



## IBI GLOBAL PARTNER PROGRAM GENERAL TERMS AND CONDITIONS

These General Terms and Conditions (“General Terms”) are incorporated by reference into the Information Builders Global Partner Program Enrollment Agreement (“Enrollment Agreement” or “EA”) between the Partner identified in the Enrollment Agreement and Information Builders, Inc. (“IBI”).

The Agreement between Partner and IBI also includes the IBI Global Partner Program Guide which is referenced and incorporated into these General Terms. Partner is responsible for reading the Program Guide and adhering to the requirements set forth in the Program Guide.

Partner may not access the IBI Global Partner Portal or participate in the IBI Global Partner Program (“Partner Program”) if Partner (i) does not accept these terms and conditions, or (ii) is or becomes in whole or in part a direct competitor of IBI, except with IBI’s prior written consent and permission. Partner may not access the Partner Portal or join the Partner Program for purposes of monitoring IBI, its products and services, their performance or functionality, or for any other benchmarking or competitive purposes.

1. **DEFINITIONS.** Except as otherwise provided herein, capitalized terms used in these General Terms shall have the definitions set forth in the Agreement.

1.1. **“Addendum”** means an addendum to these General Terms or the Enrollment Agreement as referenced herein, therein or as agreed in writing by the parties.

1.2. **“Affiliate”** means any entity that at all times is controlled by a party to this Agreement, where “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity, through ownership of more than fifty-one percent (51%) of the outstanding voting securities or other ownership interests, by contract or otherwise.

1.3. **“Agreement”** means the Enrollment Agreement, these General Terms and all Addenda, Orders, and all exhibits, schedules, appendices and attachments to any of the preceding.

1.4. **“Confidential Information”** means any information in any form (including written, electronic, oral, graphic or other form) that a party or any of its Affiliates treats as or has an obligation to treat as confidential (including information relating to the business, products, services, pricing, plans, customers, suppliers, partners, markets, trade secrets, know-how, data, software, source code, tools, research, ideas, inventions, processes, designs, drawings, specifications, engineering, marketing, personnel and/or finances of such party or any of its Affiliates) and that is directly or indirectly disclosed by or on behalf of such party or any of its Affiliates (“Discloser”) to the other party or any of its Affiliates (“Recipient”) in connection with the Agreement. Confidential Information shall be clearly marked or identified as “confidential” or “proprietary” or with some similar designation when disclosed; provided that Confidential Information includes any information in any form that a reasonable person under similar circumstances would understand to be the confidential information of Discloser, whether or not such information is marked, identified as, summarized, or confirmed in writing as, confidential or proprietary. All Products and Innovations will be treated as the Confidential Information of IBI.

1.5. **“Documentation”** means the published user manuals for the Software as made generally available by IBI to licensees of the Software, as may be revised by IBI from time to time. Documentation does not include any other documentation, templates, tools or materials provided to Partner, including in connection with any training or accreditation or relating to IBI’s implementation methodologies.

1.6. **“EEA”** means the European Economic Area and includes the European Union, Iceland, Liechtenstein and Norway.

1.7. **“Effective Date”** means the Effective Date of the Agreement as specified in the Enrollment Agreement.

1.8. **“End User”** means a third-party that has licensed directly from IBI or any IBI Affiliate (or from an authorized distributor or reseller of IBI or any IBI Affiliate) any Products in accordance with a valid license agreement, and that has no right to distribute or sublicense such Products.

1.9. **“Enhancements”** means any enhancements (improvements), updates, new versions, and new releases, of the Software which are designated as such by IBI and made generally available by IBI to all of its End User customers and Partners, without a separate charge, so long as the applicable Product is covered by a current subscription to InfoResponse.

1.10. **“EU Data Protection Law”** means Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995, which was superseded by GDPR on May 25, 2018 and the European Union General Data Protection Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016, repealing Directive 95/46/EC, and any implementing EU Member State law.

1.11. **“GDPR”** means the European General Data Protection Regulations.

1.12. **“IBI Affiliate”** means any Affiliate of IBI or an IBI appointed agent or representative.

1.13. **“IBI Cloud”** means the IBI hosted cloud platform made generally available by IBI for use of certain Software as specified in the applicable Order or IBI license, and any Enhancement thereto as provided by IBI under the applicable agreement.

1.14. **“IBI Property”** shall have the meaning defined in section 13.1.

1.15. **“IBI Services”** means any consulting, implementation, mentoring, development and/or other services provided by IBI or any IBI Affiliate that are as specified under the scope of services in the applicable Statement of Work. IBI Services do not include the IBI Cloud or InfoResponse maintenance and support.

1.16. **“IBI Supplier”** means any third party supplier of any product(s), service(s) and/or other item(s) to IBI and/or any IBI Affiliate.

1.17. **“InfoResponse”** shall mean IBI’s maintenance and support program provided to licensed users of the Products who are subscribed to the applicable program.

