



Last Updated: March 6, 2024

These OPER8™ End User Licence Agreement and Terms of Service (this “**Agreement**”) form a legal and binding agreement between the legal entity or entities that accept(s) this Agreement (“**you**”) and **BID Group Technologies Ltd.** as provider and licensor (“**we**” or “**us**”). This Agreement governs your access to and use of any materials, content, or services provided through the comprehensive solution designed for managing, optimizing, and automating the processes involved in industrial manufacturing operations known as OPER8™, owned or operated by us.

Under the OPER8 brand, we offer, among other things, software-as-a-service/cloud-hosted software, applications, websites, portals, local software, and other technology services that provide functionalities for real-time data collection, analysis, and reporting to enhance efficiency, productivity, and decision-making within manufacturing environments (collectively, the “**OPER8 Services**”). By downloading, accessing, or using any OPER8 Services, you accept and agree to be bound by this Agreement.

1. Proposals; Grant of Licence and/or Access to the OPER8 Services.

(a) **Proposals.** We and you may mutually execute one or more written proposals which reference this Agreement (each, a “**Proposal**”), and each such Proposal will be subject to the terms of this Agreement.

(b) **Grant of Limited Licence.** Subject to the terms of this Agreement, including the payment of Fees and any restrictions set forth in the applicable Proposal entered into by us and you, we grant you, during each OPER8 Service Term (as defined below), a limited, non-sublicensable (except to Users as defined below), nonexclusive, revocable (at any time with or without notice or cause), non-transferable (except to a permitted assignee as set out in Section 25) right to use the specific OPER8 Services and Service Content (defined below) as made available by us and as specified on the applicable Proposal. In some cases, the Proposal will specify metrics by which the OPER8 Services may be limited, such as seats, named Users, projects, or locations. Your permitted use of the OPER8 Services licenced hereby will be limited in those ways, must not exceed the number, or bounds of purchased metrics, and must be used for your internal business purposes only. You will not copy or distribute (except as reasonably necessary to Users) the OPER8 Services, the Documentation, or any other written materials accompanying the OPER8 Services. In this Agreement, “**Documentation**” means any documentation distributed by us or our authorized resellers pertaining to the OPER8 Services, including any accompanying or online user guides, technical information, user documentation, the Proposal, and technical data sheets, in each case, as may be updated or amended by or on behalf of us from time to time.

(c) **Additional Restrictions on Licence.** You agree to respect all copyright and other legal notices, information, and restrictions contained in any Content (defined below) accessed through the OPER8 Services. You further agree not to change, translate, or otherwise create any derivative works of the OPER8 Services. You agree to adhere to any terms of any app store, mobile software platform, payment platform, or other third-party services provided in connection with your or your Users’ use of the OPER8 Services. BID Group reserves all rights in and to the OPER8 Services not expressly granted to you under this Agreement, and you only have a limited licence to use the OPER8 Services in accordance with this Agreement. You

will not directly or indirectly permit any person other than a User from using the OPER8 Services.

(d) **Term.** Unless terminated earlier as set out in this Agreement or pursuant to the terms of a particular Proposal, the term of this Agreement will commence on your acceptance of this Agreement as set out above (or the date specified on the first Proposal, whichever is earlier) and will continue until the last-to-expire Proposal. However, the term of any particular OPER8 Services will commence upon the earlier of your first access of such OPER8 Services or the effective date specified in the Proposal for such OPER8 Services, whichever is earlier, and will continue until the termination or expiry of the Proposal (the “**OPER8 Service Term**”). To the extent that any OPER8 Service Term remains, the term of this Agreement shall continue as applicable to such OPER8 Services.

2. **Responsibilities.** Subject to Section 1, we will provide the OPER8 Services to you in accordance with the Documentation and, to the extent more particularly set out in the Proposal, in a commercially reasonable manner (e.g., by FTP or USB delivery for installed OPER8 Services in the nature of software or databases, embedding the OPER8 services into certain hardware or equipment, or providing API-, cloud- or web-based access to the OPER8 services over the Internet or through other technological means). In connection with that the foregoing, you will:

(a) be responsible for your Users’ compliance with this Agreement;

(b) be responsible for procuring and operating all computer networks, software, and telecommunications services required to meet the minimum technical specifications necessary to access the OPER8 Services;

(c) use commercially reasonable efforts to prevent unauthorized access to or use of the OPER8 Services, and notify us promptly of any such unauthorized access or use;

(d) use the OPER8 Services only in accordance with the Documentation and applicable laws and government regulations;

(e) if applicable to any particular OPER8 Services, comply with Terms of Service, End User Licence Agreement, or Terms of Use for such OPER8 Services being used as published from time to time via such OPER8 Service, which are hereby incorporated into this Agreement by reference as it relates only to such particular OPER8 Services; and

(f) to the extent reasonably required by us to provide the OPER8 Services, grant us access to your IT network system in accordance with the access and security rules and policies communicated to us in writing by your IT department, and cooperate with us to enable remote access, via a virtual private network or other means, to the portion of your IT network system necessary for our provision of the OPER8 Services.

