Trovata SAAS Services Agreement

This SaaS Services Agreement (this **"SaaS Services Agreement"**) contains the terms under which Trovata, Inc., a Delaware corporation (**"Trovata"**) agrees to grant Client access to and use of the Services (defined below) provided by Trovata. By executing an Order Form that references this SaaS Services Agreement, Client agrees to be bound by this SaaS Services Agreement.

1. DEFINITIONS

1.1 **"Account Data"** means balance, transaction and other information retrieved from Client's financial accounts for the Services.

1.2 **"Affiliate"** means any entity that, directly or indirectly, controls, is controlled by or is under common control with such entity (but only for so long as such control exists), where "control" means the ownership of more than 50% of the outstanding shares or securities representing the right to vote in the election of directors or other managing authority of such entity.

1.3 **"Agreement"** means the Order Form and this SaaS Services Agreement.

1.4 **"Authorized Users"** means individuals who are employees or contractors of Client or its Affiliates and who will use the Services in order to perform their obligations to Client or its Affiliates.

1.5 **"Client"** means the entity indicated as such in the Order Form.

1.6 **"Client Content"** means (a) all registration information, Financial Account Information, and other data, information, text, graphics, links, and all other materials submitted by Client to Trovata, (b) all Account Data, (c) if applicable, the payee, amount and other information related to payments initiated from the Payments Services, and (d) the output of Client's processing of its Account Data in the Services.

1.7 **"Confidential Information"** means non-public business information, know-how, and trade secrets in any form, including information regarding a party's product plans, security practices and policies, and any other information a reasonable person should understand to be confidential, which is disclosed by or

on behalf of either party or its Affiliates (**"Disclosing Party"**) to the other party or its Affiliates (**"Receiving Party"**), directly or indirectly, in writing, orally, or by inspection of tangible objects, and whether such information is disclosed before or after the Effective Date. Confidential Information includes this Agreement and its terms, and the Services and Documentation, and all software and infrastructure used to provide the Services. "Confidential Information" excludes information that (a) is publicly known and made generally available in the public domain prior to the time of disclosure by the Disclosing Party through no action or inaction of the Receiving Party; (b) is already in the possession of the Receiving Party at the time of disclosure by the Disclosing Party, as shown by the Receiving Party's files and records; or (c) is obtained by the Receiving Party from a third party without a breach of the third party's obligations of confidentiality.

1.8 **"Documentation"** means operation manuals and other user manuals relating to the Services made available by Trovata to Client.

1.9 **"Financial Account Information"** means information about Client and Client's accounts maintained at financial institutions, including without limitation passwords, usernames, PINs and other necessary information to access Client's accounts.

1.10 **"Morgan Money"** means the Morgan Money® Global Trading Platform, which is maintained and operated by J.P. Morgan Investment Management Inc., a regulated financial services firm.

1.11 **"Morgan Money Access Services"** means the access provided by Trovata to Morgan Money that enables Client, only if it has an active Morgan Money account, to use the full functionality of Morgan Money while logged into the Services. For the avoidance of doubt, the access provided to Morgan Money, if any, through the use of an iFrame within the Services and any single sign-on functionality provided in connection therewith, constitutes the full extent of the Morgan Money Access Services made available by Trovata hereunder.

1.12 **"Order Form"** means the Trovata Order Form executed by Trovata and Client referencing this Agreement.

1.13 **"Payments Services"** means the payments-related services, if any, that enable Client to initiate payments from Client's bank accounts to third parties, as identified on the Order Form and made available by Trovata to Client as part of the Services.

1.14 **"Services"** means the cloud-based software and services identified on the Order Form (which may include the Payments Services and/or the Morgan Money Access Services) and made available by Trovata to Client hereunder, and including all upgrades, updates and patches to the Services that Trovata makes available for general release at no additional charge to its clients. The Services

also include access and use of Trovata's mobile app and the developer portal.

1.15 **"Support Services"** means the technical support services for the Services, as described at www.trovata.io/sp (https://trovata.io/sp/).

1.16 **"Unauthorized Use"** means any use, reproduction, distribution, disclosure, possession, examination, access or other activity involving any part of the Services or Documentation that is not expressly authorized under this Agreement.

2. THE SERVICES

2.1 <u>Order Form</u>. Client orders the subscription to use the Services described on the Order Form. To the extent there is a conflict between the terms of this SaaS Services Agreement and the terms of the Order Form, the terms of the Order Form will prevail.

2.2 <u>Use of the Services</u>. Subject to the terms and conditions of this Agreement, Trovata grants to Client a limited, nontransferable (except in connection with the transfer of this Agreement pursuant to Section 12.10), nonexclusive license, without the right to sublicense, to the Services for the defined terms in the Order Form, solely for Client's internal business use by Authorized Users. Use rights are limited to the purchased usage metrics set forth in the Order Form (e.g., number of accounts or financial institutions). Trovata will use reasonable efforts to improve and enhance its offerings, and will from time-to-time provide upgrades and updates to Client of the Services as and when made generally available.