- 1.18. **“Innovation”** means any invention, improvement, work of authorship or innovation of any kind, including any improvement or modification to any Product, that IBI, or personnel working for or through IBI, may make, conceive, develop or reduce to practice, alone or jointly with others, in the course of performing or as a result of IBI Services, whether or not they are eligible for patent, copyright, trademark, trade secret or other legal protection.
- 1.19. **“License Addendum”** means the then-current Partner Program License Addendum made available by or provided by IBI. All applicable and accepted License Addenda executed by the parties are incorporated herein by reference.
- 1.20. **“Marks”** means the applicable logos, trademarks, service marks and other marks relating to the IBI Global Partner Program the applicable Product(s) and/or IBI Service(s) of IBI and/or any IBI Affiliate and/or IBI Supplier that are made available to Partner under the Agreement, as such marks are specified in the Program Guide, the Partner Portal (or as otherwise designated in writing to Partner by IBI from time to time) for Partner’s then-current Tier for use in accordance with the Agreement.
- 1.21. **“Mark Usage Policies”** means IBI’s then-current Mark usage policies and guidelines as modified from time to time by IBI and as set forth on the Partner Portal (or such other location as IBI may designate from time to time) or as otherwise made available or provided by IBI. The Mark Usage Policies are incorporated herein by reference.
- 1.22. **“Order”** means IBI’s then-current applicable addendum, license exhibit order form, license agreement, Statement of Work, or other ordering instrument for the applicable Products, InfoResponse and/or IBI Services that is made pursuant to and subject to the terms of the Agreement and is executed by Partner (or at IBI’s discretion, by a Partner Affiliate) and IBI or a IBI Affiliate, and/or any InfoResponse renewal invoice issued by IBI for any InfoResponse renewal period.
- 1.23. **“Order Date”** means the order date set forth on the applicable Order as it relates to the items purchased or licensed pursuant to such Order.
- 1.24. **“Partner Affiliate”** means any Affiliate of Partner.
- 1.25. **“Partner Materials”** shall have the meaning set forth in Section 13.4 (Partner Proprietary Rights).
- 1.26. **“Partner Portal”** means the IBI Global Partner Program Portal as may be made available by IBI.
- 1.27. **“Personal Information”** means data about an identified or identifiable individual that is within the scope of the Directive and GDPR in any form and provided by IBI to Partner.
- 1.28. **“Price List”** means IBI’s then-current applicable standard price list for the Territory in effect at the time IBI accepts an Order from Partner. IBI may from time to time and without notice to Partner modify the Price List. The Price List is incorporated herein by reference.
- 1.29. **“Privacy Shield Principles”** means the requirements of the EU-US Privacy Shield Principles and Supplemental Principles and Swiss-US Privacy Shield Framework.
- 1.30. **“Processing”** of Personal Information means any operation or set of operations which is performed upon Personal Information, whether or not by automated means, such as collection, storage, use, disclosure and destruction.
- 1.31. **“Product(s)”** mean(s) the IBI Software and the Documentation. References to “Products” shall be deemed to include IBI Cloud hosting and InfoResponse maintenance, as applicable, unless otherwise reasonably required by the context.
- 1.32. **“Program”** means the IBI Global Partner Program including all rights, obligations and benefits of the Partner and IBI that are associated with the Partner Type and Tier described in the Program Guide as modified by IBI from time to time.
- 1.33. **“Program Benefits”** means the materials, services, access and or benefits that may be provided to Partner under this Agreement as part of Partner’s participation in a Program Tier or Type as set forth in the Program Guide. Certain Program Benefits may be subject to payment of additional fees.
- 1.34. **“Program Fee(s)”** mean(s) the then-current fee(s) as set forth in the Program Guide (or as otherwise agreed in writing by the parties) for participation in the Program in Partner’s Tier or for Program Benefits.
- 1.35. **“Program Guide”** means IBI’s then-current IBI Partner Program Guide, as modified by IBI from time to time and as set forth on the Partner Portal or as otherwise made available or provided by IBI. The Program Guide is incorporated herein by reference.
- 1.36. **“Software”** means the object code version of the software products specified in the Enrollment Agreement or a given License Addendum (as such list may be updated and revised from time to time by IBI, and to the extent such software is then-currently made generally commercially available by IBI) and/or as otherwise specified in the applicable Order and/or as otherwise agreed in writing by the parties, and any upgrades or Enhancements thereto, as may be delivered by IBI to Partner or an End User, as applicable under the Agreement.
- 1.37. **“Statement of Work”** means an exhibit or addendum that is expressly subject to the terms of the Agreement, sets forth a description of the services to be provided and is executed by Partner (or at IBI’s discretion, by a Partner Affiliate) an authorized Senior Vice President of IBI or an IBI Affiliate.
- 1.38. **“Taxes”** means any and all sales, use, excise and/or property taxes, value added tax (VAT), goods and services tax (GST), withholdings taxes, and/or other taxes, levies, duties, assessments and/or withholdings that arise out of the Agreement (including any and all fines, interest, penalties and/or other costs arising from any failure or delay in paying any such amounts, but excluding taxes based on IBI’s net income).
- 1.39. **“Term”** means (except as otherwise set forth in the Enrollment Agreement or otherwise agreed in writing by the parties) the one (1) year period beginning on the Effective Date.
- 1.40. **“Territory”** means the geographical area(s) (and any specified market segment(s) and/or other restrictions, if any) specified in the Enrollment Agreement and/or as otherwise agreed in writing by the parties.
- 1.41. **“Tier”** means one of IBI’s then-current Partner Program participation Tiers as set forth in the Program Guide. Except as otherwise agreed in a signed writing by the parties, Partner’s Tier for the Term is as specified in the Enrollment Agreement.
- 1.42. **“Tier Requirements”** means the then-current requirements for the applicable Tier, as set forth in the Program Guide and/or on the Partner Portal and/or as otherwise agreed in writing by the parties.

## 2. PROGRAM PARTICIPATION.

### 2.1. Benefits and Requirements.

2.1.1. The benefits and requirements of the Program for Partner's then-current Tier are as set forth in the Program Guide, on the Partner Portal and/or as otherwise agreed in writing by the parties. Partner agrees to meet the Tier Requirements for Partner's then-current Tier. Subject to the terms and conditions of the Agreement, Partner shall be entitled to receive the benefits set forth in the Program Guide and/or on the Partner Portal for Partner's then-current Tier, provided that Partner has paid to IBI in advance all applicable fees, has met and continues to meet the Tier Requirements for such Tier, and is not in violation of the Agreement.

2.1.2. IBI reserves the right to reassign Partner's Tier upon prior notice if Partner has not met the requirements for the assigned Tier and has not remedied such deficiency prior to the expiration of the notice period. Any payment obligations are non-cancelable and fees paid are non-refundable.

2.1.3. Partner Program Benefits are tools and resources to help Partner grow and succeed as IBI partners. Depending on the applicable Partner Tier and Type, these Partner Program Benefits include technology access, product development enablement, marketing support, and go-to-market resources. Partner Program Benefits are designed to support each Partner's readiness and effectiveness in their roles as an IBI Partner for IBI Products, IBI Services and solutions. A Partner may not extend or disclose any discounts, Partner Portal access or Partner Program Benefits to its customers or other third parties without IBI's express prior written consent.