3. **Registration Data; Account Security.**

(a) **User.** In this Agreement, “**User**” means an individual: (i) who is permitted by the particular Proposal to be an authorized user; (ii) who is authorized by you, by virtue of your having legally-binding obligations committing such individual to comply with this Agreement and the Documentation, to use the OPER8 Services within your organization; and (iii) where applicable, to whom you have supplied appropriate user identification, password or other



credentials. Users may include, for example, your employees, individual consultants, and individual independent contractors; however, unless a particular Proposal states otherwise, you may not sublicense any OPER8 Services to any of your affiliates or to third parties for their potential Users. You are responsible for your Users as if each act or omission of such User were your own. Where a particular OPER8 Service is embedded within a piece of equipment or hardware, a User includes any person authorized to use such equipment or hardware.

(b) **Account Creation.** In some cases, Users may be required to register for OPER8 Services by creating an account (each, a “**User Account**”). You are responsible for any and all use of your Users’ Accounts, including any action that takes place using your Users’ Accounts by any person or automated process, and as such you are responsible for ensuring your Users maintain the confidentiality and security of their passwords to their Users’ Accounts, and immediately notifying us upon any unauthorized use of your Users’ passwords or your Users’ Accounts.

(c) **Account Information.** As part of creating a User Account or, having done so, using or requesting any OPER8 Services, you will ensure that your Users provide us with accurate, current, and complete information about themselves (collectively, “**Account Information**”). You agree to ensure that your Users maintain and promptly update their Account Information from time to time, to keep it accurate, current, and complete at all times.

(d) **Confirmation.** **YOU AND YOUR USERS ARE, AND WE ARE NOT, RESPONSIBLE FOR THE VERACITY AND RELIABILITY OF ALL USER ACCOUNT INFORMATION, INCLUDING INFORMATION YOU MAY LEARN ABOUT OTHER USERS THROUGH THE SERVICES.** If we deem it necessary in our sole discretion, we may independently verify or ask you for proof of any Account Information. If you are unable to provide proof, we reserve the right, at our sole discretion, to halt your registration or terminate your User Account, or suspend or limit your access to any OPER8 Services. We do not have the obligation to do the foregoing, and do not assume responsibility for a failure to verify or confirm any Account Information.

4. **Fees.** By signing a Proposal, you agree to pay the fees detailed in such Proposal (the “**Fees**”) in accordance with the terms of such Proposal for the relevant OPER8 Services. You acknowledge and agree that (a) the Fees are exclusive of any applicable taxes, and (b) unless and only to the extent a Proposal specifies a Fee collar for a specified period of time, may be updated or amended from time to time upon reasonable notice to you such that your continued use of the OPER8 Services following such notice constitutes your acceptance of any new or increased Fee. Failure to timely pay Fees, including failure to maintain accurate billing information, will be deemed a material breach of this Agreement and we may, but are not obligated to, terminate, suspend, or cancel your access to the OPER8 Services, or any OPER8 Service, in our sole discretion.

5. **Refund Policy.** All prepaid Fees are non-refundable. We will not provide refunds or credits for any partial subscription periods or unused OPER8 Services. If you have a periodic subscription, you will not be refunded or credited any portion of your last paid Fees; however, you will be able to continue access the OPER8 Services until the end of the current billing cycle, subject always to the terms of this Agreement. If you cancel or downgrade a periodic subscription, you will not receive a refund based on the outstanding period in the relevant OPER8 Service Term, and instead the cancellation or downgrade will be applied once the current period completes.

