

# Standard Terms and Conditions

TRACTION ENTERPRISE CO.

## TERMS AND CONDITIONS

These terms and conditions are a legal agreement entered into between Traction Enterprise Co. ("**ToD**") and the client ("**Client**") identified in a Statement of Work that incorporates or references these terms and conditions. Together, these terms and conditions, any terms and conditions or Statements of Work that reference them, and any attachments, addenda, and exhibits thereto are collectively the "**Agreement**".

### 1. Definitions.

1.1 The following terms shall have the following meanings. All capitalized terms not otherwise set out in this section shall have the meaning as set out in the section of these terms and conditions in which they are defined.

(a) "**Affiliate**" means, with respect to any party to the Agreement, any person, partnership, joint venture, company, corporation or other entity which directly or indirectly controls, is controlled by, or is under common control with such party where "control" (or variants of it) means the ability to direct the affairs of another by means of ownership, contract or otherwise.

(b) "**Business Day**" means any day except Saturdays, Sundays or a statutory holiday.

(c) "**Change Order**" has the meaning given to the term in Section 5.1.

(d) "**Fees**" means the fees payable by the Client to ToD, including technology fees (as agreed to between the parties in a SOW) and all applicable duties, levies, taxes, or similar governmental assessments of any nature, including but not limited to value added, goods and services, sales and use, or withholding taxes, assessable by any local, state, provincial, federal, or foreign jurisdiction, if any.

(e) "**Intellectual Property**" means all systems, applications, software code (in any form, including source code, executable or object code), original works of authorship, algorithms, tool-kits, technology, widgets, formulae, programs, concepts, work-arounds, databases, designs, diagrams, documentation, drawings, charts, ideas, inventions (whether or not such inventions are patentable), know-how, trademarks (whether registered or not), brand names, logos, slogans, methods, techniques, models, procedures, and processes.

(f) "**Intellectual Property Rights**" means all: (a) copyrights, (b) moral rights, (c) rights associated with works of authorship, (d) trademark rights, (e) trade name rights, (f) trade secret rights, (g)

patent and industrial property rights (whether registered or not), and (h) other proprietary rights, in Intellectual Property.

(g) **“Salesforce”** means the Salesforce.com software as a service (SaaS) platform, including, without limitation, the Salesforce software.

(h) **“Services”** means the consulting services to be provided by ToD to the Client as described in the Agreement, including the use of ToD’s tools that analyze Client’s Salesforce org metadata, if applicable, and any related SOW(s) and includes any resulting deliverables.

(i) **“Statement(s) of Work” or “SOW(s)”** means any statements of work including any changes and modifications to them, that describe the Services to be provided by ToD to the Client.

## 2. SOWs and Provision of Services

**2.1 Provision of Services.** ToD shall provide the Services to the Client in accordance with the terms of the Agreement.

**2.2 SOWs.** If there is a conflict between the terms of a SOW and these terms and conditions, these terms and conditions shall prevail unless explicitly overridden with a cross-reference to this provision. For conflicts related to indemnification, Intellectual Property, limitations of liability, confidentiality, or data privacy, these terms and conditions will always prevail for the purpose of that conflict.

**2.3 Location and Travel.** If ToD’s employees or subcontractors are required to travel in order to perform the Services contemplated in a SOW, the Client shall reimburse ToD for reasonable air travel and other business related expenses incurred by ToD in performing the Services but only to the extent that the Client has expressly approved such expenses in writing in advance. In the event ToD’s employees or subcontractors are required to travel for the provision of the Services, the Client shall provide a meal allowance per day of travel. Reimbursement of such reimbursable expenses shall be made by the Client upon submission by ToD of a statement itemizing the expenses incurred and such other satisfactory evidence requested by the Client, acting reasonably.

**2.4 Affiliates and Subcontractors.** ToD may use its Affiliates and/or subcontractors to perform the Services. ToD shall be liable for the actions and omissions of its Affiliates and subcontractors to the same extent as if such actions and omissions were performed directly by ToD, and for purposes of the Agreement, all work performed by ToD’s Affiliates and subcontractors shall be deemed work performed by ToD. ToD shall be Client’s sole point of contact regarding the Services, including with respect to payment of the Fees.