2.1.4. As set forth in the Program Guide, the Program provides the opportunity for all Partners regardless of Tier to participate in the IBI Global Partner Referral Program in accordance with the IBI Global Partner Referral Program Referral Addendum that is incorporated herein by reference. Unless Partner provides written notice to IBI, that it wishes to opt-out of the IBI Global Partner Referral Program, Partner's acceptance of these terms or submission of a Referral Deal Registration shall be deemed an acceptance of the IBI Global Partner Referral Program Referral Addendum.

2.2. **Personal Data.** In submitting personal data to the Partner Portal in connection with using the Partner Portal, or in submitting a Referral Deal Registration or Resell Deal Registration, Partner will comply with all applicable laws governing Partner's collection, storage, processing, use and transfer of such information. As the data controller, Partner warrants that it has provided all appropriate notices to data subjects and obtained all appropriate consents to transfer data to IBI and allow its processing according to the terms of the Agreement. Partner authorizes IBI to process such data as reasonably required to exercise IBI's rights and perform IBI's obligations under the Partner Program and the Agreement; Partner acknowledges that IBI may be required to provide personally identifiable information to third parties to comply with legally mandated reporting, disclosure, or other legal process requirements.

2.3. **Privacy Shield Principles.** IBI is Privacy Shield certified. To the extent applicable to Partner's Tier and Type in the event that IBI provides any Personal Information to Partner pursuant to this Agreement, Partner understands that it will be required to execute an applicable "Onward Transfer Agreement." Partner represents and warrants that it will provide at least the same level of protection for Personal Information as is required under the Privacy Shield Principles. If Partner determines that it cannot or can no longer meet its obligation to provide the same level of protection as is required by the Privacy Shield Principles, Partner shall immediately notify IBI in writing. Upon providing such notice, Partner shall stop receiving all Personal Information, remediate any unauthorized Processing of Personal Information and take any other commercially-reasonable remediation measures requested by IBI in good faith.

2.4. **Opt-in to Marketing/Partner Communications/Partner Listing.** Partner's participation in the Partner Program will serve as an opt-in to receive IBI's marketing communications as well as other emails and other communications from IBI in order for IBI to be able to fulfill its obligations to Partner under the Partner Program. Partner consents to allowing IBI to list Partner in the IBI Partner Directory and to store and display Partner's name, contact information and other relevant information as IBI deems reasonably necessary. Partner will be presumed to have provided appropriate notices and have obtained appropriate consents, if required, from any persons or Partner users. If Partner wishes to opt-out of the preceding, Partner may do so by contacting IBI directly [PartnerProgramManager@ibi.com](mailto:PartnerProgramManager@ibi.com).

### 2.5. General Responsibilities.

2.5.1. Partner shall promptly advise IBI of any information that comes to Partner's attention regarding IBI's market position or the continued competitiveness of the Products and IBI Services in the Territory.

2.5.2. Partner agrees to conduct business in a manner that reflects favorably at all times on the Products and on the goodwill and reputation of IBI, the IBI Affiliates and IBI Suppliers.

2.5.3. Partner's use of any Program Benefits, including IBI's Property provided to Partner hereunder, is subject to additional restrictions. Partner shall: (i) avoid deceptive, misleading or unethical practices that are detrimental to IBI or any IBI Affiliate, IBI Supplier or to the Products; (ii) refrain from any bribery or illegal or corrupt payments to any government or quasi-government officials or entities; (iii) comply with all applicable laws, rules and regulations; (iv) refrain from making any disparaging, false or misleading representations with regard to IBI or any IBI Affiliate, IBI Supplier or the Products, or to Partner's relationship with IBI or any IBI Affiliate; (v) avoid making any representations, warranties or guarantees for or on behalf of IBI, any IBI Affiliate or IBI Supplier; (vi) refrain from using or duplicating IBI Property provided to Partner for any purpose other than as expressly permitted in writing by IBI for Partner's Type and Tier; and (vii) not make IBI's Property available to unauthorized third parties.

## 3. LICENSE RIGHTS/RIGHTS TO USE.

3.1. To the extent that IBI expressly agrees in the EA or a License Addendum to this Agreement that Partner is entitled to one or more of the licenses or rights to use as specified in the License Addendum, then subject to the terms and conditions of the Agreement, IBI hereby grants such license or rights to use to Partner for the Term or for such other period of time as may be specified by IBI. All such licenses are revocable, non-exclusive and non-transferable by Partner. Different Partner Tiers and Types shall have different eligibility for one or more licenses, that may include Partner Evaluation/Trial License, Demonstration License, Development License, Partner Internal Training License, Reseller License and other licenses as may be granted by IBI to Partner as expressly agreed in writing or pursuant to an Addendum to this Agreement.

3.1.1. As a Partner Program Benefit all Partners are eligible to receive Partner Evaluation/Trial Licenses pursuant to the terms of the License Addendum by requesting and placing an Order for the applicable Products for which Partner is eligible for Partner's Tier and Type. The License Addendum is hereby incorporated into these General Terms by reference. Partner may be required to agree to additional terms, conditions and/or requirements depending upon the Products requested. Any additional terms, conditions and/or requirements will be included in the applicable Order Form.

3.2. Partner may be, or may become entitled to, receive access to certain Products and or IBI Services under a separate agreement with IBI. This Agreement shall govern Partner's access to the Products and or IBI Services to the extent they are provided as a Partner Program Benefit.

#### 4. IBI SERVICES.

4.1. **Training.** Partner may purchase education and training services from IBI at the training fees set forth in the Price List, less the applicable discount for Partner's then-current Tier as set forth in the Program Guide. All IBI training is subject to availability and to IBI's then-current training and education terms and conditions. Partner is responsible for all costs incurred by Partner in connection with attending any IBI training, for example, transportation, lodging, meals, etc.

