



MASTER SUBSCRIPTION AGREEMENT

THIS MASTER SUBSCRIPTION AGREEMENT ("AGREEMENT") GOVERNS YOUR ACQUISITION AND USE OF OUR SERVICES.

BY ACCEPTING THIS AGREEMENT, EITHER BY CLICKING A BOX INDICATING YOUR ACCEPTANCE OR BY EXECUTING A SERVICES ORDER FORM THAT REFERENCES THIS AGREEMENT, YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES.

You may not access the Services if You are Our direct competitor, except with Our prior written consent. In addition, You may not access the Services for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes.

Where a conflict arises between this Agreement and an executed Order Form, the terms stated on the executed Order Form will supersede the equivalently numbered term in this Agreement, provided that all other terms of this Agreement not explicitly referenced by equivalent term number on the executed Order Form, shall remain valid, in force and enforceable.

We may need, from time-to-time, to update or change this Agreement, and in such a case We will provide You with thirty (30) days notice of such change ("Terms Change Notice"). You may chose to continue operating under, and We shall continue to honor the terms of this Agreement, or You may elect to move to and be bound by the terms of the new agreement version, by notifying Us in writing within thirty (30) days of such Terms Change Notice.

This Agreement was last updated on April 24th 2012. It is effective between You and Us as of the date of You accepting this Agreement.

1 DEFINITIONS

"Affiliate" means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity."

"Candidate Data" means any and all information that a person who is seeking employment with You and uses the Services to signal such interest, ("Candidate" or "Candidates"), and provides to Us solely for you, and to which We grant You access to via the Services.

"Your Data" means (a) any and all of Your proprietary and confidential data used with the Services, (b) all electronic data or information submitted by You to Us, (c) methods, processes,

and techniques that You provide to Us, and (d) Candidate Data that you download via the Services.

“Our Data” means (a) any and all of Our proprietary and confidential data used to provide and maintain the Services, (b) all electronic data or information submitted by Us to You or by Us to Candidates, and (c) methods, processes, and techniques that We provide to You.

"Order Form" means the documents for placing orders hereunder, including addenda thereto, that are entered into between You and Us or You and any of Our Affiliates or Our Resellers from time to time, including addenda and supplements thereto. By entering into an Order Form hereunder, an Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto. Order Forms shall be deemed incorporated herein by reference.

"Purchased Services" means Services that You or Your Affiliates purchase under an Order Form.

“Resellers” means a company, entity or partner authorized by Us to resell Our Services.

“Services” means the products and services that are ordered by You an Order Form and made available by Us online via the customer login link at <http://www.find.ly> and/or other web pages designated by Us.

"User” or **“Users"** means individuals who are authorized by You to use the Services, who have been supplied user identifications by You (or by Us at Your request). Users may include Your employees, consultants, contractors and agents and third parties with which You transact business, provided that all such use is for Your direct benefit, which excludes use of the Service for Company’s affiliate’s, supplier’s, customer’s and/or partners.

"We," "Us" or "Our" means Findly, Inc., a Delaware corporation, with offices at 444 High Street, Suite 250, Palo Alto, CA 94301.

"You" or "Your" means the company or other legal entity for which you are accepting this Agreement, and Affiliates of that company or entity.

2 SERVICES

2.1 **Provision of Services.** We shall make the Services available to You pursuant to this Agreement and the relevant Order Form(s) during a subscription term. You agree that Your purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by Us regarding future functionality or features.

3 USE OF THE SERVICES

3.1 **Service Level.** We shall: (i) provide basic User support for the Services to You at no additional charge, (ii) make the Services available 99.99% of the time, 24 hours a day, 7 days a week, except for: (a) planned downtime (of which We shall give at least 8 hours notice via the Services and which We shall schedule to the extent practicable during the

weekend hours from 6:00 p.m. Friday to 3:00 a.m. Monday Pacific Time), or (b) any unavailability caused by circumstances beyond Our reasonable control, including without limitation, acts of God, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving Our employees), Internet service provider failures or delays, availability of third-party networks and/or data interfaces or denial of service attacks, and (iii) provide the Services only in accordance with applicable laws and government regulations.

