

Terms and Conditions

PLEASE READ THE FOLLOWING TERMS AND CONDITIONS (THE “**TERMS**”), WHICH ALONG WITH ANY ORDER FORM REFERENCING THESE TERMS (AN “**ORDER**”) AND ALL SUPPLEMENTAL TERMS THAT MAY BE PRESENTED TO YOU FOR YOUR REVIEW AND ACCEPTANCE (COLLECTIVELY, THE “**AGREEMENT**”) CONSTITUTE THE AGREEMENT BETWEEN THE ENTITY ACCESSING OR USING THE SERVICE (“**YOU**” or “**CUSTOMER**”), AND DYNAMIC LABS, INC. (“**DYNAMIC**”). THIS AGREEMENT REPRESENTS THE ENTIRE AGREEMENT CONCERNING THE SERVICE BETWEEN THE PARTIES AND IT SUPERSEDES ANY PRIOR PROPOSAL, REPRESENTATION, OR UNDERSTANDING BETWEEN THE PARTIES. DYNAMIC AND CUSTOMER ARE HEREINAFTER JOINTLY DEFINED AS THE “**PARTIES**” OR INDIVIDUALLY A “**PARTY**”.

BY EXECUTING AN ORDER THAT REFERENCES THESE TERMS, OR BY ACCESSING OR USING, OR SUBSCRIBING TO USE, THE SERVICE, YOU ARE ACCEPTING AND AGREEING TO BE BOUND BY AND TO COMPLY WITH ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT (PERSONALLY AND ON BEHALF OF ANY COMPANY OR OTHER LEGAL ENTITY THAT YOU REPRESENT WHEN USING THE SERVICE OR THAT YOU NAME AS THE USER WHEN YOU CREATE AN ACCOUNT), AND YOU REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, AUTHORITY, AND CAPACITY TO ENTER INTO THIS AGREEMENT AND TO BIND ANY SUCH COMPANY OR LEGAL ENTITY TO THIS AGREEMENT. IF CUSTOMER SUBSCRIBES VIA DYNAMIC’S ONLINE REGISTRATION FLOW, THEN THE ONLINE REGISTRATION FORM SUBMITTED BY CUSTOMER AND ACCEPTED BY DYNAMIC CONSTITUTES THE APPLICABLE ORDER FOR PURPOSES OF THIS AGREEMENT. EACH ORDER IS INCORPORATED HEREIN BY REFERENCE. IF YOU DO NOT AGREE WITH ALL OF THE PROVISIONS OF THIS AGREEMENT, YOU MAY NOT ACCESS AND/OR USE THE SERVICE.

Dynamic may change these Terms from time to time at its sole discretion, and if it makes any material changes, it will attempt to notify You by sending You an email to the last email address You provided to Dynamic and/or posting a notice on Dynamic’s website. Therefore, You agree to promptly notify Dynamic of any changes in your email address. Any material changes to these Terms will be effective upon the earlier of (1) your acceptance of the new Terms if we provide a mechanism for acceptance or (2) next renewal date of the Agreement pursuant to the applicable Order. If you are using a free version of the service, any changes will be effective immediately.

1. Definitions

“**Access Credentials**” means login information, passwords, security protocols, and policies through which Authorized Users access the Service.

“**Affiliate**” of a Party means: (a) any entity that such Party controls; (b) any entity that controls such Party; or (c) any entity under common control with such Party. To “control,” for purposes of this definition, means owning or otherwise controlling more than 50% of the voting interests of an entity.

“**Authorized User**” means an employee or contractor of Customer who is authorized by Customer to access and use the Service on Customer’s behalf, and who has been issued a Service account by Customer that is associated to a unique email address with a domain name owned or controlled by Customer.

“**Customer Application**” means an application or web-based service developed or used by Customer (including its APIs), and which utilizes the Dynamic Platform to identify or authenticate users.

“**Customer Data**” means all data, content, and information submitted by Authorized Users into the Service or otherwise made available to Dynamic for use in connection with the Service, and the Customer-specific output that is generated by Authorized Users’ use of the Service.

“**Documentation**” means the user manuals, specifications, and policies, as may be updated from time to time, that describe the functionality, features, operation, or use of the Service and that are made available by Dynamic to Customer.