2.3 <u>Use of the Documentation</u>. Subject to the terms and conditions of this Agreement, Trovata grants to Client a limited, nontransferable (except in connection with the transfer of this Agreement pursuant to Section 12.10), nonexclusive license, without right of sublicense, for the defined terms in the Order Form to reproduce, without modification, and internally use a reasonable number of copies of the Documentation solely in connection with Client's use of the Services in accordance with this Agreement.

2.4 <u>Financial Account Linkage</u>. n order to use the Services, Client will be required to link at least one financial account to the Services. In order to link a financial account, Client agrees to provide true, accurate, current and complete Financial Account Information of a Client account. Client represents and warrants that it is authorized to provide Financial Account Information to Trovata and link the financial accounts to the Services. By linking a financial account to the Services, Client authorizes Trovata and its service providers to periodically access third party sites designated by Client, on Client's behalf, to retrieve Account Data to provide the purchased Services. Trovata will have no

liability or other responsibility for inaccuracy or incompleteness in Financial Account Information, or Client's inability to use the Services due to such inaccuracy or incompleteness. Trovata makes no representation, warranty or guarantee that accounts at all financial institutions are available for linkage to the Services, because not all financial institutions allow accounts linkage, and financial institutions may discontinue allowing financial account linkage after Client has started using the Services. In the case of such a discontinuation, Client may, if the discontinued financial institution is material to Client and Trovata cannot provide an acceptable alternative within a reasonable period of time, terminate this Agreement and obtain a pro-rata refund of Fees applicable to the remainder of the term. Trovata will have no liability for lack of ability to link Client's accounts at all of Client's financial institutions to the Services.

2.5   Payments Services; Client Transaction Approval Thresholds and Approval Process. Payment requests made through the Payments Services will be transferred to Client's bank, to be acted upon by Client's bank without regard to any approval processes set up by Client directly with its bank. As such, Client must establish its desired transaction approval thresholds and approval process within the Payments Services with respect to any payment requests made through the Payments Services, and Client is solely responsible for establishing its desired transaction approval thresholds and the approval process. By initiating payments in the Payments Services, Client represents to Trovata that such transaction approval thresholds and approval processes have been reviewed and approved according to all internal requirements within Client.

2.6   Morgan Money Access Services. Trovata provides the Morgan Money Access Services, if applicable, pursuant to an agreement with J.P. Morgan Institutional Investments, Inc. Client's use of Morgan Money as facilitated by the Morgan Money Access Services is governed by the Client account agreement, terms, conditions and policies as separately made available to Client by J.P. Morgan Investment Management Inc. pursuant to Client's use of Morgan Money.

2.7   Restrictions. Authorized User accounts cannot be used by more than one individual. Client is responsible for the accuracy, quality and legality of the Client Content. Client is responsible for maintaining the security of its account in the Services and for maintaining the security of the authentication credentials of its Authorized Users, as well as for determining access privileges and rights for Authorized Users. Client is responsible for all uses of its account with or without its knowledge or consent, including the initiation of any payments in the Payments Services, if applicable. Client is responsible for all damages caused by its or an Authorized User's failure to maintain the security of its account and authentication credentials. Except as otherwise explicitly provided in this Agreement, Client will not, and will not permit or authorize third parties to: (a) reproduce, modify, translate, enhance, decompile, disassemble, reverse engineer,

or create derivative works of the Services or Documentation, unless expressly permitted by applicable law; (b) rent, lease, or sublicense the Services or Documentation or otherwise provide unauthorized access thereto; (c) circumvent or disable any technological or security features or measures in the Services, or (d) use the Services: (i) in a way prohibited by law, regulation, governmental order or decree; (ii) to violate the rights of others; (iii) to try to gain unauthorized access to or disrupt any service, device, data, account or network; (iv) to spam or distribute malware; (v) in a way that could harm the Services, introduce malicious code into the Services, or impair anyone else's use of the Services. Client will only use the Services and Documentation in compliance with all applicable laws and regulations.

2.8   Protection against Unauthorized Use. Client will use its best efforts to prevent any Unauthorized Use of the Services and Documentation and will immediately notify Trovata in writing of any Unauthorized Use that comes to Client's attention, at legal@trovata.io, followed by contacting Client's customer relationship manager. If there is Unauthorized Use by anyone who obtained access to the Services or Documentation through Client, Client will take all steps reasonably necessary to terminate the Unauthorized Use. Client will reasonably cooperate and assist with any actions that Trovata takes to prevent or terminate Unauthorized Use of the Services or Documentation. Client is directly responsible to Trovata for the conduct of its Authorized Users.