## 3. Workflow and Access

**3.1 Client’s Obligations.** The parties will participate in a collaborative and cooperative development process where ToD will regularly delivery iterations of its work to the Client for review and input. Therefore, successful completion of the Services and in accordance with the applicable SOWs is expressly conditioned on the engagement and active participation of the Client which includes providing ToD with timely and decisive feedback upon ToD’s request. ToD’s

successful performance of the Services is also dependent on the following responsibilities being managed and fulfilled by the Client, at no charge to ToD. The Client will:

- (a) ensure that sufficient and appropriate Third Party Developer licenses are purchased, as required;
- (b) take reasonable steps to ensure that all Client personnel participating in the Services are knowledgeable about the Services;
- (c) appoint a representative to supervise and coordinate the Client's performance of its obligations under the Agreement, including on each SOW. The representative will interact with ToD in a professional and prompt manner. Client's representative will have the necessary expertise and authority to act on behalf of the Client;
- (d) not require ToD to work with its competitors that ToD believes, acting reasonably, may be exposed to ToD's Confidential Information;
- (e) provide ToD with prompt access to the Client's systems, data, and documentation, as may reasonably be required by ToD to facilitate the provision of the Services;
- (f) be responsible for the content of any database, the selection and implementation of controls on access and use, backup and recovery of its data, and security of stored data, including implementing any procedures necessary to safeguard the integrity and security of software and data accessed by ToD in the provision of the Services;
- (g) provide ToD with prompt access to necessary personnel, as may reasonably be required by ToD;
- (h) use the Services only for their intended purpose;
- (i) comply with all applicable law;
- (j) provide appropriate direction, as requested by ToD; and
- (k) perform appropriate and timely testing as agreed in a SOW or as agreed between the parties.

**3.2 ToD's Obligations.** ToD will provide the Services to the Client:

- (a) in accordance with any timelines described in a SOW or Change Order, subject to Client meeting its obligations in that SOW or Change Order and herein;
- (b) so as to materially meet the specifications in a SOW or Change Order, subject to the Client meeting its obligations in such a SOW and herein; and
- (d) with personnel knowledgeable about the Services who are under appropriate supervision.

ToD will determine the methods, details, and means of performing the Services, except as may be specifically identified in a particular SOW.

**3.3 Client Delays.** In the event of any delays in the provision of the Services or any part thereof that are attributable to the Client ("Client Delays"), ToD may:

(a) invoice the Client the rates contained in the SOW, or if no rates are contained in the SOW, then ToD's list rates, for the hours ToD uses to accommodate the Client Delay and the hours ToD is not able to reallocate as a result of the Client Delays;

(b) change its resource team allocated to the Services; and

(c) require further changes to the timeline for the provision of the Services, and the Client agrees that such further delays shall not constitute a default by ToD.

#### 4. Payment Terms

**4.1 Terms of Payment.** The Client will pay all Fees in accordance with the payment terms as set out in the Agreement including in the applicable SOW. Unless otherwise provided in the relevant SOW, ToD will invoice the Client twice per month and the Client will pay the Fees in respect of such invoice within thirty days of the date of such invoice. All invoices are deemed accepted by the Client within five Business Days after they have been delivered to the Client. All amounts owing on account of past due invoices will incur interest at a rate of 1.5% per month (18% per annum equivalency), calculated monthly (or if such interest rate is not permitted by applicable law, then the maximum interest rate permitted by applicable law), until such time as they are paid in full. Client shall be responsible for legal fees incurred by ToD for the collection of any unpaid invoices.

**4.2 Fees.** Fees for the Services shall be specified, or calculable in the applicable SOW.

**4.3 Suspension of Services.** Except when Client is disputing the applicable charges reasonably and in good faith and is cooperating diligently to resolve the dispute, if any charge owing by Client is 30 days or more overdue, ToD may, without limiting its other rights and remedies, suspend its performance of Services until such amounts are paid in full.

#### 5. Changes

**5.1** In the event either ToD or the Client requires a material change to the scope of work, the timeline, the Services, or the Fees set out in a SOW, the party requesting such change shall communicate such change to the other party in writing and will provide the other party with a reasonable opportunity to assess the impact of such changes. If the parties agree to such changes, such acceptance will be evidenced in writing by way of a mutually executed change order ("**Change Order**") or by secured electronic means between Client and ToD, including but not limited to Traction Enable and email, and such changes will be incorporated into the Agreement. Neither party will be required to agree to any changes that materially change the Services or have a material impact on the business of the party.