“**Dynamic Platform**” means the computer software applications, tools, application programming interfaces (APIs), software development kits (SDKs) connectors, programs, networks and equipment that Dynamic uses to make the Service available to its customers.

“Service” means the provision by Dynamic of the Dynamic Platform (excluding Customer Data). References to the “Service” in this Agreement include the Documentation.

“Personal Information” means any Customer Data that constitutes “personal data”, “personal information”, or similar terms defined in applicable privacy and security laws, except that Personal Information does not include information pertaining to Customer’s personnel where Dynamic acts as a controller of such information.

“Professional Services” means any professional services related to Customer’s use of the Service, such as consulting, implementation, or training services, provided by Dynamic to Customer as expressly identified in the Order.

2. Dynamic Responsibilities. Dynamic shall have the following responsibilities to Customers:

- 2.1. Provision of the Service. Subject to the terms and conditions of this Agreement and during the Term, Dynamic will make the Service available to Customer for use by Authorized Users solely in accordance with the Documentation and for the purpose of enabling authentication of users of Customer Applications. Subject to the terms and conditions of this Agreement and during the Term, Dynamic grants to Customer the right for its Authorized Users to access and use the Service, and to use and make a single copy of any software made available for download by Dynamic, in each case solely in accordance with the Documentation and for the purpose of enabling authentication and identification of end users of Customer Applications.
- 2.2. Updates and Upgrades. The terms of this Agreement will also apply to updates and upgrades of the Service subsequently provided by Dynamic to Customer. Dynamic may update the functionality, user interfaces, usability, and Documentation from time to time in its sole discretion as part of its ongoing mission to improve the Service.
- 2.3. Protection of Customer Data. Dynamic will maintain commercially reasonable administrative, physical, and technical safeguards designed to prevent unauthorized access to or use of Customer Data under the control of Dynamic.
- 2.4. Compliance with Laws. Dynamic will comply with all laws applicable to Dynamic’s provisioning of the Service to its customers generally (i.e., without regard to the specific nature of the Customer Data or Customer’s particular use of the Service).
- 2.5. Support. As part of the Service, Dynamic will provide Customer with Dynamic’s standard support, Documentation, and other online resources to assist Customer in its use of the Service.
- 2.6. Professional Services. If Professional Services are purchased in the Order, Dynamic will provide to Customer such Professional Services in accordance with the Order. Unless stated otherwise in the Order, any timelines provided in connection with Professional Services are good faith projections and not guarantees.

3. Access to and Use of the Service

- 3.1. Access Credentials. Customer will safeguard, and ensure that all Authorized Users safeguard, the Access Credentials. Customer will notify Dynamic immediately if it learns of any unauthorized use of any Access Credentials or any other known or suspected breach of security regarding the Service.
- 3.2. Customer Responsibilities. Customer will: (a) be responsible for Authorized Users’ compliance with this Agreement; (b) be responsible for the accuracy, appropriateness, and legality of Customer Data; (c) use commercially reasonable efforts to prevent unauthorized access to or use of the Service, and promptly notify Dynamic of any such unauthorized access or use; and (d) use the Service only in accordance with applicable laws and government regulations.
- 3.3. Usage Restrictions. Customer may not: (a) make the Service available to, or use the Service for the benefit of, anyone other than Customer and the Authorized Users; (b) upload, post, transmit, or otherwise make available to the Service any content that (i) is unlawful or tortious, or (ii) Customer does not have a right to make available under any applicable law or under contractual or fiduciary relationships, or that infringes, misappropriates, or otherwise violates any intellectual property, privacy, publicity, or other proprietary rights of any person; (c) sublicense, resell, time share, or similarly exploit the Service ; (d) upload, post, transmit, or otherwise make available any content or information designed to interrupt, interfere with, destroy or limit the functionality of any computer software or hardware or telecommunications equipment; (e) reverse engineer, modify, adapt, or

hack the Service, or otherwise attempt to gain unauthorized access to the Service or its related systems or networks; or (f) access the Service to build a competitive product or service.

- 3.4. Customer Applications. Customer is solely responsible for the development, implementation, operation, support, maintenance and security of each Customer Application, including the processes by which end users of the Customer Applications who are authenticated via the Service accept the terms and conditions of such Customer Applications.