6. **Privacy.** We care about the privacy of our users and take steps to protect it. You can view our privacy policy here: [URL to follow], which describes how we may use, access, preserve, store, transfer, and disclose your Users' personal information, including personal information contained in Account Information. You further acknowledge that the OPER8 Services use the Internet and other third-party networks, and that, accordingly, any information or communications may be processed or transmitted over various networks outside of our control and for which we do not have any responsibility.
7. **Amendments to Agreement.** We reserve the right to change, modify, add, or delete portions of this Agreement (but for greater certainty, not a Proposal except as set out therein) in our sole discretion from time to time without further notice. If we do this, we will post the latest version of this Agreement on our website in the same place that you are reading this, and we will indicate at the top of such page the date of the last update to this Agreement. Your continued use of the OPER8 Services, which use includes you continuing to make available your User Content (defined below) through the OPER8 Services or any use of the OPER8 Services, after any such change, modification, addition, or deletion constitutes your acceptance of the Agreement as revised. If you do not agree to abide by this or any future version of the Agreement, do not use or access the OPER8 Services. While we will use reasonable means to attempt to deliver you advance notice of material changes, it is your responsibility to regularly check our website to determine if there have been changes to this Agreement and to review such changes.
8. **Modifications to the OEPR8 Services.** Except for specific commitments made in a Proposal, we reserve the right at any time and from time to time in our sole discretion to perform maintenance on, to add to, to remove from, to make upgrades and updates to, to suspend, and to modify the OPER8 Services, or any part thereof with or without notice. **NOTWITHSTANDING ANY PROVISION HEREIN, YOU AGREE THAT WE WILL NOT BE LIABLE IN ANY MANNER TO YOU, YOUR USERS OR TO ANY THIRD PARTY FOR ANY SUCH MAINTENANCE, ADDITION, REMOVAL, UPGRADE, UPDATE, SUSPENSION, OR MODIFICATION.** We will use commercially reasonable efforts to give you notice of any such maintenance, addition, removal, upgrade, suspension or modification to the extent material to your use of the OPER8 Services.
9. **Content.** In this Agreement, "**Content**" means all materials and content of any type, including ratings, photos, graphics, images, designs, profiles, messages, data, readings, information, notes, text, information (including Account Information and postings made or materials transmitted through the OPER8 Services), music, sound, video, articles, and software.
 - (a) **User Content and Your Licence to Us.** The OPER8 Services permit you and your Users to submit, transmit, copy, make available, and distribute Content (collectively, subject to Section 9(d), your "**User Content**" and, as the context requires, "**User Content**" will also mean the Content submitted, transmitted, copied, made available, and distributed by our other clients' users), and we do not claim ownership over any User Content. By providing any User Content, you acknowledge that we reserve the right to refuse to accept, display, or transmit any User Content in our sole discretion. In order for us to provide the OPER8 Services, on behalf of yourself and your Users, you grant us and our affiliates as they may be from time to time (collectively, the "**BID Group**") the limited, worldwide, royalty-free, non-exclusive right and licence to use, distribute, reproduce, modify, adapt, perform, and display such User Content as permitted by the functionality of the OPER8 Services (the "**User Content Licence**") provided that: (i) the User Content Licence is limited to the purpose of offering and improving the OPER8 Services; (ii) the User Content Licence includes the right to sublicense to third party

service providers for the sole purpose of offering and improving the OPER8 Services, at all times in accordance with this Agreement; and (iii) except as set out in the following sentence, the User Content Licence will end a commercially reasonable period after such User Content is removed from the OPER8 Services by you or your Users, and we will cease to use User Content except as permitted hereby.

(b) ***Your Responsibility for User Content.*** By providing us access to any User Content, you represent and warrant to us, on your behalf and on your Users' behalf, that: (i) you have all right, title, and interest required to grant the User Content Licence (including, as applicable, having first obtained such right, title, and interest from your Users); (ii) the User Content does not infringe on any other person's copyright, trade-mark, proprietary interests, trade secrets, privacy, or other intellectual property rights; and (iii) no User Content contains any libellous, defamatory, or otherwise unlawful material, and you hereby agree to indemnify us and hold us harmless from any claims, losses, damages, or expenses incurred by us in respect of any third party claims that your User Content infringes on any other person's rights. Without limiting that, **YOU, AND NOT WE, ASSUME FULL RESPONSIBILITY FOR ALL OF YOUR USER CONTENT, INCLUDING IF A THIRD PARTY SUES US.**