2.9   Payments Services Disclaimer. IF CLIENT WILL HAVE ACCESS TO PAYMENTS SERVICES, CLIENT UNDERSTANDS THAT ANY PERSON WITH ACCESS TO THE AUTHENTICATION CREDENTIALS OF ANY AUTHORIZED USER WILL BE ABLE TO INITIATE PAYMENTS TO THIRD PARTIES, SUBJECT TO THE TRANSACTION APPROVAL THRESHOLDS AND APPROVAL PROCESS SET UP BY CLIENT IN THE PAYMENTS SERVICES AS DESCRIBED IN SECTION 2.5. TROVATA WILL NOT BE RESPONSIBLE FOR ANY DAMAGES, LOSSES OR LIABILITY IF CLIENT'S AUTHENTICATION CREDENTIALS ARE NOT KEPT CONFIDENTIAL BY IT OR ANY AUTHORIZED USER, OR FOR THE ACTIONS OF AN UNAUTHORIZED THIRD PARTY LOGGING INTO AND ACCESSING THE PAYMENTS SERVICES TO INITIATE FRAUDULENT PAYMENTS. CLIENT FURTHER AGREES THAT CLIENT'S BANK IS NOT AN AGENT OF TROVATA, AND TROVATA WILL NOT BE RESPONSIBLE FOR ANY ACTS OR OMISSIONS OF ANY OF CLIENT'S BANKS.

2.10   Morgan Money Access Services Disclaimer. CLIENT ACKNOWLEDGES AND AGREES THAT TROVATA IS NOT A REGULATED FINANCIAL SERVICES FIRM AND DOES NOT PROVIDE FINANCIAL SERVICES TO CLIENT IN CONNECTION WITH CLIENT'S USE OF THE MORGAN MONEY ACCESS SERVICES. ALTHOUGH THE MORGAN MONEY ACCESS SERVICES MAY BE USED BY CLIENT TO OBTAIN ACCESS TO MORGAN MONEY, ANY RESULTING PRODUCTS, SERVICES AND FINANCIAL ADVICE PROVIDED THROUGH MORGAN MONEY ARE OFFERED AND

PROVIDED BY J.P. MORGAN INVESTMENT MANAGEMENT INC. OR ONE OR MORE AFFILIATES THEREOF. J.P. MORGAN INVESTMENT MANAGEMENT INC. IS SOLELY RESPONSIBLE FOR PROVIDING FINANCIAL SERVICES TO CLIENT IN ACCORDANCE WITH THE CLIENT ACCOUNT AGREEMENT, TERMS, CONDITIONS AND POLICIES THAT GOVERN CLIENT'S MORGAN MONEY ACCOUNT, AS MAY BE ACCESSED PURSUANT TO THE MORGAN MONEY ACCESS SERVICES. FOR THE AVOIDANCE OF DOUBT, CLIENT DOES NOT RECEIVE ANY FINANCIAL SERVICES FROM TROVATA BY VIRTUE OF THIS AGREEMENT. TROVATA IS ABLE TO PROVIDE THE MORGAN MONEY ACCESS SERVICES PURSUANT TO AN AGREEMENT WITH J.P. MORGAN INSTITUTIONAL INVESTMENTS, INC. AND RECEIVES COMPENSATION FROM J.P. MORGAN INSTITUTIONAL INVESTMENTS, INC. IN CONNECTION WITH PROVIDING THE MORGAN MONEY ACCESS SERVICES TO MUTUAL CLIENTS. TROVATA IS NOT A CURRENT CLIENTOF J.P. MORGAN INVESTMENT MANAGEMENT INC. TROVATA MAY HAVE A CONFLICT OF INTEREST IN CONNECTION WITH PROVIDING THE MORGAN MONEY ACCESS SERVICES DUE TO ITS RECEIPT OF COMPENSATION FROM J.P. MORGAN INSTITUTIONAL INVESTMENTS, INC.

3. COMPENSATION

3.1 <u>Fees</u>. Other than amounts disputed in good faith, Client will pay all fees and any other amounts owing under this Agreement as set out on the Order Form, as applicable, plus any applicable VAT, sales, use, excise or other taxes (the **"Fees"**).

3.2 <u>Payment</u>. Unless otherwise specified in the Order Form, Client will pay all undisputed amounts within thirty (30) days of the date of receipt of the applicable invoice. If Client disputes any invoiced amount, Client will notify Trovata in detail in writing as to the nature of the disputed charges and the reason for Client's disagreement prior to the due date of the payment, but Client will pay all undisputed charges on the applicable invoice by their due date. Trovata will respond by providing documentation in reasonable detail for the disputed charges. The parties will make all reasonable attempts to resolve the dispute in good faith and as amicably as possible within thirty (30) days. Any undisputed amount not paid when due will be subject to finance charges equal to one and one-half percent (1.5%) per month or the highest rate permitted by applicable usury law, whichever is less, determined and compounded daily from the date due until the date paid. Client will also reimburse any reasonable costs and expenses (including, but not limited to, reasonable attorneys' fees) incurred by Trovata to collect any undisputed amount that is not paid when due.

3.3 <u>Taxes</u>. Other than net income and gross receipt taxes imposed on Trovata, Client will bear all taxes, duties, and other governmental charges (collectively, **"taxes"**) resulting from this Agreement. Client will pay any additional taxes as are

necessary to ensure that the net amounts received by Trovata after all such taxes are paid are equal to the amounts that Trovata would have been entitled to in accordance with this Agreement as if the taxes did not exist.