4. Fees

- 4.1. Fees, Invoicing, and Payment. Customer will pay all fees specified in the Order. Payment obligations are non-cancelable and, except as expressly set forth herein, fees paid are non-refundable. All fees will be invoiced by Dynamic in accordance with the terms set forth in the Order. Full payment for invoices issued must be received within the applicable time period set forth in the Order. If any fees owed by Customer (excluding amounts disputed in reasonable and good faith) have not been paid by the applicable due date, Dynamic reserves the right to apply a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, and be reimbursed for all expenses of collection.
- 4.2. Taxes. The fees are exclusive of, and Customer will be solely responsible for, all applicable taxes in connection with this Agreement, including any sales, use, excise, value-added, goods and services, consumption, and other similar taxes or duties (but excluding taxes based on Dynamic's net income). Should any payment for the services provided by Dynamic be subject to withholding tax by any taxing authority, Customer will reimburse Dynamic for such withholding tax.

5. Proprietary Rights

- 5.1. Dynamic Property. Subject to the limited rights expressly granted to Customer hereunder, Dynamic reserves and retains, and as between Dynamic and Customer, Dynamic exclusively owns, all rights, title, and interest in and to the Service, including all modifications, derivative works, upgrades, and updates thereto, and all related intellectual property rights therein. No rights are granted by Dynamic hereunder other than as expressly set forth herein. If Customer or any Authorized User provides Dynamic any feedback or suggestions regarding the Service, then Customer grants Dynamic an unlimited, irrevocable, perpetual, sublicensable, royalty-free license to use any such feedback or suggestions for any purpose without any obligation or compensation to Customer or any Authorized User. Unless otherwise set forth in the Order, Dynamic retains exclusive ownership of all work product created by Dynamic in connection with its performance of Professional Services.
- 5.2. Customer Data. Customer grants to Dynamic and its Affiliates a worldwide, non-exclusive, limited term license to access, use, copy, distribute, perform, and display Customer Data, and provide necessary access to third party service providers acting on Dynamic's behalf, such as Dynamic's hosting services provider, only: (a) to provide, maintain, and update the Service; (b) to prevent or address service or technical problems or at Customer's request in connection with support matters; (c) as compelled by law; or (d) as expressly permitted in writing by Customer. Subject to the limited licenses granted herein, Dynamic acquires no right, title, or interest under this Agreement in or to any Customer Data.
- 5.3. Analyses. Customer acknowledges and agrees that Dynamic may, during and after the Term, (i) compile statistical and other information related to the performance, operation, and use of the Service, and (ii) collect, use, and analyze information derived from Customer Data in de-identified form (collectively "*Analyses*"), to create statistical analyses, to improve and enhance the Service, and for research and development purposes in connection with the Service or any other Dynamic offerings. Dynamic retains all right, title, and interest, including all intellectual property rights, in and to Analyses. For clarity, Analyses does not constitute Customer Data.

6. Confidentiality

- 6.1. Definition. "*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, including all copies thereof. Confidential Information of Customer includes Customer Data, Confidential Information of Dynamic includes the Service (including its software and content, other than Customer Data), and the work product created from its performance of any Professional Services, and

Confidential Information of each Party includes the terms of this Agreement. However, Confidential Information will not include any information that: (a) is or becomes generally available to the public without breach of any obligation owed to the Disclosing Party; (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (c) is received from a third party without breach of any obligation owed to the Disclosing Party; (d) was independently developed by the Receiving Party without use of or reliance on the Confidential Information of the Disclosing Party; or (e) constitutes Personal Information.