(c) ***Other Permitted Uses.*** **THE USER CONTENT LICENCE INCLUDES ALL RIGHTS FOR US TO USE, DISCLOSE, ACCESS, STORE, AND TRANSMIT YOUR USER CONTENT AS SET OUT IN OUR PRIVACY POLICY. WE MAY ANONYMIZE OR AGGREGATE YOUR USER CONTENT, SUCH THAT IT NO LONGER IDENTIFIES INDIVIDUAL USERS, AND CONTINUE TO USE IT FOR ANY PURPOSE, BOTH DURING AND AFTER YOU AND YOUR USERS USE THE SERVICES.**

(d) ***Feedback.*** User Content does not include any questions, comments, complaints, suggestions, ideas, feedback, or other information about the OPER8 Services, or other Service Content that you or your Users provide to us, all of which will be non-confidential. Without limiting the foregoing, BID Group will be entitled to the unrestricted use and dissemination thereof for any purpose, commercial or otherwise, without acknowledgment or compensation to you or your Users.

(e) ***Service Content.*** All Content stored on, made available, or disseminated using the OPER8 Services (other than your own User Content), including the OPER8 Services themselves, all other users' Content, any Content made available by BID Group or any third party, and the selection and arrangement of all such Content and User Content (collectively, the "**Service Content**"), is our or our licensors' property, with all rights reserved, and we (or, as applicable, our licensors) retain and will retain all right, interest and title (including all intellectual property rights) in and to all Service Content. Your right to use Service Content is strictly covered by Section 1 above.

(f) ***Third Party Sites and Content.*** The OPER8 Services may rely upon (or you may be presented with) links to other web sites, services, applications, platforms, or frameworks ("**Third Party Sites**") as well as content belonging to or originating from parties other than us or BID Group (the "**Third Party Content**"). Such Third-Party Sites and Third Party Content are not investigated, monitored, or checked for accuracy, appropriateness, or completeness by us, and we are not responsible for any Third Party Sites accessed through the OPER8 Services or any Third Party Content available on the OPER8 Services, including the accuracy, safety, functioning, offensiveness, opinions, reliability, or policies of or contained in the Third Party Sites or the Third Party Content. The inclusion of or linking to any Third-Party Site or any

Third-Party Content does not imply approval or endorsement thereof by us and does not guarantee that any Third-Party Content will function with the OPER8 Services or will be error-free. If you decide to access the Third-Party Sites, you do so at your own risk and you acknowledge and agree that our terms and policies do not govern same and that we have no liability arising from your use of or access to any Third-Party Site or Third-Party Content. You should review the applicable terms and policies, including privacy and data gathering practices, of any Third-Party Site to which you navigate from the OPER8 Services. Further, we are in no way responsible for references to or representations, endorsements, reviews, recommendations, or sponsorship of the OPER8 Services or any users on any Third-Party Sites.

(g) **Usage Data.** BID Group may access, use, and otherwise process data and metadata derived from your use of the OPER8 Services (the “Usage Data”) to maintain and improve the OPER8 Services, provided that such Usage Data is aggregated in a manner that prevents you or any of your Users from being identified.

10. **User Conduct (Things You Must Not Do).** Any use of the OPER8 Services or any Service Content other than as specifically authorized in this Agreement, without our prior written permission, is strictly prohibited. Without restricting that or anything else in this Agreement, you agree to, and will ensure that your Users do, not, directly, or indirectly:

- (a) request, offer, negotiate, or complete any services that (i) would violate, or lead to the violation of, any applicable local, provincial, territorial, national, or international law or regulation, (ii) encourage or facilitate illegal activity, pornographic, or obscene services, or (iii) you have no legal right to request or perform;
- (b) alter, modify, copy, distribute, frame, reproduce, republish, download, display, post, transmit, or sell in any form or by any means, in whole or in part, any OPER8 Service or Service Content, except as strictly set out herein;
- (c) except to the extent required to be permitted by the law of your jurisdiction (but in such case, only upon written notice to us), reverse engineer, decompile, or disassemble, translate, or otherwise attempt to extract the source code from any OPER8 Service, the Service Content, or any part thereof;
- (d) make OPER8, any OPER8 Services, or Service Content available to anyone, or permit anyone to access same, nor licence, sublicense, sell, resell, publish, republish, transfer, assign, distribute, rent, lease, time-share, copy or otherwise commercially exploit the OPER8 Services in any way except in furtherance of your permitted use in accordance with this Agreement;
- (e) republish any Service Content on any internet, intranet, or extranet site or incorporate the information in any other database or compilation, without our prior written permission or the permission of the particular Content owner, as the case may be;
- (f) use any data mining, robot, or similar data gathering or extraction methods with respect to any OPER8 Services or Service Content;
- (g) register for more than one User Account, register for a User Account on behalf of an individual other than themselves, or register for a User Account on behalf of any group

or non-individual entity (except if they are duly authorized to do so by such group or entity);

