# Standard Terms & Conditions of Use

## 1. SAAS SERVICES AND SUPPORT

1.1. Subject to the terms of this Agreement, GridMatrix will use commercially reasonable efforts to provide Customer the Services in accordance with the Service Level Terms attached hereto as Exhibit A. As part of the registration process, Customer will identify administrative user names and passwords for Customer's GridMatrix account. GridMatrix reserves the right to refuse registration of, or cancel passwords it deems inappropriate. GridMatrix will store data to the extent required to perform the Services at the Service Level set forth in Exhibit A. Any additional data storage requested by Customer must be set forth in an Order Form and will incur additional fees

1.2. Subject to the terms hereof, GridMatrix will provide Customer with reasonable technical support services in accordance with the terms set forth in Exhibit B

## 2. RESTRICTIONS AND RESPONSIBILITIES

2.1 Customer shall not (directly or indirectly): (a) copy or reproduce any software, documentation or data related to the Services ("Software") except as permitted under this Agreement; (b) exceed the subscribed quantities, users or other entitlement measures of the Software as set forth in the applicable Order Form; (c) remove or destroy any copyright, trademark or other proprietary marking or legends placed on or contained in the Software; (d) assign, sell, resell, sublicense, rent, lease, time-share, distribute or otherwise transfer the rights granted to Customer under this Agreement to any third party except as expressly set forth herein; (e) except to the limited extent applicable laws specifically prohibit such restriction, decompile, modify, reverse engineer, attempt to derive the source code or underlying ideas or algorithms of any part of the Software, attempt to recreate the Software or use the Software for any competitive or benchmark purposes; (f) create, translate or otherwise prepare derivative works based upon the Software; (g) interfere with or disrupt the integrity or performance of the Software; (h) attempt to gain unauthorized access to the Software or its related systems or networks, or perform unauthorized testing on the Software; (i) use the Software in a manner that infringes on the Intellectual Property rights, publicity rights, or privacy rights of any third party, or to store or transfer defamatory, trade libelous or otherwise unlawful data; or (j) store in or process with the Software any personal health data, credit card data, personal financial data or other such sensitive regulated data, or any Customer Data that is subject to the International Traffic in Arms Regulations

maintained by the United States Department of State. Fees for the Software are based on use of the Software in a manner consistent with this Agreement and the Order Form. If Customer uses the Software in a manner that is outside or in violation of this Agreement and the Order Form, then Customer will cooperate with GridMatrix to address any applicable burden on the Software or pay an additional mutually agreed upon fee.

2.2 Further, Customer may not remove or export from the United States or allow the export or re-export of the Services, Software or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. As defined in FAR section 2.101, the Software and documentation are "commercial items" and according to DFAR section 252.227-7014(a)(1) and (5) are deemed to be "commercial computer software" and "commercial computer software documentation." Consistent with DFAR section 227.7202 and FAR section 12.212, any use modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

2.3 Customer represents, covenants, and warrants that Customer will use the Services only in compliance with GridMatrix's standard published policies then in effect (the "Policy") and all applicable laws and regulations. Customer hereby agrees to indemnify and hold harmless GridMatrix against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys' fees) in connection with any claim or action that arises from an alleged violation of the foregoing or otherwise from Customer's use of Services. Although GridMatrix has no obligation to monitor Customer's use of the Services, GridMatrix may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing. In addition, GridMatrix may suspend Customer's access and use of the Services if there is an unusual and material spike or increase in Customer's use of the Services and GridMatrix reasonably suspects or knows that such traffic or use is fraudulent or materially and negatively impacting the operating capability of the Services. GridMatrix will provide notice prior to such suspension if permitted by applicable law or unless GridMatrix reasonably believes that providing such notice poses a risk to the security of the Software. GridMatrix will promptly reinstate Customer's access and use once the issue has been resolved.