4. TERM AND TERMINATION

4.1   Term. This Agreement will commence on the Effective Date specified on the Order Form and will terminate on the end date specified on the Order Form, unless earlier terminated in accordance with the terms of this Agreement.

4.2   Notice of Material Breach. If either party commits a material breach of this Agreement, the other party may give the breaching party written notice of the breach (including a statement of the facts relating to the breach, the applicable provisions of this Agreement, and the action required to cure the breach) and its intent to terminate this Agreement pursuant to this Section 4.2 if the breach is not cured within thirty (30) days after the date of the notice (or a later date as may be specified in the notice). Without limitation, any failure by Client to timely pay to Trovata any undisputed amounts when due will constitute a material breach of this Agreement, and Trovata may, without limitation of any of Trovata's other rights and remedies available, suspend performance of any or all Services and Support Services then in progress during any time that Client is in default of such amounts owed to Trovata.

4.3   Notice of Termination. If a party fails to cure any material breach specified in any notice under Section 4.2 within thirty (30) days after the date of the receipt of the written notice (or a later date as may be specified in the notice), then the non-breaching party may terminate this Agreement by giving the breaching party written notice of termination.

4.4   Effects of Termination. Upon the termination of this Agreement for any reason whatsoever, Trovata will provide a reasonable amount of information, cooperation and assistance to Client if and as Client may reasonably request such assistance at Trovata's then-current list rates. Upon written request, Trovata will return Client Content (in its then-current format and condition) and other Client Confidential Information at no additional fee. If not so requested by Client within five (5) days of the effective date of termination, Trovata may destroy Client Content and other Client Confidential Information. Notwithstanding the foregoing, Trovata may retain Client Content in anonymized and aggregated form for use only as provided for in Section 5.2. Upon the termination of this Agreement, Client will promptly return or destroy all Trovata Confidential Information. If this Agreement is terminated for any reason any and all payment liabilities accrued prior to the effective date of the termination will survive.

4.5   Survival. The parties' respective rights and obligations under Sections 2.8,

3, 4.4, 4.5, 5.1, 5.3, 5.4, 7, 8.3, 10, 11 and 12 of this Agreement, and any and all liabilities accrued prior to the effective date of termination of this Agreement, will survive the termination of this Agreement.

5. PROPRIETARY RIGHTS

5.1 <u>Services and Documentation</u>. Client acknowledges and agrees that Trovata exclusively owns all right, title and interest in and to the Services and Documentation and all portions thereof, together with all intellectual property and other proprietary rights relating thereto, including all copyrights, patent and trade secret rights, as well as all updates, upgrades, improvements, enhancements, modifications, configurations, extensions, and derivative works of any of the foregoing (including all new features, functions and integrations) however and whenever made, notwithstanding any other provision in this Agreement. Trovata reserves all rights to the Services and Documentation not expressly granted to Client under this Agreement.

5.2 <u>Client Content</u>. Trovata acknowledges that, as between Trovata and Client, Client owns all intellectual property and other proprietary rights in and to the Client Content, including all copyrights, patent and trade secret rights therein. Subject to the rights granted by Client under this Agreement, Trovata acquires no right, title or interest from Client or Client's licensors under this Agreement in or to Client Content, including any intellectual property rights therein. Client hereby grants to Trovata a worldwide, nonexclusive, fully-paid up, royalty-free and non-transferable (except in connection with the transfer of this Agreement pursuant to Section 12.10) license (with right to sublicense solely as necessary to provide the Services) to use the Client Content (a) to provide the Services under this Agreement, and (b) in anonymized and aggregated form to improve the Services. Client Content will not be shared with third parties except as necessary to provide the Services.

5.3 <u>Feedback</u>. Trovata welcomes any suggestions, proposals, ideas, recommendations or other feedback that Client may provide Trovata concerning improvements, new features and new functions in the Services (**"Feedback"**). Feedback excludes Client Content and other Client Confidential Information. By providing Feedback to Trovata or otherwise participating in development of the Services, Client agrees that all Feedback and any other contribution of Client related to the Services become Trovata's exclusive property. Additionally, Client irrevocably assigns to Trovata its complete rights, titles, and interests in and to Feedback and any rights Client may have in the Services (including updates, upgrades, improvements, enhancements, modifications, configurations, extensions, and derivative works), including any and all intellectual property rights contained therein. Moreover, at Trovata's request and expense, Client agrees to execute documents and take such further action as Trovata may

reasonably request to assist it in acquiring, perfecting, or maintaining such intellectual property rights.

5.4   Trademarks. "Trovata", Trovata's logos and any other trade name or slogan contained in the Services are trademarks or service marks of Trovata, its partners or its licensors and may not be copied, imitated or used, in whole or in part, without the prior written permission of Trovata or the applicable trademark holder. In addition, the look and feel of the Services, including all page headers, custom graphics, button icons and scripts, is the service mark, trademark and/or trade dress of Trovata and may not be copied, imitated or used, in whole or in part, without Trovata's prior written permission. All other trademarks, registered trademarks, product names and company names or logos mentioned in the Services are the property of their respective owners. Reference to any products, services, processes or other information, by trade name, trademark, manufacturer, supplier or otherwise does not constitute or imply endorsement, sponsorship or recommendation thereof by Trovata.