4.2. **IBI Services.** Subject to the availability of qualified IBI resources at the time of the request and for the full duration of the period of performance, Partner may purchase IBI Services from IBI in accordance with the Price List and the terms of this Agreement, as specified in a mutually agreed to Statements of Work issued hereunder. Any deliverables provided by IBI in connection with such IBI Services shall only be used in connection with the specific authorized use of the Products. Unless otherwise expressly agreed in writing by the parties: (i) IBI Services shall be provided on a time and materials basis at IBI's or the applicable IBI Affiliate's then-current standard rates for the Territory which are subject to change without notice less the applicable discount for Partner's then-current Tier as set forth in the Program Guide; and (ii) Partner shall reimburse IBI or the applicable IBI Affiliate for all reasonable and actual out-of-pocket expenses and charges incurred by IBI or such IBI Affiliate in the performance of any IBI Services. While on the premises of Partner or any End User or prospective End User, the employees and subcontractors of IBI or the applicable IBI Affiliate will comply with any reasonable and applicable health, safety and security policies, practices and procedures provided to IBI in advance by such applicable entity. In the event that IBI must incur additional expenses as a result of such policies, practices and procedures, then Partner and or End User as applicable shall be required to reimburse IBI for the actual additional expenses incurred. IBI and/or the applicable IBI Affiliate may replace or change employees and subcontractors. Partner shall provide (and/or shall require the applicable End User or prospective End User to provide) IBI and/or the applicable IBI Affiliate with access to appropriate personnel, equipment, systems, workspace and other facilities and resources to the extent reasonably required by IBI and/or the applicable IBI Affiliate for the performance of IBI Services hereunder.

4.3. **Warranty for IBI Services.** IBI warrants that any IBI Services provided under the terms of this Agreement shall be performed by qualified personnel and will be of a professional quality conforming to generally accepted industry standards. If any IBI Services do not meet the warranty set forth above, IBI will use commercially reasonable efforts, without charge, to bring the IBI Services to the specified level. In order to obtain such warranty service, the problem must be reported to IBI within ninety (90) days of delivery of the IBI Services in question. In the event IBI cannot provide such IBI Services within a reasonable time after notification, Partner's sole and exclusive remedy will be to receive a refund of any fees paid to IBI (less any incentives paid by IBI to Partner) for the non-conforming IBI Services. This Section sets forth the exclusive warranty and remedy for any IBI Services provided under this Agreement.

#### 5. MARKS.

5.1. **Limited Right to Use IBI Marks.** Subject to the terms and conditions of the Agreement, IBI hereby grants to Partner a non-transferable, revocable and non-exclusive license during the Term to reproduce and use the Marks solely in connection with Partner's performance of the Agreement.

5.2. **Restrictions on Use of IBI Marks.** All use of the Marks must be in accordance with the Mark Usage Policies and shall inure to IBI's (or the applicable IBI Affiliate's or IBI Supplier's) sole benefit. As between the parties, IBI (or the applicable IBI Affiliate or IBI Supplier) retains ownership of and title to all rights in the Marks and the goodwill attached to the Marks. Partner shall clearly indicate IBI's (or the applicable IBI Affiliate's or IBI Supplier's) ownership of the Marks. Partner shall not (i) contest the Marks or acquire or register any rights in the Marks; (ii) use, acquire or register any logos, names or marks which are confusingly similar to the Marks; (iii) use, acquire or register any other logo, name or mark in combination with or in close proximity to any Mark so as to effectively create a composite mark without the prior written approval of IBI; or (iv) alter or remove any Marks. Partner shall use reasonable efforts to preserve IBI's (or the applicable IBI Affiliate's or IBI Supplier's) rights in the Marks and shall cooperate with IBI in facilitating IBI's monitoring and control of the nature and quality of the use of the Marks. Partner shall promptly notify IBI of any actual or threatened misuse or violation of the Marks, and/or any claim or proceeding involving the Marks, which comes to Partner's attention. Upon IBI's request from time to time, Partner shall demonstrate to IBI the use of the Marks under the Agreement so that IBI can verify that such use is of sufficiently high quality to maintain the goodwill of the Marks. If such quality is deemed inferior by IBI, Partner shall take reasonable steps to solve any quality problems and shall suspend use of the Marks until Partner has taken such steps as IBI may require to solve the quality deficiencies. IBI may revoke the right to use any Mark at any time. Upon termination or expiration of the Agreement, the license granted in Section 5.1 (Limited Rights to Use Marks) shall terminate and Partner shall cease all display, advertising and use of all Marks.

5.3. **Partner Trademark License.** Partner grants IBI a nonexclusive, nontransferable, non-sublicensable, royalty-free license to use, for the purpose of identifying and promoting Partner's participation in IBI's Partner Program and in connection with IBI's rights, duties and obligations under this Agreement, Partner's marks including Partner's company name, and, if applicable, Partner's product or service listing names, and any other marks or logos associated therewith or otherwise used by Partner within the Information Builders ecosystem ("Partner's Marks"). Partner may withdraw its approval of any use of the Partner's Marks at any time in its discretion upon written notice to IBI, which withdrawal shall be effective promptly, but in no case more than thirty (30) days from the date of Partner's notice sent in accordance with Section 16.10 (Manner of Giving Notice), provided that no such withdrawal will require the recall of any previously published or distributed materials.

6. **SERVICES BY PARTNER TO IBI.** In the event that Partner and IBI or any IBI Affiliate execute a Statement of Work for Partner to perform services as a subcontractor to IBI, then the terms and conditions set forth in the Partner Subcontractor Services Addendum shall apply and govern the provision of such services.