## 6. Deployment

**6.1** For each SOW, to the extent deployment is required, ToD and the Client shall use reasonable efforts to set a deployment schedule: (i) at the commencement of the Services; or (ii) if ToD and the Client are unable to set a deployment schedule at the commencement of the Services, at least 45 days in advance of the anticipated deployment date. In the event the Client requires a change to the deployment schedule that is not a result of ToD's acts or omissions, the Client shall notify ToD no later than 10 Business Days prior to the scheduled deployment date. A change in the deployment schedule may constitute a Client Delay.

## 7. Warranties

**7.1** Each party hereby represents and warrants that: (i) it is duly registered and validly exists under the laws of the jurisdiction in which it is registered; (ii) it has the legal right, authority and full power to enter into the Agreement and to perform its obligations under the Agreement; and (iii) it will comply with all laws, regulations and ordinances applicable to its performance under this Agreement.

**7.2** ToD hereby represents and warrants that it will provide all Services in a professional and workmanlike manner consistent with then-current applicable industry standards and practices. For any breach of the foregoing warranty, Client's exclusive remedy and ToD's entire liability will be the re-performance of the applicable Services. If ToD is unable to re-perform the Services as warranted, Client will be entitled to recover the Services fees paid to ToD for the deficient Services. Client must make any claim under the foregoing warranty to ToD in writing within 90 days of performance of such Services in order to receive warranty remedies.

**7.3** ToD's core business is implementing and customizing third party cloud software, including Salesforce and App Exchange software, developed by third parties ("**Third Party Developers**"). ToD makes no representations or warranties regarding Third Party Developers or their software, to anyone, express, implied, or statutory. Third Party Developers may require the Client to enter into license agreements or pay license fees for the use of their software which, unless expressly set out herein or in a SOW, are not included in the Fees. Except as expressly set out in a SOW, ToD will not be responsible for any fixes, patches, or replacement code that may be required as a result of any software changes made by Third Party Developers.

**7.4** The warranties provided in these terms and conditions comprise all the warranties made with respect to the Services. Any other representations, warranties, conditions, or other terms, whether express or implied and including, without limitation, implied warranties, conditions and other terms of merchantability, satisfactory quality or fitness for a particular purpose, are expressly excluded to the extent permitted by applicable law.

## 8. Indemnification

**8.1** Each party (the "**Indemnitor**") agrees to defend, hold harmless and indemnify the other party ("**Indemnitee**"), its officers, directors, employees, agents, and subcontractors from and against any and all expenses, loss or liability incurred by the Indemnitee, its officers, directors, employees, agents, or subcontractors as a result of (A) any third party claims arising from the gross negligence, willful misconduct or fraud of the Indemnitor and (B) any third-party claim that the Intellectual Property of the Indemnitor infringes upon or violates any Intellectual Property

Rights of any third party. The foregoing indemnification obligations of the Indemnitor are conditional upon the Indemnitee providing the Indemnitor with prompt written notice of any such claim or action. Any failure to provide such notice shall only relieve the Indemnitor of its indemnification obligations under these terms and conditions to the extent the Indemnitor can demonstrate actual, material prejudice to its ability to mount a defense as a result of such failure. The Indemnitor shall have sole control over the defence of any such claim or action and the Indemnitee shall cooperate in such defence. The Indemnitor shall obtain the Indemnitee's prior written consent, which consent shall not be unreasonably withheld or delayed, for any settlement or compromise of any claim that does not include the unconditional release of the Indemnitee from the indemnified liability hereunder or requires any specific performance, non-pecuniary remedy or for the payment of any amount by the Indemnitee.

**8.2** If ToD believes that the ToD Intellectual Property may be subject to any claim of infringement, and if Client's use of the ToD Intellectual Property is held to infringe and its use is enjoined, then ToD will, at ToD's own expense and option: (i) procure for Client the right to continue using the ToD Intellectual Property; or (ii) replace same with non-infringing Intellectual Property; or (iii) modify the ToD Intellectual Property so that it becomes non-infringing. If none of the foregoing is available on terms that are commercially reasonable for ToD, then ToD may terminate Client's rights to access and use the ToD Intellectual Property that requires the infringing Intellectual Property. ToD has no obligation with respect to any actual or claimed infringement if the infringement is solely caused by Client data, use of the Services other than as specified in any documentation provided by ToD, or combination of the Services with any products, software, services, data or other materials not provided by, required by, or approved by ToD, unless such use is necessary in order to use the Services.

**8.3** This "Indemnification" section states the Indemnitor's sole liability to, and the Indemnitee's exclusive remedy against, the other party for any type of claim described in this section.

