please contact us immediately at: [privacy@irtinc.us](mailto:privacy@irtinc.us). **iRT does not knowingly collect, store, or solicit Personal Information of a child under the age of sixteen (16).** If you are a child under sixteen (16) years of age, you are not permitted to use our Services and should not send any information about yourself to us. In the event we become aware that we have collected Personal Information from any child under the age of sixteen (16), we will dispose of that information as quickly as possible. If you are a parent or guardian and you believe that your child under the age of sixteen (16) has provided us with Personal Information, please contact us immediately at: [privacy@irtinc.us](mailto:privacy@irtinc.us). Your contact information will not be used for any purpose other than obtaining your permission for your child to access the Services and informing you about your child’s online activities relating to the Services. **YOU ACKNOWLEDGE THAT BY ENTERING INTO THIS AGREEMENT, YOU ARE CONSENTING TO YOUR CHILD’S PARTICIPATION IN THE SERVICES. IF YOU DO NOT WISH FOR YOUR CHILD TO USE THE SERVICES, DO NOT CLICK YES.**
2. **License Grant.** In consideration for your adherence to the provisions of this Agreement, iRT grants you a personal, non-exclusive, non-transferable license to access and use iRT's Services via the Internet.
3. **Term.** iRT may terminate this Agreement at any time without notice. In addition, this Agreement will terminate immediately and automatically without any notice if you violate any of the terms and conditions of this Agreement. Upon termination: all rights granted to you under this Agreement will also terminate; and you must cease all use of the Services. Termination will not limit any of iRT’s rights or remedies at law or in equity.
4. **Internet as Delivery Mechanism.** You are responsible for: obtaining Internet services required to access the Services; any and all fees imposed by Internet service providers for provision of Internet services; and any communications service provider charges associated therewith. You acknowledge that there are certain security, corruption, transmission error, and access availability risks associated with using open networks such as the Internet and You hereby expressly assumes such risks (to the extent the law allows You to do so). You acknowledge that You have requested access to the Services for Your convenience, and have made your own independent assessment of the adequacy of the Internet as a delivery mechanism for accessing information and initiating instructions and that You are satisfied therewith.
5. **Use Restrictions.** You shall not, directly or indirectly:
  - a. use the Services except as set forth in Section 2;
  - b. copy the Services, in whole or in part;