- 6.2. Protection. The Receiving Party will: (a) 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); (b) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement; and (c) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of the Receiving Party's and its Affiliates' employees, contractors, and agents who need such access for purposes consistent with this Agreement and who are subject to confidentiality obligations at least as restrictive as those herein. The Receiving Party will provide prompt written notice to the Disclosing Party of any unauthorized use or disclosure of the Disclosing Party's Confidential Information. Upon request of the Disclosing Party during the Term, the Receiving Party will promptly return, or at the Disclosing Party's option destroy, any or all Confidential Information of the Disclosing Party in the Receiving Party's possession or under its control.
- 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 that 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 expense, if the Disclosing Party wishes to contest the access or disclosure.
- 6.4. Data Processing Approvals. Except to the extent otherwise specified in the applicable Order, Customer is solely responsible for providing all necessary notices and obtaining, and represents and covenants that it has obtained or will obtain prior to processing by Dynamic, all necessary consents, licenses and approvals for the processing of any Customer Data (and any Personal Information) as part of the Service.
- 6.5. Regulatory Compliance. Customer may select the Personal Information it elects to process using the Dynamic Platform in its sole discretion; Dynamic has no control over the nature, scope, or origin of, or the means by which Customer acquires, Personal Information processed by the Service. Subject to Section 6.4 above, Dynamic will comply, and will ensure that its employees and subcontractors comply (to the extent such subcontractors process Personal Information), with the requirements of state, federal and national privacy laws and regulations governing Personal Information in Dynamic's possession or under its control and applicable to Dynamics's provision of the Service. Customer is solely responsible for (i) ensuring that it complies with any legal, regulatory or similar restrictions applicable to the types of data Customer elects to process with the Dynamic Platform, and (ii) Customer's decision not to adopt updates or best practices that Dynamic makes available to Customer.

7. Representations, Warranties, and Disclaimers

- 7.1. Mutual Representations. Each Party represents that: (a) it is duly organized, validly existing, and in good standing under its jurisdiction of organization and has the right to enter into this Agreement; (b) the execution, delivery, and performance of this Agreement are within the corporate powers of such Party and have been duly authorized by all necessary corporate action on the part of such Party, and constitute a valid and binding agreement of such Party; and (c) the execution, delivery and performance of this Agreement does not and will not contravene or conflict with or constitute a default or violation of any terms of any other agreement to which such Party is a party.
- 7.2. Dynamic Warranties. Dynamic warrants to each Customer that: (a) the Service will perform materially in accordance with the applicable Documentation; and (b) Dynamic will perform Professional Services in a professional manner. If Dynamic breaches any of the foregoing warranties in this Section, Customer's exclusive remedy and Dynamic's entire liability will be the correction of the breach, or if Dynamic cannot substantially correct the breach within a commercially reasonable amount of time, Customer may terminate this Agreement and Dynamic will refund to Customer any prepaid fees covering the period remaining in the Term after the effective date of such termination.

- 7.3. Customer Warranties. Customer warrants that it has obtained and will maintain all rights, consents, and permissions necessary for Customer to access and use the Service, and to make available the Customer Data to Dynamic for its use as contemplated herein.
- 7.4. Disclaimer. EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED TO THE CUSTOMER IN SECTION 7.2, THE SERVICE, AND ALL RELATED COMPONENTS AND INFORMATION ARE PROVIDED ON AN “AS IS” BASIS WITHOUT ANY WARRANTIES OF ANY KIND, AND DYNAMIC EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. DYNAMIC DOES NOT WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE. DYNAMIC SPECIFICALLY MAKES NO, AND HEREBY DISCLAIMS ALL, REPRESENTATIONS, WARRANTIES, AND COVENANTS THAT THE SERVICE WILL MEET CUSTOMER’S REQUIREMENTS OR ACHIEVE ANY RESULTS.

8. Indemnification

- 8.1. Dynamic Indemnification. Dynamic will defend Customer and its Affiliates from and against any lawsuit or proceeding brought by a third party to the extent alleging that Customer’s use of the Service as permitted hereunder infringes or misappropriates such third party’s intellectual property rights, and Dynamic will indemnify Customer and its Affiliates for any damages and any reasonable attorneys’ fees finally awarded against them arising from such lawsuit or proceeding; provided, however, that Dynamic will have no liability under this Section to the extent any such lawsuit or proceeding arises from: (a) Customer Data; (b) Customer’s or any of its Affiliates’ or Authorized Users’ negligence, misconduct, or breach of this Agreement; or (c) any modification or combination of the Service that is not performed or approved by Dynamic or specifically set out in the Documentation.
- 8.2. Customer Indemnification. Customer will defend Dynamic and its Affiliates from and against any lawsuit or proceeding brought by a third party to the extent alleging that any Customer Data infringes, misappropriates, or otherwise violates the rights, including privacy and publicity rights, of any other party, or that Customer’s or any Authorized User’s particular use of the Service violates applicable law, and Customer will indemnify Dynamic and its Affiliates for any damages and any reasonable attorneys’ fees finally awarded against them arising from such lawsuit or proceeding.
- 8.3. Procedures. The indemnified party will provide the indemnifying party with: (a) prompt written notice of any matter that is subject to indemnification hereunder; (b) the right to assume the exclusive defense and control of any such matter (provided that the indemnified party may participate in the defense at its own expense); and (c) cooperation with any reasonable requests assisting the indemnifying party’s defense of such matter. The indemnifying party may not settle any such lawsuit or proceeding without the indemnified party’s prior written consent.
- 8.4. Exclusive Remedy. This Section 8 states the indemnifying party’s sole liability, and the indemnifying party’s exclusive remedy, for any type of claim described in this Section 8.