3.2 **Response Times.** We support the following response times for the Services:

1. User login of five (5) seconds or less
2. Average page load time of two (2) seconds, except where such page relies on or is connected to any third party data, API or service, such as Facebook, LinkedIn, Google, etc.
3. API Response times of two (2) seconds, except where such API relies on or is connected to any third party data, API or service, such as Facebook, LinkedIn, Google, etc.

3.3 **Browser Support.** We support, and You may access the Service using these following Web browsers:

- Microsoft IE (9.0+)
- Mozilla Firefox (3.6+)
- Safari (5.0+)
- Chrome (18.0+)

3.4 **Problem Severity.** We shall exercise commercially reasonable efforts to correct any error reported by You in accordance with the priority level and applicable response time referenced below:

1. "Priority 1 Error" means an issue that causes a significant adverse business impact to You, Users or Candidates.
2. "Priority 2 Error" means an issue or problem rendering the Services partially unavailable AND causes significant adverse business impact to You, Users or Candidates.
3. "Priority 3 Error" means an issue or problem in which the Services are generally available and functionality is not significantly affected, but in which a correction or modification is required to enable the normal function and operation of the Services.
4. Notwithstanding anything in this clause 3.4, any problem relating to or stemming from the Services requirement to interact with any third party API, data or service, shall not be classified an Error.

3.5 **Response Times.** In the event of an Error as defined above in clause 3.4, the following Response Times shall apply:

Priority	Confirmation	Target Resolution
Priority 1	1 hour during Normal Support Hours	Within four (4) hours, fix problem or provide emergency patch, fix or work-around. Work to downgrade to Priority Level 2.
Priority 2	2 hour during Normal Support Hours	Within eight (8) hours, fix problem or provide emergency patch, fix or work-around. Work to downgrade to Priority Level 3.
Priority 3	48 hours	Within two (2) business days or as agreed at that time with You.

3.6 **Remedy / Credits.** If Service Level in any calendar month falls below that stated in clause 3.1 Service Level, We will credit You by the following calculation:

Availability Criteria	Credit Received
99% and above	No credit due
97% to 98.9%	33.3% of the Ongoing Monthly Service Fee due or paid in that month
95% to 96.9%	66.6% of the Ongoing Monthly Service Fee due or paid in that month
Below 95%	100% of the Ongoing Monthly Service Fee due or paid in that month

1. Any credits owed to You will be reported on a monthly basis by Us, and We shall have the option to apply such credits against any current or future Services, or provide You a refund.
2. Credits will not be provided to You resulting from; (i) gross negligence of You; (ii) a failure or malfunction resulting from the Company Data; (iii) outages initiated at the written request of You; (iv) any interruption relating to or stemming from the Services requirement to interact with third parties, or (v) an interruption or shut down of the Services due to a significant threat to the normal operation of the Services, Us, access to or integrity of Our Data, Your Data, Candidate Data, or a hacker or virus attack.

3.7 **Our Protection of Your Data.** We shall maintain appropriate administrative, physical, and

technical safeguards for protection of the security, confidentiality and integrity of Your Data. We shall not (a) modify Your Data, (b) disclose Your Data except as compelled by law in accordance with Section 6.3 (Compelled Disclosure) or as expressly permitted in writing by You, or (c) access Your Data except to provide the Services and prevent or address service or technical problems, or at Your request in connection with customer support matters.

