

MLS Authorization for FBS to Provide FlōPlan API Access

FlōPlan is a floor plan creation and integration system that integrates directly with MLS software. Agents use the FlōPlan mobile app and phone camera to scan a home with a quick walk-through of a home, submit their scan, and receive a complete floor plan that they can link directly to their MLS listings. Floor plans are requested by listing separately from other listing data using the FlōPlan API. Data replication is not allowed when using the FlōPlan API. All data must be retrieved live from the API.

1. Vendor requesting access must complete the Vendor information fields below and sign the attached Terms of Use.
2. Vendor will need to send this form to MLS(s) for approval and signature.
3. MLS will send signed form to api@floplan.io to approve access to FlōPlan API.

Vendor Information

Vendor Company Name	
Technical Contact Name	
Technical Contact Email Address	
Vendor Rep Name - Please Print	

The undersigned Vendor Representative agrees to the terms of use and conditions set forth in this agreement:

_____ **X** **Date:** _____

Vendor Rep Signature - Physical Signature or Adobe Fill & Sign Required

MLS Information

Filled out by MLS.

MLS Name	
MLS Authorized Personnel (President, EO, etc.)	

The undersigned MLS authorizes Financial Business Systems, Inc. ("FBS") to provide the MLS-approved FlōPlan Display API Access to the Vendor indicated:

_____ **X** **Date:** _____

MLS Authorized Signature - Physical Signature or Adobe Fill & Sign Required

FLOPLAN API TERMS OF USE FOR DISPLAYING FLOOR PLANS

This FloPlan API Agreement ("Agreement") is made by and between Financial Business Systems Inc., located at 3415 39th St. S., Fargo, ND, 58104 ("**Licensor**") and the person or entity accepting the Agreement as set forth below ("**Licensee**," "**You**," or "**Your**") as of the date of acceptance (the "**Effective Date**"). Both Licensee and Licensor may be referred to herein individually as a "**Party**" or collectively the "**Parties**."

BY CLICKING ANY "I ACCEPT," "I AGREE," OR SIMILAR BUTTON OR CHECK BOX DISPLAYED IN RELATION TO THIS AGREEMENT OR ACCESSING OR USING ANY LICENSOR INTELLECTUAL PROPERTY (AS DEFINED IN THIS AGREEMENT), YOU AGREE, ON YOUR OWN BEHALF PERSONALLY IF AN INDIVIDUAL, OR ON BEHALF OF THE ENTITY FOR WHICH YOU ARE AN AGENT OR EMPLOYEE, THAT YOU HAVE READ, UNDERSTAND, AND AGREE THAT YOU OR THAT ENTITY SHALL BE BOUND BY THIS AGREEMENT. IF YOU OR THE ENTITY DO NOT AGREE TO BE BOUND BY THIS AGREEMENT, NEITHER MAY ACCESS OR USE ANY LICENSOR INTELLECTUAL PROPERTY.

LICENSOR RESERVES THE RIGHT, FROM TIME TO TIME, WITH OR WITHOUT NOTICE TO LICENSEE, TO MAKE CHANGES TO THIS AGREEMENT IN LICENSOR'S SOLE DISCRETION AND YOU MAY TERMINATE THIS AGREEMENT IF YOU DO NOT ACCEPT SUCH CHANGES. CONTINUED ACCESSING OR USE OF THE LICENSOR INTELLECTUAL PROPERTY CONSTITUTES LICENSEE'S ACCEPTANCE OF SUCH CHANGES.

1. LICENSE TO DISPLAY FLOOR PLANS USING THE FLOPLAN API

1.1. **License to Display Floor Plans.** Subject to the terms and conditions of this Agreement and the incorporated Exhibits, Licensor hereby grants to Licensee a limited, non-exclusive, non-transferrable (except in accordance with Section 9.5), non-sublicensable, revocable subscription license to: (1) display floor plans and related data ("**FloPlan Data**") on the Licensee website or application specified on your account (the "**Licensee's Website or Application**"); and (2) display the Licensor logos, trade names, and trademarks in relation to the FloPlan Data on Licensee's Website or Application in the form provided by Licensor and in accordance with any branding guidelines provided by Licensor (collectively "**Licensor Trademarks**").