2.4 Customer shall be responsible for obtaining and maintaining any equipment and ancillary services not provided by GridMatrix but required to connect to, access or otherwise use the Services, including, without limitation, sensor equipment, cameras, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, "Equipment"). Customer shall also be responsible for maintaining the security of the Equipment, Customer account, passwords (including but not limited to administrative and user passwords) and files, and for all uses of Customer account or the Equipment with or without Customer's knowledge or consent.

## 3. CONFIDENTIALITY; PROPRIETARY RIGHTS

3.1 Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "Proprietary Information" of the Disclosing Party). Proprietary Information of GridMatrix includes non-public information regarding features, functionality and performance of the Service. Proprietary Information of Customer includes non-public data provided by Customer to GridMatrix to enable the provision of the Services ("Customer Data"). The Receiving Party agrees: (i) to take reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information after five (5) years following the disclosure thereof or any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party or (e) is required to be disclosed by law.

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3.4 Customer Data Content. As between GridMatrix and Customer, Customer is solely responsible for: (i) the content, quality and accuracy of Customer Data as made available by Customer; (ii) providing any required notice with regards to how Customer Data will be collected and used for the purpose of the Services; (iii) ensuring Customer has a valid legal basis for processing Customer Data and for sharing Customer Data with GridMatrix (to the extent applicable); and (iv) ensuring that the Customer Data as made available by Customer complies with applicable laws and regulations including applicable data protection laws. In particular, if Customer is established in the European Economic Area ("EEA"), in the United Kingdom ("UK") or in California, or will, in connection with the Services, provide GridMatrix with personal data relating to an individual located within the EEA, the UK or California, the Parties shall comply with the

GridMatrix private policy located on GridMatrix's website, as such policy may change from time to time and which policy is hereby incorporated into this Agreement.

## 4. PAYMENT OF FEES

4.1 Customer will pay GridMatrix the applicable fees described in the Order Form for the Services and Implementation Services in accordance with those terms (the "Fees"). All Fees are quoted and will be billed and due in U.S. Dollars. If Customer's use of the Services exceeds the Service Capacity set forth on the Order Form or otherwise requires the payment of additional fees (per the terms of this Agreement or additional Order Forms), Customer shall be billed for such usage and Customer agrees to pay the additional fees in the manner provided in this Section. GridMatrix reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of the Initial Service Term or then-current renewal term, upon thirty (30) days prior notice to Customer (which may be sent by email). If Customer believes that GridMatrix has billed Customer incorrectly, Customer must contact GridMatrix no later than 60 days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Inquiries should be directed to GridMatrix's customer support department

4.2 GridMatrix may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be received by GridMatrix thirty (30) days after the mailing date of the invoice. Unpaid amounts are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection and may result in immediate termination of Service. Customer shall be responsible for all taxes and government fees associated with Services other than U.S. taxes based on GridMatrix's net income

## 5. TERM AND TERMINATION

5.1 Subject to earlier termination as provided below, this Agreement is for the Initial Service Term as specified in the Order Form, and shall be automatically renewed for additional periods of the same duration as the Initial Service Term (collectively, the "Term"), unless either party requests termination at least thirty (30) days prior to the end of the then-current term.

5.2 In addition to any other remedies it may have, either party may also terminate this Agreement upon thirty (30) days' notice (or without notice in the case of nonpayment), if the other party materially breaches any of the terms or conditions of this Agreement. If Customer terminates for any reason other than a material breach as set forth above or if GridMatrix terminates for Customer's breach or nonpayment, Customer shall be liable for all fees that would have been due for the 3 months following the date of termination. Upon any termination, GridMatrix will make all Customer Data available to Customer for electronic retrieval for a period of thirty (30) days, but thereafter 5.2. GridMatrix may, but is not obligated to, delete stored Customer Data. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

## 6. WARRANTY AND DISCLAIMER

6.1 GridMatrix shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Implementation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by GridMatrix or by third-party providers, or because of other causes beyond GridMatrix's reasonable control, but GridMatrix shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. GRIDMATRIX DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES AND IMPLEMENTATION SERVICES ARE PROVIDED "AS IS" AND GRIDMATRIX DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