7. **RESERVATION OF RIGHTS.** Notwithstanding anything in the Agreement (including any Addendum) to the contrary, IBI reserves the right at any time at IBI's sole discretion without notice to Partner: (i) to market, license, resell, distribute, install, configure, implement, support, maintain and/or provide services relating to its products and/or intellectual property, including the Products, in or outside the Territory, directly and/or indirectly through any IBI Affiliate(s), any number of other partners, solution providers, system integrators, resellers, distributors and/or other third parties and/or distribution channels; (ii) to discontinue the manufacture, distribution, support, maintenance and/or availability of any product and/or intellectual property, including the Products; (iii) to rename, repackage, modify, improve and/or change the design and/or functionality of any IBI product and/or intellectual property, including any Product and/or APIs; and/or (iv) to exercise or perform, or have exercised or performed, any of IBI's rights or obligations under the Agreement through or by any IBI Affiliate, including the acceptance and/or execution of any Order; the delivery of any Product, InfoResponse, deliverable, service, notice and/or other item; the issuance of any invoice; and/or the receipt of any payment. IBI shall have the right to prevent Partner, immediately upon written notice to Partner, from exercising any rights or performing any portion of the Agreement in any country in the Territory if IBI (or any IBI Affiliate or IBI Supplier) reasonably concludes that the country (a) does not provide adequate protection for IBI's (or the IBI Affiliate's or IBI Supplier's)

proprietary rights in the Products or Marks, or (b) has laws, or the government in such Territory has committed acts, which IBI (or the IBI Affiliate or IBI Supplier) deems injurious to its business interests.

## 8. ORDERS; PAYMENTS; TAXES.

8.1. **Orders; Payment.** All Orders are subject to written acceptance by IBI. In the event of any conflict between the terms of the Agreement and any Order, the express written terms of such Order shall control solely with respect to such Order. Partner acknowledges that each Order is not reliant or contingent upon the delivery, or promise of delivery, of any future functionality, features, or products. Partner agrees to pay to IBI the amounts due to IBI as set forth in and in accordance with the Agreement, including the amounts set forth in the Program Guide, Enrollment Agreement and/or in any Addenda and/or Order and/or as otherwise agreed in writing by the parties. All amounts payable to IBI or any IBI Affiliate under the Agreement are non-cancelable and non-refundable, and shall be due and payable within thirty (30) days of receipt of invoice. Late payments will bear interest at the lesser of the rate of one-and-a-half percent (1.5%) per month or the maximum rate permitted by applicable law.

8.2. **Taxes.** All fees, charges and other amounts in the Price List and/or payable under the Agreement are exclusive of all Taxes. Partner shall be responsible for and shall pay or reimburse IBI for, and shall indemnify and hold harmless IBI from and against, any and all Taxes. If Partner is required by any applicable law to deduct or withhold amounts otherwise payable to IBI or any IBI Affiliate under the Agreement, Partner will promptly notify IBI of the requirement, pay the required amount to the relevant governmental authority, provide IBI with an official receipt or certified copy or other documentation acceptable to IBI evidencing the payment, and pay to IBI, in addition to the payment to which IBI is otherwise entitled under the Agreement, such additional amount as is necessary to ensure that the net amount actually received by IBI free and clear of all Taxes equals the full amount IBI would have received had no such deduction or withholding been required.

9. **DISCLAIMER OF IMPLIED WARRANTIES.** EXCEPT TO THE EXTENT EXPRESSLY SET FORTH IN THE APPLICABLE ADDENDUM: (i) IBI CONFIDENTIAL INFORMATION AND ANY TOOLS, MATERIALS OR OTHER ITEMS PROVIDED BY IBI OR ANY IBI AFFILIATE ARE PROVIDED "AS IS"; AND (ii) IBI OR IBI AFFILIATE DISCLAIM ALL OTHER WARRANTIES AND REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF DESIGN, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE, OR WARRANTIES CONCERNING THE NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

10. **CONFIDENTIALITY.** A Recipient of a Discloser's Confidential Information will use at least the same care to prevent disclosure and unauthorized use of discloser's Confidential Information as the recipient uses with respect to its own confidential and proprietary information of like importance under similar circumstances, which will not be less than reasonable care. Both IBI and Partner may be a "Recipient" or "Discloser" depending on which party is the disclosing party for as appropriate under the circumstances. Recipient will not disclose such Confidential Information to any third party, provided that Recipient may disclose such Confidential Information to the employees, contractors, agents and legal and financial advisers of Recipient and/or any of its Affiliates, who need to know such information in the performance of the Recipient's obligations under this agreement and who are bound by written restrictions (or by a legally enforceable fiduciary duty of confidentiality) regarding disclosure and use of such Confidential Information comparable to and sufficient for the Recipient to comply with the restrictions on disclosure and use of Discloser's Confidential Information as set forth in this section. Recipient shall be responsible for the compliance with the terms of the Agreement by each employee, contractor, agent, or legal or financial adviser of Recipient or any of its Affiliates who receives or has access to Discloser's Confidential Information (and any act or omission of any such person shall be deemed an act or omission of the Recipient). Recipient will not use any of Discloser's Confidential Information for any purpose other than to exercise Recipient's rights and perform its obligations under this Agreement. The restrictions on disclosure and use will not apply with respect to any Confidential Information to the extent such Confidential Information: (i) was, is or becomes publicly known or generally available through no wrongful act or omission of the recipient; (ii) is already rightfully in the possession of or known by the Recipient without confidential restriction at the time of disclosure by the Discloser; (iii) becomes rightfully known to the Recipient without confidential restriction from a source other than the Discloser that does not owe a duty of confidentiality to the Discloser with respect to such information; or (iv) is independently developed by the Recipient without use of or reference to the Discloser's Confidential Information. The Recipient may disclose the Discloser's Confidential Information to the extent the Recipient is legally compelled to disclose such Confidential Information, provided that the Recipient will give the Discloser reasonable advance notice of any such disclosure and will cooperate with the Discloser in protecting against any such disclosure and/or obtaining a protective order narrowing the scope of such disclosure and/or use of the Confidential Information.