1.2. **Use of API.** Licensee will use the FloPlan application programming interface ("**API**") as specified in the API Documentation to display the FloPlan Data on Licensee's Website or Application, and Licensor grants Licensee a limited, non-exclusive, non-transferable license to use the API and Documentation for such purposes. "**Documentation**" as used herein means written documentation from Licensor pertaining to the API or the FloPlan Data, which may be modified from time to time by Licensor in its sole discretion.

1.3. Except as set forth herein, Licensor reserves all other rights in and to API, FloPlan Data, Documentation, Licensor Trademarks, and all Intellectual Property in or related thereto (collectively the "**Licensor Intellectual Property**") and no implied licenses are granted by Licensor. The terms of this Agreement shall apply to all follow-on versions, updates, upgrades, error corrections, and bug fixes to the Licensor Intellectual Property. All rights not expressly granted in this Agreement are reserved by Licensor.

1.4. **Licensee Requirements.** Licensee shall:

1.4.1. comply with all rules and policies of MLSs providing FloPlan Data to you for display under this Agreement; and

1.4.2. comply with all requirements of the Documentation, including without limitation the identification and authentication requirements for use of the API.

1.5. **Licensee Restrictions.** Licensee shall not:

- 1.5.1. modify the Licensor Intellectual Property in any way or display the FloPlan Data or Licensor Trademarks in any way that is misleading or degrades the quality of the information provided, including without limitation removal of any Licensor Trademarks;
- 1.5.2. cache or store any of the FloPlan Data, modify or create derivative works of the Licensor Intellectual Property, or knowingly allow others to do any of the aforementioned; or
- 1.5.3. access or use any portion of the Licensor Intellectual Property not expressly licensed to Licensee;
- 1.5.4. break or circumvent any security measures, processes, or technical functionality of the Licensor Intellectual Property;
- 1.5.5. disrupt or degrade the performance of the Licensor Intellectual Property, including without limitation by making excessive requests to the API or uploading or transmitting any viruses, worms, ransomware, spyware or other similar malware or malicious code (collectively, "**Malicious Code**") or other data or programming that may interfere with, slow down, disrupt or damage the Licensor Intellectual Property or the use of the same, or any other Licensor Intellectual Property, by Licensor or any Licensor customer;
- 1.5.6. engage in stress testing, penetration testing, or otherwise probe for security vulnerabilities or the functionality of the Licensor Intellectual Property;
- 1.5.7. translate, disassemble, decompile or otherwise reverse engineer all or any portion of the Licensor Intellectual Property, or attempt to derive its underlying ideas, algorithms, structure, or organization;
- 1.5.8. use the Licensor Intellectual Property for any unlawful purposes;
- 1.5.9. export the Licensor Intellectual Property in violation of U.S. laws or regulations;
- 1.5.10. except as permitted in this Agreement, sublicense, relicense, distribute, disclose, rent or lease the Licensor Intellectual Property or any portion thereof, for third party use;
- 1.5.11. utilize the Licensor Intellectual Property or other Licensor Confidential Information in whole or in part to develop any software application, product, or service, or otherwise, except as expressly licensed under this Agreement.

1.6. **Ownership.**

1.6.1. The Licensor Intellectual Property licensed under this Agreement is provided by Licensor as platform as a service (SaaS or PaaS), and Licensee's rights are limited to Licensee's subscription license term. Licensor and its licensors remain the sole owner of all right, title and interest in and to the Licensor Intellectual Property, and each component thereof, all modifications, bug fixes, enhancements, or upgrades thereto, and all copies thereof, and all Intellectual Property with respect thereto. "**Intellectual Property**" means any and all of the following in any jurisdiction throughout the world and all rights in, arising out of, or associated therewith: (a) patents, utility models, and applications therefor, and all reissues, divisions, re-examinations, renewals, extensions, provisionals, continuations and continuations-in-part thereof, and equivalent or similar rights anywhere in the world in inventions and discoveries, including invention disclosures; (b) all trade secrets, inventions (whether or not patentable and whether or not reduced to practice), and other rights in know-how and confidential or proprietary information; (c) all mask works, works of authorship and copyrights, data, databases, registrations and applications therefor, and all other rights corresponding thereto (including moral rights), throughout the world; (d) rights in software (including without limitation APIs, source code, object code, and mark-up language); (e) rights of publicity, personality, identification, or similar personal or group attributes; (f) trade names, logos, common law trademarks and service marks, trade dress, trademark and service mark registrations, and applications therefor and any goodwill associated therewith; and (g) any similar, corresponding, or equivalent rights to any of the foregoing and any other intellectual property or proprietary rights throughout the world. Licensee acknowledges that the Licensor Intellectual Property and API contain trade secrets of Licensor, its suppliers, or licensors, including but not limited to, the specific internal design and structure of individual programs and associated interfaces. Licensee agrees that it will not contest or challenge Licensor's rights or