6. DATA SECURITY; SERVICE AVAILABILITY; SUPPORT SERVICES

6.1   Security. Trovata has implemented and will maintain reasonable administrative, physical and technical security measures consistent with current prevailing security practices in the United States software-as-a-service industry and intended to protect against the loss, misuse, unauthorized access, alteration or disclosure of Client Content. These measures include encryption of Client Content during transmission to the Services, and encryption of backups of Client Content and authentication credentials at rest. Trovata will comply with all applicable law concerning privacy, data transfer and security. Trovata will notify Client of any unauthorized access to, or use of, Client Content that comes to Trovata's attention. Solely if and to the extent that Trovata is a processor or subprocessor of any personal data of which Client is the data controller or data processor, respectively, the Data Processing Addendum available at www.trovata.io/dpa (https://trovata.io/dpa/) (**"DPA"**) orms a part of and is hereby incorporated into this Agreement by this reference and applies to the extent Client Content includes Personal Data (as defined in the DPA).

6.2   Malicious Code. Trovata will use measures consistent with prevailing practices in the United States software-as-a-service industry to screen the Services for the purpose of avoiding the introduction of any Malicious Code into Client Content or Client's computer hardware and software systems or software. For the purposes of this Agreement, **"Malicious Code"** means software (including, without limitation, code, instructions, programs, routines and/or scripts) that is designed to (a) permit unauthorized access to and/or copying of

Client's data, hardware or software; or (b) damage, delete, delay, disable, erase, interfere with, modify, shut-down or otherwise harm Client's data, hardware or software, including, but not limited to, components that are commonly referred to as "back doors," "bots", "drop dead devices", "malware", "time bombs," "Trojan Horses," "viruses", and "worms". In the event Trovata introduces Malicious Code into Client Content or Client's computer hardware or software systems or software, Trovata will reasonably cooperate with and assist Client in removing such virus and/or Malicious Code at no additional charge.

6.3   Service Availability. Trovata will perform and maintain regular database backups. Trovata incorporates database and system maintenance operations and processes designed to address data consistency, indexing, and integrity requirements and to help improve system performance. Trovata also uses an industry-leading hosting infrastructure to provide the Services and has implemented and will maintain commercially reasonable business resumption and contingency plans intended to avoid unplanned Services interruptions. Trovata will notify Client at least twenty-four (24) hours in advance of planned maintenance services. Planned maintenance services will only be performed between the hours of 1:00 a.m. and 3:00 a.m. Pacific Time. In the event of an unplanned Services interruption, Client may contact Trovata for Support Services.

6.4   Support Services. Trovata will provide Client with Support Services with respect to the Services so long as Client is current in payment of the applicable Fees.

7. CONFIDENTIALITY

7.1   Mutual Confidentiality. The Receiving Party agrees to take reasonable steps, at least substantially equivalent to the steps it takes to protect its own proprietary information, but not less than reasonable care, to prevent the unauthorized duplication or use of the Disclosing Party's Confidential Information and the disclosure of the Disclosing Party's Confidential Information to third parties without the Disclosing Party's prior written consent. The Receiving Party may disclose the Disclosing Party's Confidential Information to the Receiving Party's employees or agents who reasonably need to have access to such information to perform the Receiving Party's obligations under this Agreement, and who will treat such Confidential Information under the terms of this Agreement. Trovata may disclose this Agreement (but not any of Client's other Confidential Information) to actual and potential investors and funding sources who agree to hold it in confidence.

7.2   Exceptions. The Receiving Party may disclose the Disclosing Party's Confidential Information as required by applicable law or regulation or as may be

required to comply with a court order compelling such disclosure; provided that, unless legally prohibited from doing so, the Receiving Party gives the Disclosing Party prompt written notice of the requirement prior to the disclosure and reasonable assistance in limiting disclosure or obtaining an order protecting the information from public disclosures.

7.3   Publicity. Trovata may identify Client – by name and logo – as a customer in published customer lists during the term of the Agreement. Upon request, Client agrees to participate in a Trovata press release or case study. Any press release or case study shall be subject to Client's approval and Trovata's use must be reasonable. Upon notice from Client, Trovata shall use commercially reasonable efforts to discontinue use of any of the aforementioned Client identification, press release, or case study.

8. REPRESENTATIONS, WARRANTIES AND DISCLAIMER

8.1   Mutual Representations and Warranties. Each party represents and warrants to the other that:

(a)   this Agreement has been duly executed and delivered and constitutes a valid and binding agreement enforceable against such party in accordance with its terms;

(b)   no authorization or approval from any third party is required in connection with such party's execution, delivery, or performance of this Agreement; and

(c)   the execution, delivery, and performance of this Agreement does not violate the laws of any jurisdiction or the terms or conditions of any other agreement to which it is a party or by which it is otherwise bound.