- c. modify, translate, adapt, or otherwise create derivative works or improvements, whether or not patentable, of the Services or any part thereof; combine the Services or any part thereof with, or incorporate the Services or any part thereof in, any other programs;
  - d. reverse engineer, disassemble, decompile, decode, or otherwise attempt to derive or gain access to the source code of the software or any part thereof which provides the Services;
  - e. remove, delete, alter, or obscure any trademarks or any copyright, trademark, patent, or other intellectual property or proprietary rights notices included on or in the Services including any copy thereof;
  - f. rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise provide any access to or use of the Services or any features or functionality of the Services, for any reason, to any other person or entity, including any subcontractor, independent contractor, affiliate, or service provider, whether or not over a network and whether or not on a hosted basis, including in connection with the internet, web hosting, wide area network (WAN), virtual private network (VPN), virtualization, time-sharing, service bureau, software as a service, cloud, or other technology or service;
  - g. use the Services in violation of any law, regulation, or rule; or
  - h. use the Services for purposes of competitive analysis of the Services, the development of a competing software product or service, or any other purpose that is to iRT's commercial disadvantage.
6. **Use of Your Information.** You acknowledge that information (i) provided to, (ii) collected by, or (iii) stored by iRT through your use of the Services is considered non-confidential and may be disclosed to others by iRT at its discretion for business purposes, including but not limited to performing research. Notwithstanding the foregoing, iRT shall treat any information as confidential and shall only disseminate such information for legitimate business purposes or if legally compelled. Legitimate business purposes include, but are not necessarily limited to, sharing (i) contact and substantive information collected during Your interaction(s) with the Services with the Customer who purchased Your license to access the Services for its own evaluation and monitoring purposes, and (ii) Your information with third-party content providers that may have contributed to the content of the Services subject to this Agreement for marketing, survey, feedback and support purposes. All information we collect is subject to our Privacy Policy which is located at: [http://irtinc.us/Portals/1/documents/iRT\\_Internet\\_Privacy\\_Policy-2019-09-19.pdf](http://irtinc.us/Portals/1/documents/iRT_Internet_Privacy_Policy-2019-09-19.pdf)
7. **Intellectual Property Rights.** You acknowledge that the Services are provided under license, and not sold, to you. You do not acquire any ownership interest in the Services Agreement, or any other rights to the Services than to use the Services in accordance with the license granted under this Agreement, subject to all terms, conditions, and restrictions. iRT reserves and shall retain its entire right, title, and interest in and to the Services and all intellectual property rights arising out of or relating to the Services. Additionally, you provide iRT with an, irrevocable, worldwide, royalty-free, and non-exclusive license to reproduce, adapt, modify, translate, publish, publicly perform, publicly display, and distribute any content which you submit, post, or display on or through, the Services.
8. **Limitation of Liability.** iRT, INCLUDING ANY THIRD-PARTY SERVICE PROVIDERS, SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES RESULTING FROM YOUR USE, OR INABILITY TO USE, THE SERVICES; FOR THE COST OF OBTAINING SUBSTITUTE GOODS AND SERVICES; OR FOR ANY DAMAGES OR LOSS OF PROFITS, USE, DATA, OR OTHER INTANGIBLES EVEN IF iRT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. iRT SHALL NOT BE LIABLE FOR ANY AND ALL MATTERS RELATING TO THIS AGREEMENT FOR ANY AMOUNT IN EXCESS OF THE GREATER OF \$50 OR THE LICENSE FEES YOU PAID OR THAT WERE PAID ON YOUR BEHALF. SOME JURISDICTIONS DO NOT PERMIT THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. SOME OF THE LIMITATIONS, THUS, MAY NOT APPLY TO YOU.
9. **DISCLAIMER OF WARRANTIES.** YOU EXPRESSLY ACKNOWLEDGE THAT YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK AND THAT THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE." iRT SHALL NOT BE RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA RESULTING FROM YOUR USE OF THE SERVICES.

iRT, TO INCLUDE ITS THIRD-PARTY SERVICE PROVIDERS, EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

iRT, TO INCLUDE ITS THIRD-PARTY SERVICE PROVIDERS, DOES NOT WARRANT THAT ITS SERVICES WILL MEET YOUR REQUIREMENTS; THAT YOUR ACCESS TO THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE; OR THAT THE INFORMATION OBTAINED THROUGH THE SERVICES IS RELIABLE OR ACCURATE. iRT MAKES NO WARRANTY REGARDING THE RESULTS OBTAINED FROM THE USE OF THE SERVICES.

SOME JURISDICTIONS DO NOT PERMIT THE EXCLUSION OF CERTAIN WARRANTIES. SOME OF THE EXCLUSIONS CONTAINED IN THIS AGREEMENT, THUS, MAY NOT APPLY TO YOU.

10. **Limitation of Time to File Claims.** ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE APPLICATION MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES OTHERWISE SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.
11. **Export Regulation.** You shall not, directly or indirectly, export, re-export, or release the Services, or make the Services accessible from, any jurisdiction or country to which export, re-export, or release is prohibited by law, rule, or regulation. You shall comply with all applicable federal laws, regulations, and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing, or otherwise making the Services available outside the US.
12. **Entire Agreement.** This Agreement and our Privacy Policy constitute the entire agreement between you and Company with respect to the Services and supersede all prior or contemporaneous understandings and agreements, whether written or oral, with respect to the Services.
13. **Miscellaneous.**
  - a. iRT may modify this Agreement at any time without providing prior notice to you. Such modifications shall be effective immediately upon posting the amendments to the website through which you access the Services or through other means of notifying you. Your continued access or use of the Services shall be deemed to be your acceptance of any such amendments.
  - b. This Agreement shall be governed by the laws of the State of North Carolina without regard to its conflict of law provisions. You agree to submit to the personal and exclusive jurisdiction of the courts having jurisdiction over the county in which iRT maintains its principle place of business.
  - c. The failure of iRT to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision.
  - d. If any portion of this Agreement is found by a court of competent jurisdiction to be invalid, the parties agree that the remaining provisions shall remain in full force and effect and that the court should attempt to give effect to the parties' intentions as reflected in the stricken portion.