the validity of, or adopt, apply for, register or otherwise seek to legally protect any of Licensor's Intellectual Property or aid or abet others in doing so, either during the Term of this Agreement or afterword.

1.6.2. **Feedback.** Licensee may provide feedback or other suggestions to Licensor with respect to the Licensor Intellectual Property ("**Feedback**"). Notwithstanding any provision of the Agreement to the contrary, Licensor may use such Feedback for any purpose without obligation to Licensee of any kind. To the extent a license is required to make use of such Feedback, Licensee hereby grant to Licensor an irrevocable, non-exclusive, perpetual, royalty-free, transferrable license, with right to sublicense through multiple levels, to such Feedback. Licensee represents and warrants that (i) Licensee own or otherwise control all of the rights in and to the feedback and can grant the license set forth in this Agreement, (ii) Licensee has no obligations under law or contract, such as a confidentiality, employment, license, or independent contractor agreement, that would interfere with Licensee's grant of such rights, and (iii) the Feedback Licensee supplies is accurate, not misleading, and otherwise in accordance with the terms of this Agreement.

2. **Licensor Obligations.** During the Term of this Agreement, Licensor shall use commercially reasonable efforts to provide the FloPlan Data through the API. Licensee understands and agrees that the content of the FloPlan Data is determined by multiple factors including the participation of individuals and multiple listing services in the collection and sharing of such data, which may change from time to time. Therefore, Licensor makes no representation or warranty that at any given time any specific data will be a part of the FloPlan Data, or accessible through the API.

3. **Fees and Payment.** The license granted in this Agreement and all other obligations of Licensor are subject to Licensee paying all fees as set forth at https://floplan.io/display_license_fee_schedule, if applicable to Licensee, which is hereby incorporated by reference. All fees are set forth in United States dollars. Fees may be increased by Licensor upon sixty (60) days' prior notice. All fees paid by Licensee are non-refundable. Failure to timely make payment of all invoiced fees is a material breach of this Agreement and Licensor may immediately suspend or terminate pursuant to Section 6 Licensee's access and use of the Licensor Intellectual Property for Licensee's failure to make full and timely payment of invoiced amounts. Without waiving any of its rights under the law or this Agreement, Licensor may charge licensee a late fee the rate of one and a half percent (1.5%) per month for any overdue amounts, or the maximum amount allowed by law, whichever is less. Licensee will be responsible for and indemnify Licensor against all sales, use, VAT, and excise taxes, and like charges imposed with respect to this Agreement and any services provided hereunder, except for taxes based on the net income of Licensor.

4. **Representations and Warranties**

4.1. **Licensor Limited Warranties.** Licensor represents and warrants that to the best of Licensor's knowledge the Licensor Intellectual Property, API, and FloPlan Data shall not contain Malicious Code; provided, however, that, notwithstanding the foregoing, Licensee acknowledges and agrees that Licensor reserves the right to remotely prevent access to and/or use of the Licensor Intellectual Property, API, and FloPlan Data in response to any security concerns and as otherwise set forth in this Agreement.

4.2. **Mutual Representations and Warranties.** Each Party represents and warrants to the other that: (i) it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or formation, (ii) it has the right and full power and authority to enter into this Agreement; and (iii) this Agreement is a valid and binding obligation of such Party, enforceable against it in accordance with its terms.