8.2 Trovata Representations and Warranties. Trovata represents and warrants to Client that:

(a)   Trovata has sufficient right, title and interest in the Services to license the Services to Client in accordance with this Agreement, and that entering into and carrying out the terms and conditions of this Agreement will not violate or constitute a breach of any agreement binding upon Trovata;

(b)   the Support Services will be performed in a professional and workmanlike manner and will be of a grade, nature, and quality that meets prevailing standards in the software-as-a-service industry;

(c)   at all times during the applicable subscription term the Services, as operating in a production environment, will materially conform to the

Documentation. If Trovata receives a written notice and description of what is a material non-conformity in the Services, then Trovata will endeavor to correct such non-conformity at no additional charge. Any efforts to cure the material non-conformity during the cure period detailed in Section 4.2 will be performed at no additional cost to Client. If the non-conformity is not corrected within a reasonable period of time, Client may terminate this Agreement in conformity with Section 4.2 for a material breach of this warranty. Upon any such termination, Trovata will promptly provide a refund to Client of amounts prepaid for services for the period following such termination date; and

(d)   to Trovata's knowledge as of the Effective Date, Client's use of the Services in accordance with this Agreement will not infringe, misappropriate or otherwise violate any third party intellectual property or other proprietary rights.

8.3   Disclaimer. EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES STATED IN THIS AGREEMENT, TROVATA MAKES NO ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, TITLE, AND NON-INFRINGEMENT. TROVATA DOES NOT WARRANT AGAINST INTERFERENCE WITH THE ENJOYMENT OF THE SERVICES OR ANY DELIVERABLES, OR AGAINST INFRINGEMENT, EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT. TROVATA DOES NOT WARRANT THAT THE SERVICES OR ANY DELIVERABLES ARE ERROR-FREE OR THAT OPERATION OF THE SERVICES OR DELIVERABLES WILL BE SECURE OR UNINTERRUPTED. TROVATA EXERCISES NO CONTROL OVER AND EXPRESSLY DISCLAIMS ANY LIABILITY ARISING OUT OF OR BASED UPON THE CLIENT'S USE OF THE SERVICES AND DELIVERABLES. IF TROVATA IS PROVIDING PAYMENTS SERVICES PURSUANT TO THE AGREEMENT, TROVATA MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE AMOUNT OF TIME NEEDED TO COMPLETE PAYMENT REQUESTS THROUGH THE PAYMENTS SERVICES, AS SUCH PAYMENTS ARE DEPENDENT UPON MANY FACTORS OUTSIDE OF TROVATA'S CONTROL, INCLUDING BUT NOT LIMITED TO PAYMENT SETTLEMENT TIMES, PAYMENT HOLDS, BANK INFRASTRUCTURE OUTAGES OR OTHER DELAYS IN THE BANKING SYSTEM AND BANK PAYMENT CUTOFF TIMES AND/OR TRANSFER LIMITS. IF TROVATA IS PROVIDING MORGAN MONEY ACCESS SERVICES PURSUANT TO THE AGREEMENT, TROVATA MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE FUNCTIONALITY OF MORGAN MONEY, AS J.P. MORGAN INVESTMENT MANAGEMENT INC. IS SOLELY RESPONSIBLE FOR THE OPERATION AND MAINTENANCE OF MORGAN MONEY.

9. INTELLECTUAL PROPERTY INFRINGEMENT

9.1   Infringement Defense. Trovata will, at its expense, defend Client and Client's employees, directors, officers, agents, and representatives (collectively, **"Client Indemnified Parties"**) from any actual or threatened third party claim, proceeding or suit that alleges that the use of the Services by the Client Indemnified Parties infringes or misappropriates any copyright, patent, trademark, trade secret or other intellectual property right of any third party during the term of this Agreement, if: (a) the applicable Client Indemnified Party gives Trovata prompt written notice of the claim; (b) Trovata has full and complete control over the defense and settlement of the claim; (c) the applicable Client Indemnified Party provides assistance in connection with the defense and settlement of the claim as Trovata may reasonably request; and (d) the applicable Client Indemnified Party complies with any settlement or court order made in connection with the claim (e.g., relating to the future use of any infringing materials).

9.2   Infringement Indemnification. Trovata will indemnify each of the Client Indemnified Parties against and pay (a) all damages, costs, and attorneys' fees finally awarded against any of them in any proceeding under Section 9.1; (b) all out-of-pocket costs (including reasonable attorneys' fees) reasonably incurred by any of them in connection with the defense of such proceeding (other than attorneys' fees and costs incurred without Trovata's consent after Trovata has accepted defense of such claim); and (c) if any proceeding arising under Section 9.1 is settled, all amounts paid to any third party that Trovata agrees to in settlement of any such claims.

9.3   Mitigation of Infringement Action If Client's use of the Services is, or in Trovata's reasonable opinion is likely to become, enjoined or materially diminished as a result of a proceeding arising under Section 9.1, then Trovata will either: (a) procure Client's continuing right to use the Services; (b) replace or modify the Services in a functionally equivalent manner so that it no longer infringes; or (c) if, despite Trovata's commercially reasonable efforts, Trovata is unable to do either (a) or (b), Trovata will terminate the licenses with respect to the Services subject to the infringement claim and refund to Client all unused Fees for the Services that Client pre-paid.