- (h) impersonate any person or entity, or falsely state or otherwise misrepresent, any information, in the case of Users, use or attempt to use another user's account or the OPER8 Services without express authorization from us or the applicable user;
- (i) upload, post, transmit, share, or otherwise make available on the OPER8 Services any User Content that (i) consists of any unsolicited or unauthorized advertising, solicitations, promotional materials, "junk mail", "spam", "chain letters", "pyramid schemes", or any other form of solicitation, (ii) contains any private information of any third party, including addresses, phone numbers, email addresses, Social Insurance Numbers, US Social Security numbers, credit card numbers, financial information, and other personally identifying or private information, unless that third party has consented to such use of its private information, (iii) is harmful, threatening, unlawful, defamatory, infringing, abusive, inflammatory, harassing, vulgar, obscene, fraudulent, invasive of privacy or publicity rights, hateful, or racially, ethnically, politically, or otherwise objectionable, including any activity that in our sole discretion is detrimental to protected grounds under applicable human rights legislation, (iv) contains software viruses, malware, phishing links, or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment, collect personal information or carry out computer frauds or impersonations, or (v) would constitute, encourage, or provide instructions for a criminal offense, violate the rights of any party, or that would otherwise create liability or violate any applicable local, provincial, territorial, national, or international law or regulation;
- (j) disable or circumvent any access control or related process or procedure established with respect to the OPER8 Services, or attempt to gain unauthorized access to the OPER8 Services or Service Content, or remove any copyright or other proprietary notices on or in the OPER8 Services or Service Content or any part thereof;
- (k) intentionally or unintentionally violate any applicable local, provincial, territorial, national, or international law or regulation, or any court order or lawful order of any governmental authority;
- (l) access OPER8 Services, or any Service Content, in order to (i) build a competitive product or service, or (ii) copy any features, functions or graphics of OPER8 Services or any Service Content;
- (m) utilize the OPER8 Services in any way except as expressly permitted by this Agreement, including by developing or using any software tool or other application that interfaces with the OPER8 Services or the Service Content except for standard web browsers through permitted access mechanisms on our sites; or
- (n) interfere with or disrupt the OEPR8 Services or Service Content (including the servers, networks or technology connected to the OPER8 Service).

11. **Objectionable Material.** You acknowledge and agree that: (a) you are solely responsible for all of your Users' Content; and (b) we may, but are not obligated to, review and remove from the



OPER8 Services (without notice) any User Content, in our sole discretion, including any User Content that violates this Agreement. You agree that you must evaluate, and bear all risks associated with, the use of any User Content, including any reliance on the accuracy, completeness, or usefulness of such Content. In this regard, you acknowledge that you may not rely on any Service Content (except for this Agreement, the Privacy Policy and other legally binding agreements between you and us) for any purpose whatsoever. You will also comply with any of your own local laws regarding online conduct and acceptable content.

12. **Termination.** We reserve the right to terminate, suspend, or deactivate your User Account if we suspect or determine, in our sole discretion, that you have misused our OPER8 Services, have used our OPER8 Services to violate any law, or have breached any term of this Agreement; where commercially reasonable to do so, we will give you thirty days' notice of such breach and an opportunity to cure the same, using the contact information on the Proposal. You will immediately cease all use of the relevant OPER8 Services and any Service Content upon termination.

13. **Trademarks.** Notwithstanding anything else in this Agreement, "OPER8", the BID Group logo and design, and all other trade-marks, trade dress, graphics, logos, designs, page headers, button icons, scripts, and service names used by BID Group on or in connection with the OPER8 Services (collectively, the "**Marks**") are registered trademarks, trademarks, or trade dress of us or our licensors and all right, title, and interest in and to the Marks, whether registered or not, are and will remain vested in us or in our licensors, as applicable. The Marks may not be used, including as part of trademarks, trade names, trade dress, or as part of domain names, in connection with any product or service in any manner that is likely to cause confusion and may not be copied, imitated, or used, in whole or in part, without our prior written permission. Reference on the OPER8 Services to any products, services, processes or other information by trade name, trademark, manufacturer, supplier, or otherwise does not constitute or imply endorsement, sponsorship, or recommendation thereof by, or any affiliation thereof with, BID Group.