4.3. **Disclaimer.** EXCEPT FOR THE WARRANTIES SET FORTH IN THIS AGREEMENT, THE LICENSOR INTELLECTUAL PROPERTY ARE PROVIDED AS-IS AND LICENSOR HEREBY DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY NATURE WHATSOEVER WITH RESPECT THERETO AND/OR SERVICES PROVIDED HEREUNDER, AND THIS AGREEMENT, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. LICENSOR DOES NOT WARRANT THAT THE

LICENSOR INTELLECTUAL PROPERTY, MEETS LICENSEE'S REQUIREMENTS OR THAT THE OPERATION THEREOF WILL BE UNINTERRUPTED OR ERROR FREE.

5. CONFIDENTIALITY

5.1. **Confidential Information.** It is expected that the Parties may disclose to each other certain information which may be considered confidential and/or trade secret information (“**Confidential Information**”). Confidential Information shall include: (i) your access credentials to the Licensor Intellectual Property and API; (ii) non-public information disclosed by either Party if it is clearly and conspicuously marked as “confidential” or with a similar designation at time of disclosure; and (iii) non-public information disclosed by either Party if, by its nature, would generally be considered by the Parties as confidential.

5.2. **Exceptions.** Confidential Information shall not include information which: (i) is or becomes public knowledge through no fault of the recipient; (ii) was in the receiving Party’s possession before receipt from the Party providing such Confidential Information; (iii) is rightfully received by the receiving Party from a third party without any duty of confidentiality; (iv) is disclosed to a third party by the Party providing the Confidential Information without a duty of confidentiality on the third party; (v) is independently developed by the other Party; or (vi) is disclosed with the prior written approval of the Party providing such Confidential Information. Confidential Information of a Party may be disclosed in response to a valid court order or other legal process only to the extent required by such order or process and only after the recipient has given the owner written notice, if legally allowed, of such court order or other legal process promptly and the opportunity for the owner to seek a protective order or confidential treatment of such Confidential Information with, at the owner’s expense, reasonable cooperation of the recipient.

5.3. **Ownership & Control.** Except as otherwise specified in the Agreement, the disclosing Party shall retain all ownership of their Confidential Information including without limitation all Intellectual Property rights in that Confidential Information disclosed to the other Party. The Parties agree, both during the term of the Agreement and after the termination of the Agreement to hold Confidential Information of the other Party in confidence and to protect the disclosed Confidential Information by using the same degree of care to prevent the unauthorized use, dissemination or publication of the Confidential Information as they use to protect their own Confidential Information of a like nature but in no event with less than reasonable care. The Parties agree not to make Confidential Information of the other Party available in any form to any third party except as required to perform under this Agreement or as otherwise Allowed under this Agreement. Each Party agrees to restrict disclosure of the Confidential Information to those who have a “need to know” and to take all reasonable steps to ensure that Confidential Information is not disclosed or distributed in violation of the provisions of the Agreement. Each Party shall be responsible and liable under the terms of this Agreement for any violation of the confidentiality requirements of this Section 5 committed by its employees, agents, representatives, or independent contractors.

5.4. **Return of Materials.** Upon termination of the Agreement, the Parties will (i) return to the other Party that Party’s Confidential Information or (ii) to the extent commercially practicable, destroy and certify the same, upon request, (at the other Party’s election) all of that other Party’s Confidential Information.

6. TERM AND TERMINATION

6.1. **Term.** The term of this Agreement shall begin on the Effective Date and shall remain in effect during the Term as defined herein, unless earlier terminated: (i) by the Parties’ mutual agreement to terminate, (ii) under this Section 6:

6.2. **Termination for Convenience.** Either Party may terminate this Agreement upon thirty (30) days' prior written notice for any or no reason and without penalty or liability for termination to the other Party.

6.3. **Termination for Cause.** Either Party may terminate this Agreement if the other Party is in breach of this Agreement and fails to cure such breach within fifteen (15) days after the non-breaching Party provides notice of the breach, except that Licensor has the right to immediately terminate this Agreement if Licensee breaches Sections 1 or 5. Either Party may also terminate this Agreement immediately upon

notice if the other Party (a) is liquidated, dissolved, or adjudged to be in a state of bankruptcy or receivership, (b) is insolvent, unable to pay its debts as they become due, makes an assignment for the benefit of creditors or takes advantage of any law for the benefit of debtors, or (c) ceases to conduct business for any reason on an ongoing basis leaving no successor in interest.