- 3.8 **Our Protection of Candidate Data.** We shall maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Candidate Data. We shall comply with all applicable laws, ordinances, statutes and regulations, regarding the privacy and security of personal identifiable information and we warrant that We do not store any personally identifiable Candidate information (“Personally Identifiable Information”) other than a Candidate’s name, telephone number, zip, Country and email address. We shall not (a) disclose Candidate Data except as compelled by law in accordance with Section 6.3 (Compelled Disclosure), or (b) access Candidate Data except to provide the Services and prevent or address service or technical problems, or at Your or a Candidate’s request in connection with customer support matter.
- 3.9 **Your Responsibilities.** You shall (i) be responsible for Users’ compliance with this Agreement, (ii) be responsible for the accuracy, quality and legality of Your Data and of the means by which You acquired Your Data, (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify Us promptly of any such unauthorized access or use, and (iv) use the Services only in accordance with this Agreement and applicable laws and government regulations. You shall not (a) make the Services available to anyone other than Users, (b) sell, resell, rent or lease the Services, (c) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use the Services to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, or (f) attempt to gain unauthorized access to the Services or their related systems or networks.

4 FEES AND PAYMENT FOR PURCHASED SERVICES

- 4.1 **Fees.** You shall pay all fees specified in the Order Forms hereunder, either to Us directly or to Our Reseller. Except as otherwise specified herein or in an Order Form, (i) fees are based on services purchased and not actual usage, and (ii) payment obligations are non-cancelable and fees paid are non-refundable.
- 4.2 **Changes to Fees.** On the anniversary of each signed Order Form, We reserve the right, then or at any time thereafter, to alter the fees payable by You for Our services, based solely on the number of Candidates in your community, provided that such change in Fees shall be no less favorable than the then published price list available to any other customer.
- 4.3 **Invoicing and Payment.** You will abide by the payment terms stated on the Order Form.

- 4.4 **Suspension of Service and Acceleration.** If any amount owing by You under this or any other agreement for Our Services is thirty (30) or more days overdue, We may, without limiting Our other rights and remedies, suspend Our services to You until such amounts are paid in full. We will give You at least seven (7) days prior notice that Your account is overdue, in accordance with Section 11.1 (Notice), before suspending services to You.
- 4.5 **Taxes.** Unless otherwise stated, Our fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, "Taxes"). You are responsible for paying all Taxes associated with Your purchases hereunder. If We have the legal obligation to pay or collect Taxes for which You are responsible under this paragraph, the appropriate amount shall be invoiced to and paid by You, unless You provide Us with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, We are solely responsible for taxes assessable against it based on Our income, property and employees.

5 PROPRIETARY RIGHTS

- 5.1 **Reservation of Rights in Services.** Subject to the limited rights expressly granted hereunder, We reserve all rights, title and interest in and to the Services, including all related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth herein.
- 5.2 **Restrictions.** You shall not (i) permit any third party to access the Services except as permitted herein or in an Order Form, (ii) create derivative works based on the Services except as authorized herein, (iii) copy, frame or mirror any part or content of the Services, other than copying or framing on Your own intranets or otherwise for Your own internal business purposes, (iv) reverse engineer the Services, or (v) access the Services in order to (a) build a competitive product or service, or (b) copy any features, functions or graphics of the Services.
- 5.3 **Your Data.** Subject to the limited rights granted by You hereunder, We acquire no right, title or interest from You or Your licensors under this Agreement in or to Your Data, including any intellectual property rights therein.
- 5.4 **Our Data.** Subject to the limited rights granted by Us hereunder, You acquire no right, title or interest from Us, Our Affiliates or Our Resellers under this Agreement in or to Our Data, including any intellectual property rights therein.
- 5.5 **Candidate Data.** You have no right to Candidate Data other than access the Candidate grants You through the Services, so that You may 1) use the Services to find and contact the Candidate for employment or other work or career related opportunities; and 2) download an electronic file of Candidate Data that includes the name, email, mobile phone number, postal code, and social network used by Candidates, with all such downloaded Candidate Data becoming Your Data.
- 5.6 **Suggestions.** We shall have a royalty-free, worldwide, irrevocable, perpetual license to

use and incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback provided by You, including Users, relating to the operation of the Services.