9.4   Exclusions. Trovata will have no obligation under this Section 9 for any infringement to the extent that it arises out of or is based upon (a) the combination, operation, or use of the Services with any software, services, tools, hardware, equipment, supplies, accessories, or any other materials or services not furnished by Trovata or recommended in writing by Trovata if such infringement would have been avoided but for such combination, operation, or use; (b) designs, requirements, or specifications for the Services that Client

required or provided, if the alleged infringement would not have occurred but for such designs, requirements, or specifications; (c) use of the Services outside of the scope of the license granted to Client; (d) any modification of the Services not made or authorized in writing by Trovata where such infringement would not have occurred absent such modification; (e) the Client Content; or (f) Unauthorized Use of the Services. Client will reimburse Trovata for any costs or damages that result from these actions.

9.5   Exclusive Remedy. This Section 9 states Trovata's sole and exclusive liability, and Client's sole and exclusive remedy, for the actual or alleged infringement of any third party intellectual property right by the Services.

10. CLIENT INDEMNIFICATION

10.1   Defense. Except to the extent a claim arises from Trovata's gross negligence, willful misconduct or breach of this Agreement, Client will, at its expense, defend Trovata, its Affiliates and their employees, directors, officers, agents, and representatives (collectively, **"Trovata Indemnified Parties"**) from any actual or threatened third party claim, proceeding or suit arising out of or based upon Client's use of the Services, a third party's use of the Services authorized or facilitated by Client, the Client Content, or Client's breach of any of the provisions of this Agreement, if: (a) the applicable Trovata Indemnified Party gives Client prompt written notice of the claim; (b) Client has full and complete control over the defense and settlement of the claim; (c) the applicable Trovata Indemnified Party provides assistance with the defense and settlement of the claim as Client may reasonably request and at Client's expense; and (d) the applicable Trovata Indemnified Party complies with any settlement or court order made in connection with the claim.

10.2   Indemnification. Client will indemnify each of the Trovata Indemnified Parties against and pay: (a) all damages, costs, and attorneys' fees finally awarded against Trovata in any proceeding under Section 10.1; (b) all out-of-pocket costs (including reasonable attorneys' fees) reasonably incurred by any of them in connection with the defense of such proceeding (other than attorneys' fees and costs incurred without Client's consent after Client has accepted defense of such claim); and (c) if any proceeding arising under Section 10.1 is settled, Client will pay any amounts to any third party that Client agrees to in settlement of any such claims.

11. LIMITATIONS OF LIABILITY; INSURANCE

11.1   Disclaimer of Consequential Damages. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER PARTY WILL, UNDER ANY CIRCUMSTANCES, BE

LIABLE TO THE OTHER OR ANY THIRD PARTY FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES OR LOST PROFITS, LOSS OF BUSINESS, LOSS OF GOODWILL OR DAMAGE TO REPUTATION ARISING OUT OF OR RELATED TO THE TRANSACTIONS CONTEMPLATED UNDER THIS AGREEMENT, WHETHER CAUSED BY BREACH OF WARRANTY, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL OR EQUITABLE CAUSE OF ACTION, EVEN IF THE LIABLE PARTY IS APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING.

11.2   Cap on Liability. TO THE MAXIMUM EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES WILL EITHER PARTY'S TOTAL LIABILITY OF ALL KINDS ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID AND PAYABLE BY CLIENT TO TROVATA UNDER THIS AGREEMENT WITHIN THE PRECEDING 12 MONTH PERIOD (DETERMINED AS OF THE DATE OF THE EVENT GIVING RISE TO THE CLAIM).

11.3   Independent Allocations of Risk. EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS OF THIS AGREEMENT BETWEEN THE PARTIES. THIS ALLOCATION IS REFLECTED IN THE PRICING OFFERED BY TROVATA TO CLIENT AND IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS AGREEMENT. THE LIMITATIONS IN THIS SECTION 11 WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY IN THIS AGREEMENT.

11.4   Liability Insurance. Trovata agrees to obtain from an insurance carrier with a minimum AM Best rating of A-, and maintain during the term of this Agreement and for one (1) year thereafter: (a) comprehensive general liability insurance in an amount not less than $1,000,000 per occurrence and $2,000,000 in the aggregate; and (b) technology errors and omissions insurance, including cyber liability coverage, in an amount not less than $1,000,000 in the aggregate. Trovata will provide Client with a certificate of insurance upon request.

12. MISCELLANEOUS

12.1   Independent Contractor. It is the express intention of the parties that Trovata performs all of the services as an independent contractor. Without limiting the generality of the foregoing, Trovata is not authorized to bind Client to any liability or obligation or to represent that Trovata has any such authority.