14. **User-and-User Disputes and Release.** To the extent that the OPER8 Services allow your Users to interact with other users, please note that the OPER8 Services are only a venue for connecting users: we are not involved in the actual contact between users or in any dealings between them. Rather, you are solely responsible for your Users' interactions with other users. If any of your Users have a dispute with one or more users, you must resolve it with them. **YOU IRREVOCABLY RELEASE BID GROUP (AND THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, INVESTORS, SUBSIDIARIES, AND EMPLOYEES) FROM ANY AND ALL CLAIMS, DEMANDS, OR DAMAGES (ACTUAL OR CONSEQUENTIAL) OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, SUSPECTED AND UNSUSPECTED, DISCLOSED AND UNDISCLOSED, DIRECT, OR INDIRECT ARISING OUT OF OR IN ANY WAY CONNECTED WITH SUCH DISPUTES.**

15. **Limited Warranties and Disclaimers.**
 - (a) **Corporate Authorization and Status.** Each of us and you represent and warrant as follows: (i) it has full power and authority to enter into and perform its obligations under this Agreement; (ii) the individual or individuals signing this Agreement on its behalf has or have been properly authorized and empowered to enter into this Agreement; (iii) it is in good standing in its jurisdiction of incorporation and that all of its constating and organizational documents are complete, fully executed and in order; and (iv) its performance of this

Agreement will not conflict with, or result in the breach of, any express or implied obligation or duty (contractual or otherwise) that it now or in the future owes to any other person.

(b) **Limited Warranty.** We represent and warrant that we will use commercially reasonable efforts: (i) to make the OPER8 Services available to you during the applicable OPER8 Service Terms in accordance with the relevant Documentation; and (ii) to resolve any downtime or errors. Such commercially reasonable support efforts remain are your sole remedy for any breach of this representation and warranty.

(c) **No Responsibility for Others' Content. WE ARE NOT RESPONSIBLE OR LIABLE IN ANY MANNER FOR YOUR USER CONTENT, ANY OTHER USER'S USER CONTENT, OR THIRD-PARTY CONTENT, WHETHER OR NOT AVAILABLE THROUGH THE SERVICES OR OTHER USERS.** Although we provide this Agreement and other policies and rules for user conduct, we do not control and are not responsible for our users' actions and are not responsible for any Content you may encounter on the OPER8 Services. We are not responsible for the conduct, whether online or offline, of any user. Notwithstanding anything else in this Agreement, we have no responsibility to monitor any user Content or Third-Party Content.

(d) **Availability.** The OPER8 Services may be temporarily unavailable from time to time for maintenance or other reasons. We assume no responsibility for any error, omission, interruption, deletion, defect, delay in operation or transmission, communications line failure, theft or destruction or unauthorized access to, or alteration of, User Content. We are not responsible for any problems or technical malfunction, including any problem or malfunction of any telephone network or lines, computer online systems, servers or providers, computer equipment, software, failure of email or persons, traffic congestion on the Internet or at any site or application, or combination thereof.

(e) **GENERALLY, "AS-IS" AND "AS-AVAILABLE". EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES SET OUT HEREIN, THE OPER8 SERVICES AND THE SERVICE CONTENT ARE PROVIDED "AS IS" AND "AS AVAILABLE" AND BID GROUP DISCLAIMS ANY AND ALL OTHER REPRESENTATIONS, WARRANTIES, AND CONDITIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES, REPRESENTATIONS, OR CONDITIONS OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, AS WELL AS ANY WARRANTIES IMPLIED BY ANY COURSE OF PERFORMANCE, USAGE OF TRADE, OR COURSE OF DEALING. WE CANNOT GUARANTEE AND DO NOT PROMISE ANY SPECIFIC RESULTS FROM USE OF THE OPER8 SERVICES OR MAKE ANY WARRANTY AS TO THE TIMELINESS, ACCURACY, RELIABILITY, COMPLETENESS, OR QUALITY OF ANY PROFESSIONAL SERVICE, INFORMATION OR MATERIALS PROVIDED THROUGH OR IN CONNECTION WITH THE USE OF THE SERVICE CONTENT, INCLUDING THE OPER8 SERVICES. THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER CONDITIONS, REPRESENTATIONS, AND WARRANTIES (EXPRESS, IMPLIED OR STATUTORY).**

(f) **Internet.** We are not responsible for any aspect of your connection to the internet as may be required for the proper use of the OPER8 Services, nor the internet more broadly (or, for that matter, any network or connection that we do not directly control). We cannot guarantee the security of data transmission over the internet.