## 9. Limitation of Liability

**9.1 NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY CHARACTER, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS OR GOODWILL, WORK STOPPAGE, LOSS OF INFORMATION OR DATA, OR LOSS OF REVENUE OR PROFIT, RESULTING FROM THE PROVISION OF OR RELIANCE UPON THE SERVICES, OR OTHER FINANCIAL LOSS ARISING OUT OF OR IN CONNECTION WITH THE SERVICES, REGARDLESS OF THE LEGAL THEORY ASSERTED, WHETHER BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE.**

**9.2 SUBJECT TO APPLICABLE LAW, EVEN IF TOD HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE, TOD'S AGGREGATE AND TOTAL LIABILITY UNDER THE AGREEMENT FOR ANY AND ALL CLAIMS ARISING OUT OF THE AGREEMENT SHALL BE LIMITED TO DIRECT DAMAGES AND SHALL NOT EXCEED AMOUNTS PAID OR DUE BY THE CLIENT TO TOD UNDER THE APPLICABLE SOW. EXCEPT AS SET FORTH UNDER APPLICABLE LAW, DAMAGES SET FORTH IN THIS**

**SECTION 9.2 ARE THE PARTIES' SOLE EXCLUSIVE MONETARY REMEDY AND THE SOLE AND EXCLUSIVE ALTERNATIVE REMEDY IN THE EVENT ANY OTHER REMEDY FAILS OF ITS ESSENTIAL PURPOSE. FOR THE AVOIDANCE OF DOUBT, THE PARTIES MAY NOT LIMIT THEIR LIABILITY WHERE PREVENTED FROM DOING SO BY APPLICABLE LAW.**

## 10. Intellectual Property

**10.1** All Intellectual Property made available or disclosed to the Client as part of the Services, under any SOW or otherwise, or that is contained in past services provided by ToD (collectively, **"ToD Intellectual Property"**), and all Intellectual Property Rights in ToD Intellectual Property are and shall remain the sole and exclusive property of ToD. Except for the license to ToD Intellectual Property pursuant to Section 10.2 of these terms and conditions, the Client is granted no right, title, or interest in the ToD Intellectual Property.

**10.2** ToD grants to the Client a worldwide, perpetual, non-exclusive, royalty free license (the **"License"**) to use the ToD Intellectual Property solely for the Client's internal purposes as part of the Services or as part of any systems implemented by ToD in the provision of the Services. The License does not apply to ToD's proprietary tools used to perform the Services. Licences for such tools are not included in the SOW unless explicitly provided therein. Other than the License, no ownership or license in any ToD Intellectual Property is granted to the Client and, for greater certainty, but without limitation, the Client shall not be granted any rights to license, sub-license, sell, assign, transfer, or grant the ToD Intellectual Property to any third parties without the prior express written consent of ToD.

**10.3** All Intellectual Property that was owned by or developed by or acquired by the Client or its Affiliates separate from the Agreement and without any use of the Services or the ToD Intellectual Property (collectively, **"Client Intellectual Property"**) shall remain the exclusive property of the Client. No rights of any kind shall be granted to ToD in the Client Intellectual Property or any Confidential Information belonging to the Client, save and except that ToD shall have a limited license to use the Client's Intellectual Property to the extent necessary to provide the Services.

## 11. Confidential Information

**11.1** For the purposes of the Agreement, "Confidential Information" means any information that is disclosed by one party (the "Disclosing Party") to the other party (the "Receiving Party") in the course of ToD providing the Services to the Client and that a reasonable person would consider to be confidential in the circumstances. Confidential Information includes, but is not limited to, the parties' business information, customer information, trade secrets, the terms of each SOW, and personal information of the parties' employees, contractors and customers. Confidential Information does not include any information that is disclosed by one party to another party if that information: (a) is at the time of disclosure in the possession of the Receiving Party or any of its Affiliates and was obtained without an obligation of confidence; (b) is independently developed by the Receiving Party or any of its Affiliates without any use of or reference to the Confidential Information; (c) is or becomes publicly available without the Receiving Party's breach of any obligation of confidence; (d) is acquired by the Receiving Party from a third party who provided the information without breaching any express or implied obligations or duties to the Disclosing Party; or (e) is intentionally released for disclosure by the Disclosing Party or with the Disclosing Party's prior written consent.