## 11. INDEMNITY.

11.1. **By IBI.** Subject to the terms of the Agreement, IBI will indemnify, defend and hold harmless Partner from and against any third party claim or action against Partner to the extent such claim or action is based on an allegation that any Product provided by IBI to Partner under this Agreement infringes or misappropriates any intellectual property right of any third party; and IBI will pay those damages, costs and expenses (including reasonable attorney fees and costs) finally awarded or settled against Partner in such claim or action which are specifically attributable to such allegation. If such Product or any component thereof becomes, or in IBI's opinion is likely to become, the subject of such an allegation of infringement or misappropriation, Partner shall permit IBI, at IBI's option and expense, either to (i) procure the right to continue using the Product, (ii) replace or modify the Product so that it becomes non-infringing, or (iii) terminate the license to and require return of the Product alleged to be infringing or misappropriating and give Partner a credit for any license fees actually paid by Partner to IBI for the product, less depreciation for use, damage and obsolescence thereof (such depreciation to be calculated as an equal amount per year over the life of that component of the Product, which is agreed for purposes of this clause to be three (3) years from the Order Date of such Product). This section states the entire liability of IBI and Partner's sole and exclusive remedy for infringement or misappropriation claims and actions. IBI shall have not have any liability for (a) any use of any Product in a manner other than as specified by IBI; (b) any use of any Product in combination with any other product, equipment, device, software, system, data or other item not supplied by IBI to the extent the claim arises from such combination; (c) any alteration, modification or customization of any Product by any person other than IBI or its Affiliates; (d) use of a superseded release of the Product if the infringement would have been avoided by the use of a current unaltered release of the Programs that IBI has made generally available; or (e) any claims that are due to unauthorized acts or misconduct of Partner.

11.2. **By Partner.** Partner shall indemnify, defend and hold harmless IBI and the IBI Affiliates and IBI Suppliers from and against all claims, actions, losses, damages, settlements, costs and expenses (including reasonable attorneys' fees and costs) made against or incurred by IBI or any IBI Affiliate or IBI Supplier to the extent arising in connection with or relating to (i) the performance or action by Partner or any Partner Affiliate of any services; (ii) any distribution or use by Partner or any Partner Affiliate (or by any customer, Prospect or supplier of Partner or any Partner Affiliate) of any product or other item not provided by IBI; (iii) any use, transmission, processing or breach by Partner relating to Personal Information or (iv) breach of the anti-bribery and export controls provisions; or (v) any personal injury or death or property damage caused by the negligence or willful misconduct of Partner or any Partner Affiliate.

**11.3. Procedure.** The indemnified party shall (i) provide the indemnifying party with prompt written notice of any such claim, action, losses, damages, settlements, costs and expenses for which the indemnified party seeks indemnification; (ii) cooperate reasonably in the defense and settlement of any such claim or action at the indemnifying party's expense; and (iii) allow the indemnifying party sole control of the defense and settlement of any such claim or action; provided that (a) the indemnified party shall have the right, at its expense, to retain separate counsel and to participate in the defense and settlement of any such claim or action; and (b) Partner shall not settle any such claim or action without the prior written consent of IBI, which consent will not be unreasonably withheld or delayed and IBI shall not settle any such claim or action that requires any unreasonable specific performance by Partner that would not be indemnified under this Agreement.

**12. LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING IN THE AGREEMENT TO THE CONTRARY AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW—EXCEPT FOR A PARTY'S BREACH OF SECTION 10 (CONFIDENTIALITY) OR FOR A PARTY'S INDEMNITY OBLIGATIONS ARISING PURSUANT TO THE AGREEMENT (INCLUDING PURSUANT TO SECTION 11 (INDEMNITY) OR PURSUANT TO THE ENROLLMENT AGREEMENT OR ANY ADDENDUM), OR FOR A PARTY'S FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OR FOR ANY DEATH OR PERSONAL INJURY OR PROPERTY DAMAGE TO THE EXTENT CAUSED BY A PARTY, OR FOR PARTNER'S BREACH OF SECTION 2 (PROGRAM PARTICIPATION) OR SECTION 5 (MARKS) OR OF ANY OTHER LICENSE GRANTED TO PARTNER UNDER THE AGREEMENT (INCLUDING UNDER THE LICENSE ADDENDUM OR ANY OTHER ADDENDUM) OR FOR ANY VIOLATION BY PARTNER OF ANY INTELLECTUAL PROPERTY RIGHT OR PROPRIETARY RIGHT OF IBI OR ANY IBI AFFILIATE OR IBI SUPPLIER: IN NO EVENT SHALL IBI (OR ANY IBI AFFILIATE OR IBI SUPPLIER) OR PARTNER BE LIABLE UNDER ANY FORM OF ACTION OR THEORY OF LIABILITY FOR (i) ANY INDIRECT, EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, OR ANY LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF USE OR INTERRUPTION OF ACTIVITY, LOSS OF OR DAMAGE TO DATA, LOSS OF GOODWILL, OR ANY LIABILITY OR DAMAGE OF A NATURE SIMILAR TO THE FOREGOING, REGARDLESS OF WHETHER THE POSSIBILITY OF SUCH LIABILITY OR DAMAGE WAS MADE KNOWN TO SUCH ENTITY, OR (ii) ANY DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT (OR ANY CONTACTS OR NEGOTIATIONS BETWEEN THE PARTIES WHICH LED TO THE CONCLUSION OF THE AGREEMENT) WHICH, IN THE AGGREGATE, EXCEED (A) WITH RESPECT TO PARTNER, THE AGGREGATE AMOUNTS PAID OR PAYABLE BY PARTNER UNDER THE AGREEMENT, AND (B) WITH RESPECT TO IBI, THE AGGREGATE AMOUNTS PAID TO IBI BY PARTNER FOR THE APPLICABLE PRODUCT OR SERVICE GIVING RISE TO LIABILITY UNDER THE AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE OF THE CLAIM. PARTNER WAIVES ANY RIGHT IT MAY HAVE TO RECEIVE ANY COMPENSATION OR REPARATION ARISING AS A RESULT OF TERMINATION OR EXPIRATION OF THE AGREEMENT OR ANY ADDENDUM, INCLUDING LOSS OF GOODWILL, PROSPECTIVE PROFITS, OR ANTICIPATED ORDERS, OR ON ACCOUNT OF ANY EXPENDITURES, INVESTMENTS OR COMMITMENTS MADE BY PARTNER. THE LIMITATIONS OF LIABILITY CONTAINED IN THIS SECTION ARE A FUNDAMENTAL PART OF THE BASIS OF EACH PARTY'S BARGAIN UNDER THE AGREEMENT, AND NEITHER PARTY WOULD ENTER INTO THE AGREEMENT ABSENT SUCH LIMITATIONS.