6.4. **Suspension.** Licensee acknowledges and agrees that Licensor reserves the right to remotely prevent access to and/or use of Licensor Intellectual Property, the API, and the FloPlan Data if Licensee violates any terms or conditions of Sections 1 or 5, or for the safety, security, or proper functioning of the Licensor Intellectual Property, API, or FloPlan Data or either Party's computer systems, including without limitation in the event that Licensor becomes aware, from Licensee or otherwise, of unauthorized access or use of the Licensor Intellectual Property by any third party.

6.5. **Rights and Obligations After Termination.** The provisions of the following Sections shall survive such expiration or termination: Sections 1.2, 1.3, 1.4, 3, 4.3, 5, 6, 7, 8, and 9. Upon termination of this Agreement for any reason, all rights and licenses granted from Licensor to Licensee shall immediately terminate and Licensee shall not access, use, or attempt to use the Licensor Intellectual Property, and Licensee shall immediately permanently delete all FloPlan Data from its website, servers, applications and other systems and those of any third parties under the control of Licensee, such as without limitation website and data hosting vendors that have possession of FloPlan Data by virtue of offering services to Licensee.

7. **INDEMNITY.** Licensee shall defend, indemnify, and hold harmless Licensor and its licensors, subsidiaries, affiliates, successors or assigns and their respective directors, officers, agents, members, owners, shareholders and employees (collectively, "**Indemnitees**") against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, settlement, interest, award, penalty, fine, cost or expense, including reasonable attorney and professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers (collectively, "**Losses**") arising out of or related to Licensee's access to or use of the Licensor Intellectual Property including without limitation the display of FloPlan Data on Licensee's Website or Application; provided these obligations shall not extend to any third party allegations of Intellectual Property infringement or misappropriation of solely and exclusively the Licensor Intellectual Property.

8. **LIMITATION OF LIABILITY.** EXCEPT FOR VIOLATIONS BY LICENSEE OF SECTIONS 1 OR 5, NEITHER PARTY, SHALL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE OR SPECIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOST DATA, PERSONAL OR PROPERTY DAMAGE TO EITHER PARTY OR THIRD PARTIES DUE TO THE USE OF THE LICENSOR INTELLECTUAL PROPERTY, LOST BUSINESS, OR LOST PROFITS) HOWEVER ARISING, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF A PARTY, VIOLATIONS OF SECTIONS 1 OR 5, OR INDEMNITY OBLIGATIONS UNDER THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY DAMAGES IN AN AMOUNT GREATER THAN THE TOTAL AMOUNT OF FEES PAID BY LICENSEE TO LICENSOR UNDER THIS AGREEMENT DURING THE TWELVE MONTHS PRECEDING THE EVENT GIVING RISE TO THE LIABILITY. THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION ARE EACH INDEPENDENT OF ANY EXCLUSIVE OR LIMITED REMEDIES SET FORTH IN THIS AGREEMENT, AND SHALL SURVIVE AND APPLY EVEN IF SUCH REMEDIES ARE FOUND TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE. LICENSEE ACKNOWLEDGES THAT LICENSOR HAS SET ITS PRICES AND ENTERED INTO THIS AGREEMENT IN RELIANCE UPON THE LIMITATIONS OF LIABILITY AND THE DISCLAIMERS OF WARRANTIES AND DAMAGES SET FORTH HEREIN, AND THAT THE SAME FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES.

9. **GENERAL**

9.1. **Relationship of the Parties.** Licensor and Licensee acknowledge that they operate independent of each other. Nothing in this Agreement shall be deemed or construed to create a joint venture, partnership, agency, or employee/employer relationship between the Parties for any purpose, including, but

not limited to, taxes or employee benefits. Each Party will be solely responsible for the payment of all taxes and insurance for its employees and business operations.

9.2. **Amendment.** This Agreement may not be amended or modified except as set forth in this Agreement.