9. Limitation of Liability

- 9.1. Exclusion of Certain Damages. IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY OR TO ANY OTHER PARTY FOR ANY LOST PROFITS OR REVENUES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER, OR PUNITIVE DAMAGES, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.
- 9.2. Liability Cap Applicable to Customers. EXCEPT FOR CUSTOMER’S LIABILITY FOR ITS PAYMENT OBLIGATIONS UNDER SECTION 4, OR CUSTOMER’S LIABILITY FOR ITS INDEMNIFICATION OBLIGATIONS UNDER SECTION 8, OR CUSTOMER’S LIABILITY FOR ITS BREACH OF ITS CONFIDENTIALITY OBLIGATIONS UNDER SECTION 6, OR CUSTOMER’S LIABILITY FOR ITS WILLFUL MISCONDUCT, IN NO EVENT WILL CUSTOMER’S AGGREGATE LIABILITY RELATING TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT ACTUALLY PAID BY CUSTOMER TO DYNAMIC HEREUNDER IN THE 12 MONTHS PRECEDING THE DATE ON WHICH THE FIRST CLAIM GIVING RISE TO LIABILITY AROSE. MULTIPLE CLAIMS WILL NOT ENLARGE THIS LIMITATION.

- 9.3. Liability Cap Applicable to Dynamic. EXCEPT FOR DYNAMIC'S LIABILITY FOR ITS INDEMNIFICATION OBLIGATIONS UNDER SECTION 8, OR DYNAMIC'S LIABILITY FOR ITS BREACH OF ITS CONFIDENTIALITY OBLIGATIONS UNDER SECTION 6, OR DYNAMIC'S LIABILITY FOR ITS WILLFUL MISCONDUCT, IN NO EVENT WILL DYNAMIC'S AGGREGATE LIABILITY RELATING TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT ACTUALLY PAID BY CUSTOMER TO DYNAMIC HEREUNDER IN THE 12 MONTHS PRECEDING THE DATE ON WHICH THE FIRST CLAIM GIVING RISE TO LIABILITY AROSE. MULTIPLE CLAIMS WILL NOT ENLARGE THIS LIMITATION.
- 9.4. Scope. For the avoidance of doubt, the exclusions and limitations set forth in Section 9.1, Section 9.2 and Section 9.3 will apply with respect to all legal theories of liability, whether in contract, tort, or otherwise. The Parties agree that the exclusions and limitations set forth in Section 9.1, Section 9.2 and Section 9.3 allocate the risks between the Parties under this Agreement, and that they have relied on these exclusions and limitations in determining whether to enter into this Agreement.