**11.2** Each of ToD and the Client agree with the other that it shall:

- (a) take all reasonable steps to maintain the confidentiality of the other party's Confidential Information;
- (b) not copy the Confidential Information except as may reasonably be required by ToD in the provision of the Services;
- (c) not use the Confidential Information for its own purposes;
- (d) safeguard all documents containing Confidential Information against theft, damage or access by unauthorized persons;
- (e) use the same degree of care with respect to the Confidential Information as it employs with respect to its own proprietary or confidential information of like importance; and
- (f) except as required by law or a valid court order, and subject to the Receiving Party informing the Disclosing Party of such legal requirement, only disclose such Confidential Information to those officers, directors, officers, employees, agents, and subcontractors ("**Receiving Party's Personnel**") who need to know in order to perform their obligations under the Agreement. The Receiving Party will ensure that the Receiving Party's Personnel who need to know the Confidential Information agree to maintain the confidentiality of such Confidential Information on terms no less stringent than the terms of these herein confidentiality provisions.

**11.3** Upon termination of the Services, each party will, without undue delay, upon written request from the other party, return to the other party or destroy all Confidential Information of the other party in its possession or control. Notwithstanding anything contained herein to the contrary, Receiving Party shall not be obligated to destroy Confidential Information to the extent otherwise required by law, regulation, legal, regulatory or judicial process, rule or practice governing professionals or any internal compliance policy or procedure relating to the safeguarding or backup storage of data

**11.4** Unless otherwise expressly prohibited, ToD may use the name, logo, and identifying description of the Client in its list of customers and ToD may generally make known the relationship between ToD and the Client. In the event the Client has brand guidelines and notifies ToD of those brand guidelines, ToD will only use the Client's name and logo in accordance with the Client's brand guidelines.

## 12. Term and Termination

**12.1 Termination for Convenience.** Either party may terminate this Agreement at any time for convenience upon 10 days' written notice to the other. To the extent there are SOWs in effect when a party terminates this Agreement, such SOWs shall continue to be governed by this Agreement as if it had not been terminated. Client may terminate an individual SOW for convenience to the extent set forth in such SOW.



**12.2** Either party may terminate the Agreement by providing written notice if the other party:

(a) is in material breach of the Agreement (including, without limitation, failure to pay the Fees) and such breach has not been cured within thirty (30) days, or such time period as is mutually agreed upon by the parties, of the provision of notice of such breach to the breaching party; or

(b) is or becomes insolvent or bankrupt, becomes the subject of any proceedings under bankruptcy, insolvency or debtor's relief law, has a receiver, administrator or manager appointed, makes an assignment for the benefit of creditors or takes the benefit of any applicable law or statute in force for the winding up or liquidation of corporations.

**12.3** The covenants contained in these terms and conditions under Sections 1 (Definitions), 2.2 (SOWs), 3.1 (Client's Obligations), 4 (Payment Terms), 7 (Warranties), 9 (Limitation of Liability), 10 (Intellectual Property), 11 (Confidential Information), 14 (Force Majeure), 15 (Data and Privacy Protection), 17 (General), and this part shall survive the termination of the provision of the Services and the Client hereby acknowledges and agrees that the provisions of and all restrictions contained in these terms and conditions are reasonable and are necessary for the protection of the parties' legitimate interests and proprietary rights and are an essential condition of the Agreement.

### **13. Intentionally Omitted**

### **14. Force Majeure**

**14.1** Neither party to the Agreement shall be liable for any failure to comply with its obligations under the Agreement if the failure to comply is caused by or results from conditions or causes beyond its reasonable control including, but not limited to: shortage of water, power, acts of God, war, terrorism, riots, fire, flood, explosion, governmental controls or regulations, embargoes, wrecks or delays in transportation, labour disputes, civil insurrection, civil or military authority, inability to obtain necessary labour, materials of manufacturing facilities due to such causes or delays of subcontractors or supplies of each party in furnishing materials or supplies due to one or more of the foregoing causes. In an event of a force majeure, each party shall be allowed a reasonable period of time to fulfill the obligations under the Agreement having regard to the applicable circumstances. An event of force majeure shall not relieve the Client of its payment obligations pursuant to the Agreement.

### **15. Data and Privacy Protection**

**15.1** Should ToD's provision of Services require it to Process Personal Data, ToD shall do so in accordance with and Client shall have the obligations as set out in the Data Processing Addendum found here: <https://www.tractionondemand.com/data-processing-addendum/>. Any capitalized terms in this Section not defined at Section 1 of these terms and conditions shall have the meaning ascribed to it in the Data Processing Addendum.