## 7. INDEMNITY

GridMatrix shall hold Customer harmless from liability to third parties resulting from infringement by the Service of any United States patent or any copyright or misappropriation of any trade secret, provided GridMatrix is promptly notified of any and all threats, claims and proceedings related thereto and given reasonable assistance and

the opportunity to assume sole control over defense and settlement; GridMatrix will not be responsible for any settlement it does not approve in writing. The foregoing obligations do not apply with respect to portions or components of the Service (i) not supplied by GridMatrix, (ii) made in whole or in part in accordance with Customer specifications, (iii) that are modified after delivery by someone other than GridMatrix, (iv) combined with other products, processes or materials where the alleged infringement relates to such combination, (v) where Customer continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement, or (vi) where Customer's use of the Service is not strictly in accordance with this Agreement. If, due to a claim of infringement, the Services are held by a court of competent jurisdiction to be or are believed by GridMatrix to be infringing, GridMatrix may, at its option and expense (a) replace or modify the Service to be non-infringing provided that such modification or replacement contains substantially similar features and functionality, (b) obtain for Customer a license to continue using the Service, or (c) if neither of the foregoing is commercially practicable, terminate this Agreement and Customer's rights hereunder and provide Customer a refund of any prepaid, unused fees for the Service.

## 8. LIMITATION OF LIABILITY

NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT FOR BODILY INJURY OF A PERSON, GRIDMATRIX AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND GRIDMATRIX'S REASONABLE CONTROL; OR (D) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID BY CUSTOMER 8. EXHIBIT A Service Level Terms The Services shall be available 99.9%, measured monthly, excluding holidays and weekends and scheduled maintenance. If Customer requests maintenance during these hours, any uptime or downtime calculation will exclude periods affected by such maintenance. "Downtime" means any period of time during which no user is able to access the Services. Downtime does not include outages as the result of Customer or third party

connections, equipment or utilities or other reasons beyond GridMatrix's control. Customer's sole and exclusive remedy, and GridMatrix's entire liability, in connection with Service availability shall be that for each period of Downtime lasting longer than 4 hours, GridMatrix will credit Customer 5% of that month's Service fees; provided that no more than one such credit will accrue per 24 hour period. Downtime shall begin to accrue as soon as Customer notifies GridMatrix (by contacting the help desk) that Downtime is taking place, and continues until the availability of the Services is restored. In order to receive Downtime credit, Customer must notify GridMatrix in writing within 24 hours from the time of Downtime. Failure to provide such notice will forfeit the right to receive Downtime credit. Such credits may not be redeemed for cash and shall not be cumulative beyond a total of credits for 1 week of Service Fees in any 1 calendar month in any event. GridMatrix will only apply a credit to the month in which the incident occurred. GridMatrix's blocking of data communications or other Service in accordance with its Policy shall not be deemed to be a failure of GridMatrix to provide adequate service levels under this Agreement. EXHIBIT B TO GRIDMATRIX FOR THE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT GRIDMATRIX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## 9. MISCELLANEOUS

If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. This Agreement is not assignable, transferable or sublicensable by Customer except with GridMatrix's prior written consent. GridMatrix may transfer and assign any of its rights and obligations under this Agreement without consent. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Customer does not have any authority of any kind to bind GridMatrix in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by

recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. This Agreement shall be governed by the laws of the State of California without regard to its conflict of laws provisions. The parties shall work together in good faith to issue at least one mutually agreed upon press release within 90 days of the Effective Date, and Customer otherwise agrees to reasonably cooperate with GridMatrix to serve as a reference account upon request

## EXHIBIT A

**Service Level Terms**

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**Support Terms**

GridMatrix will provide Technical Support to Customer via both telephone and electronic mail on weekdays during the hours of 10:00am through 5:00pm Pacific time, with the exclusion of U.S. Federal Holidays ("Support Hours")
Customer may initiate a helpdesk ticket during Support Hours by emailing or calling the helpdesk at the email or phone number provided by GridMatrix to Customer.
GridMatrix will use commercially reasonable efforts to respond to all Helpdesk tickets within one (1) business day