10. Term, Termination, and Suspension

- 10.1. Term of the Agreement. The term of this Agreement commences on the effective date set forth in the Order and, unless earlier terminated in accordance with the terms of this Agreement, will continue for the "Initial Term" specified in the Order (the "**Initial Term**"). Thereafter, this Agreement will automatically renew for successive additional periods of the same duration (each, a "**Renewal Term**") unless either Party provides the other with written notice of non-. Customer agrees that Dynamic may modify the fees for each Renewal Term by providing Customer with written notice of such modification at least 10 days prior to the expiration of the Initial Term or the then-current Renewal Term, as applicable. The Initial Term and each Renewal Term, if any, are collectively referred to herein as the "**Term**."
- 10.2. Termination for Cause. Dynamic or Customer may terminate this Agreement effective after 30 days' written notice if the other Party materially breaches this Agreement and such breach is not cured within such 30-day period. Upon any termination for cause by Customer, Dynamic will promptly refund Customer any prepaid fees covering the period remaining in the Term after the effective date of such termination. Upon any termination for cause by Dynamic, Customer will promptly pay Dynamic any unpaid fees covering the period remaining in the Term after the effective date of such termination.
- 10.3. Suspension. Dynamic may suspend Customer's or any or all Authorized Users' access to the Service, in whole or in part, if: (a) Customer or any Authorized User is using the Service in violation of this Agreement or any applicable law; (b) Customer's or any Authorized Users' systems or accounts have been compromised or unlawfully accessed; (c) suspension of the Service is necessary, in Dynamic's reasonable discretion, to protect the security of the Service or the infrastructure of Dynamic or its Affiliates; (d) suspension is required by applicable law; or (e) any fees owed by Customer (excluding amounts disputed in reasonable and good faith) are 30 days or more overdue, provided Dynamic has given Customer 10 or more days' prior notice.
- 10.4. Effects of Termination. In no event will any termination of this Agreement relieve Customer of its obligation to pay any fees payable to Dynamic for the period of time prior to the effective date of such termination. Upon any termination of this Agreement, Customer and all Authorized Users must immediately cease all use of the Service. Dynamic will have no obligation to maintain or provide any Customer Data. Upon any termination of this Agreement and the Disclosing Party's request, the Receiving Party will promptly return, or at the Disclosing Party's option destroy, any or all Confidential Information of the Disclosing Party in the Receiving Party's possession or under its control.
- 10.5. Survival. The sections titled "Protection of Customer Data," "Fees," "Proprietary Rights," "Confidentiality," "Indemnification," "Limitation of Liability," "Termination for Cause," "Effects of Termination," "Survival," and "General Provisions" will survive any termination of this Agreement.

11. General Provisions

- 11.1. Force Majeure. Except for payment obligations, neither Party will be liable hereunder by reason of any failure or delay in the performance of its obligations due to events beyond the reasonable control of such Party, which may include natural disasters, fires, epidemics, pandemics, riots, war, terrorism, denial of service attacks, internet outages, labor shortages, and judicial or government action.

- 11.2. 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. Notwithstanding the foregoing, either Party may assign or transfer this Agreement in its entirety, without the consent of the other Party, in connection with a merger or sale of all or substantially all of its assets. Any purported assignment in violation of this Section will be null and void. This Agreement will bind and inure to the benefit of the Parties, their respective successors, and permitted assigns.
- 11.3. Governing Law; Venue. This Agreement, and any disputes arising out of or related hereto, will be governed exclusively by the internal laws of the State of Florida, without regard to its conflicts of laws rules or the United Nations Convention on the International Sale of Goods. The state and federal courts located in Miami-Dade County will have exclusive jurisdiction to adjudicate any dispute arising out of or relating to this Agreement. Each Party hereby consents to the exclusive jurisdiction of such courts. 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. Notices. All notices under this Agreement will be in writing addressed to the Parties at the addresses set forth on the Order and will be deemed to have been duly given: (a) upon receipt if personally delivered or sent by certified or registered mail with return receipt requested; and (b) the first business day after sending by email or by next day delivery by a recognized overnight delivery service. Dynamic may provide notices to Invitees via the Service and will be deemed to have been duly given when posted or made available on the Service.
- 11.5. Relationship of the Parties; Third Party Beneficiaries. The Parties are independent contractors and this Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the Parties. There are no third party beneficiaries to this Agreement.
- 11.6. Waiver. No failure or delay by either Party in exercising any right under this Agreement will constitute a waiver of that right.
- 11.7. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, such provision will 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 will remain in full force and effect.
- 11.8. Entire Agreement. This Agreement, including any addenda hereto and all Orders constitutes the entire agreement between the Parties and supersedes all prior and contemporaneous agreements, proposals, or representations, written or oral, concerning Customer's purchase and use of the Service and any Professional Services. No modification, amendment, or waiver of any provision of this Agreement will be effective unless in writing and signed by each of the Parties. To the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any addendum hereto or any Order, the terms of such addendum or Order will prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in any Customer purchase order or other Customer order documentation (excluding Orders) will be incorporated into or form any part of this Agreement, and all such terms or conditions will be null and void. As used herein, the words "include" and "including" shall be deemed to be followed by the words "without limitation."