9.3. **Severability.** If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court of competent jurisdiction finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed written, construed, and enforced as so limited and such limitation shall be to the extent possible in keeping with the original intent of the Parties as shown by the original wording of this Agreement.

9.4. **Exclusivity.** Nothing in the Agreement is intended to create any exclusivity between the Parties. Licensor reserves the right to develop, license, sell, and otherwise commercialize products and services that directly compete with the software, products, and services of Licensee, subject to the confidentiality and intellectual property restrictions set forth in this Agreement.

9.5. **Assignment.** Licensee may not assign this Agreement, without the prior written consent of Licensor. Any assignment or attempted assignment in violation of this Agreement shall be null and void. Subject to the foregoing, this Agreement is binding upon, and inures solely to the benefit of, the Parties hereto and their respective permitted successors and assigns; there are no third party beneficiaries to this Agreement.

9.6. **Notice.** All notices made pursuant to this Agreement by Licensee will be in writing and, except for routine operational or administrative communications, be sent by regular mail, registered mail, overnight mail, courier, transmitted by facsimile or e-mail (and confirmed in writing sent by regular mail) or delivered personally, to the Licensor address indicated on the first page of this Agreement, or such other address as either Party may indicate by at least ten (10) business days prior written notice to Licensee. Licensor may provide notices under this Agreement by posting the notice on its website, such notices being effective as of posting, or providing notice via e-mail or other contact information provided by Licensee to Licensor, such notices being effective as of the date of being sent. Notices will otherwise be effective on the date shown on the receipt evidencing delivery or on the facsimile confirmation, or if sent by regular mail or where there is no written evidence of delivery, on actual receipt or refusal of receipt.

9.7. **Remedies Not Exclusive.** Unless expressly stated otherwise, the remedies in this Agreement shall not be exclusive of any other remedy either Party may have against the other Party at any time, and shall not limit either Party's ability to seek other remedies available under law or in equity. Unless expressly stated otherwise, remedies shall be cumulative and there shall be no obligation to exercise a particular remedy. The Parties acknowledge and agree that the obligations contained under Sections 1 and 5 are of a special and extraordinary nature, that the non-breaching Party's remedy at law for any breach of those sections would be inadequate and that the non-breaching Party would suffer irreparable injury as a consequence of the violation thereof. By reason thereof, each Party consents and agrees that, if it should in any way violate Sections 1 or 5, the other Party shall, in addition to other remedies as may be available to the Party at law or in equity, or as provided for this Agreement, be entitled to an injunction, restraining order, or other equitable relief, without the necessity of positing a bond restraining the violator from committing or continuing any such violation.

9.8. **Waiver of Contractual Right.** The failure of either Party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that Party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

9.9. **Applicable Law.** This Agreement shall be governed by the laws of the State of North Dakota without regard to its choice of law principles. All disputes under or relating to this Agreement shall be brought solely in the state or federal courts located in Fargo, North Dakota and both Parties hereby agree that such courts shall have personal jurisdiction over both Parties. The 1980 United Nations Convention on Contracts for the International Sale of Goods, the United Nations Convention on the Limitation Period in

the International Sale of Goods, and the Uniform Computer Information Transactions Act, and any implementations or subsequent revisions thereto, do not apply to this Agreement.

9.10. **Force Majeure.** The Parties acknowledge and agree that either Party shall be excused from any delay or failure in its performance hereunder, caused by any disruption or slow speed of the Internet; security breaches, DNS attacks, or introduction of Malicious Code by third parties; labor disputes; civil unrest; pandemics, acts of terror; acts of government; floods, fires, earthquakes or other acts of God; or any other causes beyond its reasonable control. The Parties shall use reasonable commercial efforts to cure any such failure or delay in performance arising from a force majeure condition, and shall timely advise each other of such efforts

9.11. **Headings.** The section headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or extent of such section or in any way affect such section.

9.12. **Entire Agreement.** This Agreement sets forth the entire understanding of the Parties with respect to the subject matter of this Agreement, and supersedes any and all other prior oral and written understandings, quotations, communications, and agreements. Additional or contradictory terms in Licensee's purchase orders or other such documents shall have no force or effect and instead the terms and conditions of this Agreement shall solely apply as to the agreement between the Parties regarding the subject matter of this Agreement.