12.2   Subcontractors. Trovata may use subcontractors or other third parties in carrying out its obligations under this Agreement; however, Trovata remains responsible for all of its obligations under this Agreement and for any breach of this Agreement by any such subcontractor or other third party.

12.3   Governing Law; Venue. This Agreement will be interpreted, construed, and enforced in all respects in accordance with the local laws of the State of California, U.S.A, without reference to its choice of law rules and not including the provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods. The parties agree that any action arising out of or in connection with this Agreement will be heard in the federal, state, or local courts in San Diego County, California, U.S.A., and each party hereby irrevocably consents to the exclusive jurisdiction and venue of these courts.

12.4   Export Compliance. Each party shall comply with United States and foreign export control laws and regulations. Client acknowledges that the Services, Support Services and Documentation are subject to the U.S. Export Administration Regulations (the **"EAR"**) and that Client shall comply with the EAR. Without limiting the foregoing, (a) Trovata and Client each respectively represent that: (i) it is not located in any country that is subject to U.S. export restrictions (currently including, but not necessarily limited to, the Crimea Region of Ukraine, Cuba, Iran, North Korea, Sudan and Syria) (**"Restricted Countries"**); and (ii) it is not prohibited from participating in U.S. export transactions by any federal agency of the U.S. government; (b) Client represents that it shall not use the Services, Support Services and Documentation from any Restricted Country or in the design, development or production of nuclear, chemical or biological weapons, rocket systems, space launch vehicles, sounding rockets or unmanned air vehicle systems; and (c) Trovata represents that it shall not provide the Services, Support Services and Documentation from any Restricted Country. In addition, Client is responsible for complying with any local laws which may impact Client's right to import, export or use the Services, Support Services and Documentation.

12.5   Mitigation. Each party must mitigate the impact of any damage arising out of or related to this Agreement.

12.6   Notices. Any notice required or permitted under the terms of this Agreement or required by law must be in writing and will be deemed effective: (i) upon delivery when delivered in person; (ii) upon transmission when delivered by verified facsimile transmission or e-mail with delivery receipt; (iii) when delivered by a recognized national or international overnight courier service with some form of tracking mechanism; or (iv) when delivered by certified or registered mail with return receipt. The initial address for notices for each party is set forth on the Order Form, but either party may change its address for notices by notice to the other party given in accordance with this Section 12.6.

12.7   Force Majeure. Neither party will be liable for, or be considered to be in breach of or default under this Agreement on account of, any delay or failure to perform as required by this Agreement (other than payment of Fees) as a result of any cause or condition beyond such party's reasonable control, so long as such party uses all commercially reasonable efforts to avoid or remove such causes of non-performance.

12.8   Waiver. Any waiver of the provisions of this Agreement or of a party's rights or remedies under this Agreement must be in writing to be effective. Failure, neglect, or delay by a party to enforce the provisions of this Agreement or its rights or remedies at any time, will not be construed as a waiver of the party's rights under this Agreement and will not in any way affect the validity of the whole or any part of this Agreement or prejudice the party's right to take subsequent action. Exercise or enforcement by either party of any right or remedy under this Agreement will not preclude the enforcement by the party of any other right or remedy under this Agreement or that the party is entitled by law to enforce.

12.9   Severability. If any term, condition, or provision in this Agreement is found to be invalid, unlawful, or unenforceable to any extent, the parties will endeavor in good faith to agree to amendments that will preserve, as far as possible, the intentions expressed in this Agreement. If the parties fail to agree on an amendment, the invalid term, condition, or provision will be severed from the remaining terms, conditions, and provisions of this Agreement, which will continue to be valid and enforceable to the fullest extent permitted by law.

12.10   Assignment. Neither party will assign or otherwise transfer this Agreement, or such party's rights and obligations hereunder, either voluntarily, by operation of law or otherwise, absent the other party's prior written consent, which consent shall not be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, either party may, upon fifteen (15) days' prior written notice to the other party, assign all of its rights and delegate all of its duties under this Agreement to: (a) the surviving entity in a merger, sale, consolidation, or combination; or (b) an entity that acquires all or substantially all of the assigning party's assets related to this Agreement.

12.11   Counterparts. The Order Form may be executed in counterparts, each of which will be deemed to be an original and together will constitute one and the same agreement. The Order Form may also be executed and delivered by facsimile and such execution and delivery will have the same force and effect of an original document with original signatures.

12.12   Headings. Headings are used in this Agreement for reference only and will not be considered when interpreting this Agreement.

12.13   Integration. This Agreement (including the DPA if applicable) contains

the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all previous communications, representations, understandings, and agreements, either oral or written, between the parties with respect to said subject matter. No terms, provisions, or conditions of any purchase order, acknowledgement, or other business form that either party may use in connection with the transactions contemplated by this Agreement will have any effect on the rights, duties, or obligations of the parties under, or otherwise modify, this Agreement, regardless of any failure of a receiving party to object to these terms, provisions, or conditions.

12.14 <u>Changes to SaaS Services Agreement</u>. From time to time Trovata may modify the terms of this SaaS Services Agreement; provided, however, that the modifications will not become effective until renewal of this Agreement.