### **13. PROPRIETARY RIGHTS.**

**13.1. IBI Proprietary Rights / IBI Property.** Notwithstanding anything to the contrary in the Agreement, as between the parties, IBI retains and shall exclusively own, all rights, title, interest (including all intellectual property rights and the associated goodwill) in and to the Products, Demonstration Tools, Marks, Innovations, IBI Tools and IBI Confidential Information, and all copies and derivatives thereof and modifications thereto, and all related applications for protection of such rights ("IBI Property"). IBI does not assign or transfer any ownership interest under this Agreement; and the Agreement should not be construed to grant any right or license, whether by implication, estoppel or otherwise, except as expressly provided in the Agreement. All rights not expressly granted in the Agreement are reserved by IBI.

**13.2.** To the extent that the performance of services by Partner results in or requires the creation of computer codes, documentation, manuals, reports, or other written or electronic materials to be provided to IBI, all such items are work product. Partner hereby assigns all right, title and interest in the work product to IBI. All services performed by Partner hereunder and work product resulting therefrom are works for hire. IBI shall be the sole and exclusive owner of all intellectual, proprietary, and property rights therein (included, but not limited to trade secrets, source codes, patents, trademarks, and copyrights). Such rights may be transferred by IBI in whole or in part to an End User or a third party. Partner shall not have any rights in or be entitled to use the work product, whether in whole or in part, or as a derivative work, for any use or purpose outside the scope of this Agreement. Partner further grants to IBI a worldwide, perpetual, irrevocable, royalty-free, transferable, sublicensable, license to use and incorporate into its Products or IBI Services any suggestion, enhancement request, recommendation, correction or other feedback provided by Partner relating to Products and or IBI Services.

**13.3.** At IBI's request and expense, Partner shall assist and cooperate with IBI in all reasonable respects and shall execute documents, give testimony and take further acts as reasonably requested by IBI to acquire, transfer, maintain and enforce patent, copyright, trademark, trade secret and other legal protection for the intellectual property rights set forth above; and Partner hereby appoints the officers of IBI as in existence from time to time as its attorneys-in-fact to execute documents on its behalf for this limited purpose.

**13.4. Partner Proprietary Rights.** Subject to Section 13.1, Partner retains and shall exclusively own all rights, title and interest (including all intellectual property rights) in and to all Partner Confidential Information and all works of authorship, programs (source and object code), data, and materials, and all copies and derivatives thereof and modifications thereto, and all related applications for protection of such rights, to the extent that each of the foregoing items was or is independently developed solely by Partner without access to or use of, and is not based on or derived from and does not include, any portion of any IBI Products, Marks, Innovations, IBI Confidential Information or any other tools, data, materials, know-how or intellectual property of IBI, any IBI Affiliate or IBI Supplier (collectively, "Partner Materials"). At no time shall Partner Materials, be extended to include IBI Property.

### **14. ANTI BRIBERY / EXPORT**

#### **14.1. Anti-Bribery.**

- i. No Bribes or Kickbacks. Partner warrants and represents to the IBI that Partner, including its officers, directors, employees, agents or other representatives, has not and will not provide, offer, propose, promise, or authorize any gift, payment of money, or anything of value (including any loan, reward, advantage or benefit of any kind), either directly or indirectly, to any employees of any private commercial entities or any Government Official, as broadly defined to include (a) any employee or official (whether elected or appointed) of any government, public international organization, political party, (b) any candidate for political office, or (c) any employee, officer, director, or representative of any government-run, government-owned or government-controlled entity or instrumentality of government, corruptly for the purpose of inducing any act or omission or otherwise influencing the recipient's conduct in order to obtain or retain business or otherwise secure favorable treatment or other business advantage.

Partner agrees that no portion of compensation received pursuant to this Agreement will be paid to any party whatsoever under circumstances which could be construed as a bribe, kickback, or an illegal payment under any applicable anti-corruption laws, including the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act of 2010.

- ii. **Government Officials- Disclosure.** Partner represents that none of its employees, shareholders, directors, officers, or other stakeholders (“Key Personnel”) are current or former Government Officials, or are related to government officials. Partner represents that no Government Official, family member of a Government Official, or representative of a Government Official holds any interest (whether formal or informal, direct or indirect) in the Partner’s business, and none shall acquire any such interest during the Term of this Agreement without Partner providing notice to IBI.

Partner agrees not to employ, engage, or provide any benefit to any undisclosed Government Official during the term of this Agreement and agrees that none of its Key Personnel will become a Government Official during the term of this Agreement without providing notice to IBI.

Partner further represents that no Government Official will derive any benefit, directly or indirectly, from any compensation paid by IBI to Partner under this Agreement.