16. **Limitation on Liability.** Notwithstanding anything to the contrary in this Agreement,
- (a) **YOU AGREE THAT ANY CLAIM BY YOU UNDER THIS AGREEMENT AGAINST BID GROUP MUST BE BROUGHT WITHIN ONE YEAR OF THE ACT GIVING RISE TO THE CLAIM.**
- (b) **IN NO EVENT WILL BID GROUP OR THEIR RESPECTIVE DIRECTORS, PARTNERS, OFFICERS, EMPLOYEES, CONTRACTORS, OR AGENTS, BE LIABLE TO YOU, YOUR USERS, OR ANY THIRD PERSON FOR: (i) ANY LOST PROFITS, LOST BUSINESS OPPORTUNITIES, LOST DATA, THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; (ii) ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, OR ANY PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, ARISING FROM YOUR USE OR YOUR USERS' USE OF THE OPER8 SERVICES, THE SERVICE CONTENT, OR OTHER MATERIALS ON OR ACCESSED THROUGH THE OPER8 SERVICES (INCLUDING ALL THIRD PARTY CONTENT AND THIRD PARTY SITES), EVEN IF BID GROUP IS AWARE OR HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND (iii) ANY DIRECT DAMAGES IN AGGREGATE IN EXCESS OF THE AMOUNT ACTUALLY PAID BY YOU TO US FOR THE RELEVANT OPER8 SERVICES DURING THE TWELVE MONTH PERIOD IMMEDIATELY PRIOR TO SUCH DIRECT DAMAGE ARISING.**
17. **Indemnity. YOU ARE FULLY RESPONSIBLE FOR YOUR ACTIONS AND YOUR USERS' INTERACTIONS WITH OTHER USERS.** Without limiting any other indemnity granted herein, you agree to release, indemnify, and hold BID Group, and each of their respective directors, officers, agents, contractors, partners, and employees, harmless from and against any loss, liability, claim, demand, damages, costs, and expenses, including reasonable legal and accounting fees, arising out of or in connection with: (a) the use of your Users' User Content; (b) your use of the OPER8 Services in a manner that violates this Agreement, any law, or any right of any third party (including any intellectual property or privacy or other right of any such third party); and (c) any interactions, disputes, or controversies that arise between your Users and other users.
18. **Confidentiality. "Confidential Information"** means information that is designated in writing as "confidential" at the time of disclosure, or which you should reasonably understand or anticipate that BID Group would consider confidential or proprietary. Confidential Information includes: (i) the terms of the Proposal, including the pricing structure for OPER8 Services provided to you; (ii) the object code of the OPER8 Services; and (iii) BID Group's (1) development techniques and strategies, (2) ideas, discoveries, inventions (whether or not patentable), trade secrets, and know-how, (3) research or technical data, (4) designs, plans, prototypes, drawings, documents, and Documentation, and (5) all information belonging to third parties to whom BID Group owes any obligation of confidentiality. Notwithstanding the foregoing, Confidential Information does not include information that you can demonstrate using documentary evidence: (a) is in the public domain or is generally publicly known through no improper action by you; (b) was rightfully in your possession or known by it prior to receipt from BID Group; (c) is rightfully disclosed without restriction to you by a third party without violation of any

confidentiality covenant by such third party; or (d) is independently developed by you without any direct or indirect use whatsoever of the Confidential Information. You agree to hold Confidential Information in confidence and not to use it for any purpose other than the purposes permitted under this Agreement. You agree to use the same standard of care to protect Confidential Information as you use to protect your own similar confidential and proprietary information, but in no event less than a reasonable standard of care. Confidential Information of BID Group may only be disclosed to those of your affiliates, employees, contractors, and advisors, as applicable, on a need-to-know basis and who agree to be bound by confidentiality restrictions at least as restrictive as those contained in this Agreement; provided, that nothing will prevent or prohibit you from using or disclosing Confidential Information as may be required by law, rule, regulation, or legal process (provided that you use commercially reasonable efforts to notify us of such lawful requirement and assist us in our efforts to restrict, contest or limit such required disclosure). Confidential Information remains at all times the property of BID Group. Unless otherwise explicitly set forth herein, no licences or rights under any patent, copyright, trademark, or trade secret are granted or are to be implied with respect to Confidential Information.