### **16. Dispute resolution.**

**16.1 Negotiation.** If there is a dispute or difference ("**Dispute**") between the parties arising out of or in connection with the Agreement, then within five (5) business days of a party notifying the

other party in writing of the Dispute, a senior representative from each party shall meet and use all reasonable endeavours acting in good faith to resolve the Dispute by joint discussions.

**16.2 Court proceedings and other relief.** A party may not start court proceedings in relation to a Dispute until it has exhausted the procedures in Section 16.1, unless the party seeks injunctive or other interlocutory relief.

**16.3 Equitable Remedies.** The Parties agree that monetary damages may be an inadequate remedy for any breach or threatened breach of any provision of these terms and conditions concerning Confidential Information, Intellectual Property Rights or other matters for which equitable rights may be granted. Accordingly, such provision may be enforced by injunction or other order of a court of competent jurisdiction.

## **17. General**

**17.1 Headings.** The headings used in these terms and conditions are for convenience and reference only and shall not affect the construction or interpretation of these terms and conditions. The term “this part” when used herein shall mean the entire part, including sections and subsections within that part, unless inconsistent with the context of such use.

**17.2 Currency.** Except where otherwise expressly provided, all monetary amounts in the Agreement are stated and shall be paid in U.S. currency.

**17.3 Relationship of the Parties.** The parties are independent contractors. The Agreement shall not be construed as creating any partnership, joint venture, or agency among the parties and no party shall be deemed to be the legal representative of any other party for the purposes of the Agreement. No party shall have and shall not represent itself as having, any authority to act for, to undertake any obligation on behalf of any other party, except as expressly provided in the Agreement.

A party may make known the relationship between ToD and the Client, provided that such party does not disclose any Confidential Information of the other party or proprietary details of the Services.

**17.4 Gender, Plural and Singular.** In these terms and conditions, unless the context otherwise requires, the masculine includes the feminine and the neuter genders and the plural includes the singular and vice versa, “or” is not exclusive and “including” is not limiting, and modifications to the provisions of the Agreement may be made accordingly as the context requires.

**17.5 Alterations.** No alteration or amendment to the Agreement shall take effect unless it is in writing duly executed by each of the parties.

**17.6 Proper Law of Agreement.** The Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein without regard to the conflicts of law principles, and the parties agree to attorn to the exclusive jurisdiction of British Columbia.

**17.7 Invalidity.** The invalidity or unenforceability of any provision of these terms and conditions shall not affect the validity or enforceability of any other provision and any such invalid or unenforceable provision shall be deemed to be severable.

**17.8 Notices.** Any notice, payment or other communication required or permitted to be given or served pursuant to the Agreement shall be in writing and shall be delivered personally or by email to the party concerned at the address specified in these terms and conditions, or to any other address as may from time to time be notified in writing by any of the parties. In the case of ToD, any such notices must also be copied and sent by email to [legal@tractionondemand.com](mailto:legal@tractionondemand.com). Any notice, payment or other communication shall be deemed to have been given on the day delivered, if delivered by hand, and within four Business Days following the date of posting, if mailed; provided that if there shall be at the time or within four Business Days of mailing a mail strike, slow-down or other labour dispute that might affect delivery by mail, then the notice, payment or other communication shall be effective only when actually delivered.

**17.9 Entire Agreement.** The provisions of the Agreement, including the DPA, constitute the entire agreement between the parties and supersede all previous communications, representations and agreements, whether oral or written, between the parties with respect to the subject matter of the Agreement.

**17.10 No Strict Construction.** The language in all parts of these terms and conditions shall in all cases be construed as a whole and neither strictly for, nor strictly against, any of the parties to the Agreement.

**17.11 Assignment.** Except with written consent of the other party, neither party may assign any of their respective benefits, obligations or liabilities under or in respect of the Agreement, provided, however that: (a) ToD may assign the Agreement to an Affiliate of ToD, at its sole discretion; and (b) either party may assign the Agreement, in its entirety, in the event of sale of all or substantially all of its assets or a merger or acquisition. No assignment shall relieve the assigning party of any of its obligations hereunder.

**17.12 Enurement.** The Agreement shall enure to the benefit of and be binding upon the parties and, except as otherwise provided or as would be inconsistent with the provisions of the Agreement, their respective heirs, executors, administrators, successors and permitted assigns.

**17.13 Counterparts.** The Agreement may be signed by the parties in as many counterparts as may be necessary, each of which so signed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument. The Agreement may be executed and delivered electronically. An executed copy of the Agreement delivered electronically will constitute valid execution and delivery.

*Last updated 4/7/2022.*