6 CONFIDENTIALITY

- 6.1 **Definition of Confidential Information.** As used herein, "Confidential Information" means all confidential information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information shall include Your Data; Our Confidential Information shall include the Services; and Confidential Information of each party shall include the terms and conditions of this Agreement and all Order Forms, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information (other than Your Data) shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.
- 6.2 **Protection of Confidential Information.** The Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Neither party shall disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates and their legal counsel and accountants without the other party's prior written consent.
- 6.3 **Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

7 WARRANTIES AND DISCLAIMERS

- 7.1 **Our Warranties.** We warrant that (i) We have validly entered into this Agreement and have the legal power to do so, (ii) the functionality of the Services will not be materially decreased during a subscription term, and (iii) We will not transmit Malicious Code to You. For any breach of a warranty above, Your exclusive remedy shall be as provided in Section 12.3 (Termination for Cause) and Section 12.4 (Refund or Payment upon Termination) below.
- 7.2 **Your Warranties.** You warrant that You have validly entered into this Agreement and have the legal power to do so.
- 7.3 **Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

8 MUTUAL INDEMNIFICATION

- 8.1 **Indemnification by Us.** We shall defend You against any claim, demand, suit, or proceeding made or brought against You by a third party alleging that the use of the Services as permitted hereunder infringes or misappropriates the intellectual property rights of a third party (a "**Claim Against You**"), and shall indemnify You for any damages, attorney fees and costs finally awarded against You as a result of, and for amounts paid by You under a court-approved settlement of, a Claim Against You; provided that You (a) promptly give Us written notice of the Claim Against You; (b) give Us sole control of the defense and settlement of the Claim Against You (provided that We may not settle any Claim Against You unless the settlement unconditionally releases You of all liability); and (c) provide to Us all reasonable assistance, at Our expense. In the event of a Claim Against You, or if We reasonably believe the Services may infringe or misappropriate, We may in Our discretion and at no cost to You (i) modify the Services so that they no longer infringe or misappropriate, without breaching Our warranties under "Our Warranties" above, (ii) obtain a license for Your continued use of the Services in accordance with this Agreement, or (iii) terminate Your User subscriptions for such Services upon 30 days' written notice and refund to You any prepaid fees covering the remainder of the term of such User subscriptions after the effective date of termination.
- 8.2 **Indemnification by You.** You shall defend Us against any claim, demand, suit or proceeding made or brought against Us by a third party alleging that Your Data, or Your use of the Services in breach of this Agreement, infringes or misappropriates the intellectual property rights of a third party or violates applicable law (a "**Claim Against Us**"), and shall indemnify Us for any damages, attorney fees and costs finally awarded against Us as a result of, or for any amounts paid by Us under a court-approved settlement of, a Claim Against Us; provided that We (a) promptly give You written notice of the Claim Against Us; (b) give You sole control of the defense and settlement of the Claim Against Us (provided that You may not settle any Claim Against Us unless the settlement unconditionally releases Us of all liability); and (c) provide to You all

reasonable assistance, at Your expense.

- 8.3 **Exclusive Remedy.** This Section 8 (Mutual Indemnification) states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of claim described in this Section.

9 LIMITATION OF LIABILITY

- 9.1 **Limitation of Liability.** NEITHER PARTY'S LIABILITY WITH RESPECT TO ANY SINGLE INCIDENT ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER THEORY OF LIABILITY) SHALL EXCEED THE LESSER OF \$100,000 OR THE AMOUNT PAID BY YOU HEREUNDER IN THE 12 MONTHS PRECEDING THE INCIDENT, PROVIDED THAT IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER THEORY OF LIABILITY) EXCEED THE TOTAL AMOUNT PAID BY YOU HEREUNDER. THE FOREGOING SHALL NOT LIMIT YOUR PAYMENT OBLIGATIONS UNDER SECTION 4 (FEES AND PAYMENT FOR PURCHASED SERVICES).
- 9.2 **Exclusion of Consequential and Related Damages.** IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR REVENUES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW

10 TERM AND TERMINATION

- 10.1 **Term of Agreement.** This Agreement commences on the date You accept it and continues for the period defined on the Order Form.
- 10.2 **Renewal of the Agreement.** This Agreement shall automatically renew for one (1) year upon the expiry date of the most recently signed Order Form ("Order Expiry"), and will continue to automatically renew each subsequent year unless cancelled by You, in writing before Order Expiry.
- 10.3 **Termination for Cause.** A party may terminate this Agreement for cause: (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.
- 10.4 **Refund or Payment upon Termination.** Upon any termination for cause by You, We shall refund You any prepaid fees covering the remainder of the term of all subscriptions after the effective date of termination. Upon any termination for cause by Us, You shall pay any unpaid fees covering the remainder of the term of all Order Forms after the effective date of termination. In no event shall any termination relieve You of the obligation to pay

any fees payable to Us for the period prior to the effective date of termination.

- 10.5 **Return and Access to Data.** You will have 30 days after the effective date of termination to (i) use the Services to download a comma separated value file (.csv) of your Candidate Data, (ii) request Us to promptly return to You, at no cost to You, all or any part of the Company Data, and (ii) request us to erase or destroy all of any part of the Company Data in Our possession, in each case to the extent to so requested by You. We shall have no obligation to maintain or provide any continued access to Candidate Data or Your Data and shall thereafter, unless legally prohibited, delete all of Your Data and Candidate Data in Our systems or otherwise in Our possession or under Our control.
- 10.6 **Surviving Provisions.** Section 4 (Fees and Payment for Purchased Services), 5 (Proprietary Rights), 6 (Confidentiality), 7.3 (Disclaimer), 8 (Mutual Indemnification), 9 (Limitation of Liability), 10.4 (Refund or Payment upon Termination), 10.5 (Return of Data), 11 (General Provisions) shall survive any termination or expiration of this Agreement.

11 GENERAL

- 11.1 **Notice.** Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) the second business day after mailing, (iii) the second business day after sending by confirmed facsimile, or (iv) the first business day after sending by email (provided email shall not be sufficient for notices of termination or an indemnifiable claim). Billing-related notices to You shall be addressed to the relevant billing contact designated by You. All other notices to You shall be addressed to the relevant Services system administrator designated by You.
- 11.2 **Agreement to Governing Law and Jurisdiction.** This Agreement will governed by the laws of the State of California and the United States of America, without regard to conflict of law principles. The Parties hereby consent to the exclusive jurisdiction of the state and federal courts located in Santa Clara County, California for resolution of any disputes arising out of this Agreement. The prevailing party in any legal action to enforce or interpret this Agreement shall be entitled to recover reasonable attorney's fees and costs.
- 11.3 **Waiver of Jury Trial.** 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.
- 11.4 **Export Compliance.** The Services, other technology We make available, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any U.S. government denied-party list. You shall not permit Users to access or use Services in a U.S.-embargoed country (currently Cuba, Iran, North Korea, Sudan or Syria) or in violation of any U.S. export law or regulation.
- 11.5 **Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

- 11.6 **No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.
- 11.7 **Waiver.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right.
- 11.8 **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.
- 11.9 **Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety (including all Order Forms), without consent of the other party, to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the other party. A party's sole remedy for any purported assignment by the other party in breach of this paragraph shall be, at the non-assigning party's election, termination of this Agreement upon written notice to the assigning party. In the event of such a termination, We shall refund to You any prepaid fees covering the remainder of the term of all subscriptions after the effective date of termination. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.
- 11.10 **Entire Agreement.** This Agreement, including all exhibits and addenda hereto and all Order Forms, constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and either signed or accepted electronically by the party against whom the modification, amendment or waiver is to be asserted. However, to the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any exhibit or addendum hereto or any Order Form, the terms of such exhibit, addendum or Order Form shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in Your purchase order or other order documentation (excluding Order Forms) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.