19. **Remedies.** You acknowledge that the OPER8 Services and Service Content contain valuable trade secrets and proprietary information of us and are protected by applicable intellectual property laws and treaties and by international copyright law and that any actual or threatened breach of the licences granted herein will: (a) constitute infringement or misappropriation of our intellectual property rights; and (b) cause immediate, irreparable harm to us for which monetary damages would be an inadequate remedy and for which injunctive relief is an appropriate remedy, in addition to any other remedy available to us.
20. **No Agency.** You hereby acknowledge and agree that no employment, joint venture, partnership, or agency relationship exists between you and any of BID Group as a result of this Agreement or your use of our OPER8 Services. We are solely independent contractors.
21. **Export Restrictions.** You will comply with all laws, regulations, permits, orders, and other restrictions to the extent that they are applicable to the procurement and use of controlled goods, and will not, directly or indirectly, export or re-export (as defined in applicable law) any controlled goods or any information about the controlled goods to any country in contravention of applicable laws relating to export or re-export.
22. **Governing Law; Venue and Jurisdiction.** We care about addressing your concerns in an informal and efficient manner. For any dispute you have with us regarding the OPER8 Services, you may contact us and attempt in good faith to resolve the dispute informally by reporting the dispute to our customer service online at any time by contacting us at the address indicated in the Proposal. You agree that the laws of the Province of British Columbia, Canada, without regard to principles of conflict of laws, will govern this Agreement and any dispute of any sort that might arise between you and us. You hereby irrevocably attorn to the exclusive jurisdiction of the Courts of the City of Vancouver, British Columbia, Canada with respect to any dispute hereunder. Each party hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.
23. **Force Majeure.** Each party's obligation (other than your obligation to pay Fees when due) will be suspended during any period that the party is rendered incapable of performing by virtue of any criminal acts of third parties, war, viruses, plagues, pandemics, epidemics, acts of public enemies, severe weather conditions, utility failures, strikes or other labor disturbances, fires,

floods, other natural disasters, other acts of God, unforeseeable acts of employees, telecommunication or interruption of Internet service, or any causes of like or different kind beyond any reasonable control of the party.

24. **Waiver.** Our failure to insist in any instance upon any payment or performance when due by you will not relieve you of any of your obligations with respect to such performance or constitute a waiver of our right to insist upon the full and timely performance in the future of any of your obligations under this Agreement.
25. **Assignment.** Neither this Agreement nor the rights and licences granted hereunder are assignable or transferable by you without our prior written consent; any attempt to do so will be null and void *ab initio*. The preceding will not apply to (a) a transfer of this Agreement to an assignee that is acquiring all or substantially all of your assets, shares, or business relevant to the OPER8 Services, except you and such assignee will, unless agreed by us otherwise in writing, be jointly and severally liable under this Agreement, or (b) where the relevant OPER8 Services are embedded in hardware or equipment, the novation or assignment, as the case may be, of this licence to the recipient or transferee of such hardware or equipment, provided that you must obtain legally-binding commitment from such recipient or transferee to be bound hereby with us. We may assign this Agreement in whole or in part in our sole discretion.
26. **Interpretation.** Headings are for convenience only and will not be used to interpret, or as a guide for interpretation of, this Agreement. The word “or” is not exclusive and the word “including”, or similar language, is not limiting (whether or not non-limiting language such as “without limitation” or “but not limited to” or other words of similar import are used with reference thereto). A word importing the masculine gender includes the feminine and neuter, a word in the singular includes the plural, a word importing a corporate entity includes an individual, and vice versa and “person” will mean an individual, partnership, corporation (including a business trust), joint stock company, trust unincorporated association, joint venture, or other entity or a government or any agency, department, or instrumentality thereof and vice versa.
27. **Other.** Together with the Proposal, this Agreement constitutes the entire agreement between you and us regarding the use of the OPER8 Services, superseding any prior agreements between you and us relating to your use of the OEPR8 Services and all other Service Content. Our failure to exercise or enforce any right or provision of this Agreement will not constitute a waiver of such right or provision in that or any other instance. If any provision of this Agreement is held invalid, unlawful, void, or unenforceable for any reason, that provision will be deemed severable, and the remainder of this Agreement will continue in full force and effect. This Agreement will ensure to the benefit of, and be binding upon, parties hereto and their respective heirs, executors, administrators, successors, and permitted assigns.
28. **English Language.** The parties have requested and agree that this Agreement and all documents relating thereto be drawn up in English. *Les parties ont demandé que cette convention ainsi que tous les documents qui s’y rattachent soient rédigés en anglais.*