- iii. **No Investigations or Allegations of Corruption or Fraud.** Neither Partner nor any of its Key Personnel is, or has been, under administrative, civil, or criminal investigation, indictment, information, suspension, debarment, or audit (other than a routine contract audit) by any party, under internal investigation by any party, or the subject of any inquiry or allegations of any kind, involving fraud, corruption, or criminal misconduct; nor are such investigations or inquiries threatened or pending. Partner has not received a whistleblower report alleging possible fraud, corruption, or criminal misconduct. Neither the Partner nor any of its Key Personnel or other persons acting on behalf of the Partner has received notice, inquiry, or other communication from, or made a voluntary disclosure to, the U.S. Department of Justice, the U.K. Serious Fraud Office, or other criminal, civil or administrative enforcement agency of any domestic or foreign jurisdiction in connection with alleged or possible fraud, corruption, or criminal misconduct. Neither Partner nor any of its Key Personnel have been convicted of or pled guilty to an offense involving fraud, corruption, or criminal misconduct.
- iv. **Payments.** The IBI shall not be obligated under this Agreement to take any action or omit to take any action, that it believes, in good faith, would cause it to be in violation of any laws of the United States of America or any other applicable jurisdiction, including, without limitation, the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act of 2010, or other applicable anti-corruption laws.
- v. **Books and Records.** Partner shall maintain complete and accurate books and records in accordance with standard accounting practices for a period of at least five (5) years following the date of termination of this Agreement.
- vi. **Continuing Representations; Notice of Change of Circumstances.** These representations shall be continuing for the life of this Agreement, and any material change of circumstances inconsistent with such representations shall constitute a violation. Partner agrees that if at any time there should be such a material change in circumstances affecting the accuracy of any representation in this Agreement, Partner will give the IBI notice of such change

**14.2. Export.** In the event that Products, Innovations, Demonstration Tools, IBI Tools are provided to Partner hereunder, then Partner agrees to comply fully with all relevant export laws and regulations of the United States to assure that neither the Programs, nor any direct product thereof, are exported, directly or indirectly, in violation of United States Law. Partner hereby understands and agrees as follows:

- i. The Products are subject to applicable export controls and sanctions laws (hereafter, “Export Control Laws”) including, but not limited to, the U.S. Export Administration Regulations, 15 CFR Part 730 et seq., which are enforced by the U.S. Department of Commerce’s Bureau of Industry and Security (“BIS”), and economic sanctions and embargoes that are enforced by the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”). Partner will not engage directly or indirectly in any transaction with respect to the Products in violation of any applicable Export Control Law, or that would cause IBI to be in violation of any applicable Export Control Law. Without limiting any of the foregoing, Partner will not, directly or indirectly:
  - a. Export or reexport, transfer or retransfer (including transfers and retransfers within the same country), divert, release, or dispose of, as applicable, any of the Products, whether in whole or in part, to: (i) Cuba, Iran, North Korea, Sudan, Syria or the Crimea region of Ukraine (collectively, “Embargoed Countries”), (ii) any national of any Embargoed Country, (iii) any country or destination, or to any foreign national wherever located or employed, without first obtaining any required authorization from relevant U.S. or other government authorities, (iv) any “Restricted Person” as defined below, or (v) any person with knowledge that a violation of any Export Control Law will be committed.
  - b. Use or allow any other person to use the Products, whether in whole or in part: (i) for any restricted or illegal use, including restricted uses under Part 744 of the EAR (which includes but is not restricted to: nuclear end uses, maritime nuclear propulsion end uses, development of chemical and biological weapons, development of unmarred aerial vehicles and rocket systems, and terrorism uses), or (ii) for the benefit of any Restricted Person.
- ii. Neither Partner, nor any of Partner’s directors, officers or employees, or direct or indirect owners, is a Restricted Person. Furthermore, no person who is a Restricted Person will derive any benefit directly or indirectly from this Agreement.
- iii. None of the funds or proceeds provided directly or indirectly by Partner in connection with this Agreement, in whole or in part, have been or will be sourced from any Embargoed Country, national of an Embargoed Country, Restricted Person, or represent the proceeds of any illegal activity.
- iv. In the event Partner receives notice of a breach of any of the foregoing representations and warranties, or that any representation or warranty is no longer accurate, Partner shall notify IBI immediately.
- v. For purposes of the foregoing, a “Restricted Person” means any person or entity designated of the following lists:
  - a. The following restricted party lists enforced by U.S. government authorities, which can be searched collectively via the Consolidated Screening List found on the U.S. Department of Commerce’s website at <http://internationaltradeadministration.github.io/explorer/#/consolidated-screening-list-entries?countries=&q=>
  - b. The lists enforced by OFAC, including the Specially Designated Nationals and Blocked Persons List (“SDN List”), the Foreign Sanctions Evaders List (“FSE List”), and the Sectoral Sanctions Identifications List (“SSI List”);
  - c. The Denied Persons List, the Entity List, or the Unverified List, which are enforced by BIS;
  - d. The Debarred Parties List, which is enforced by the U.S. State Department’s Directorate of Defense Trade Controls; and

- e. The list of persons subject to nonproliferation sanctions maintained by the State Department;
- f. The UK Consolidated List of sanctions targets enforced by HM Treasury (“HMT List”), which can be accessed at <https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets/consolidated-list-of-targets> ; or

The Consolidated List of entities subject to European Union financial sanctions (“EU Consolidated List”), which can be accessed at <https://data.europa.eu/euodp/en/data/dataset/consolidated-list-of-persons-groups-and-entities-subject-to-eu-financial-sanctions>

## 15. TERM; TERMINATION.

15.1. The Agreement shall commence on the Effective Date, and unless earlier terminated in accordance with the Agreement, shall remain in effect for the Term. Upon completion of the Term, this Agreement shall automatically renew for additional successive twelve (12) month terms (each a “Term”) until either 1) at least sixty (60) days prior the completion of the then current term, either party provides notice to the other party to not renew the Agreement or 2) this Agreement is terminated as allowed for below.

15.2. Either party may terminate the Agreement (and/or any Addendum and/or any Order) for cause by giving written notice to the other party in the event that such other party shall breach any material term of the Agreement and such breach shall not be cured within thirty (30) days after delivery to such other party of written notice of such breach. IBI may immediately terminate this Agreement for Partner’s breach of section 14. Anti-bribery and Export.

15.3. Either party may terminate the Agreement for convenience for any or no reason by giving the other party ninety (90) days written notice.

15.4. Termination shall be without prejudice to the right of IBI to retain any fees paid before termination, to demand payment of any fees, charges or reimbursable expenses that were committed to be paid or due and unpaid at the effective date of termination, or to seek equitable relief, damages, or both for breach of any provision. Notice of termination of any Addendum or Order shall not be considered notice of termination of the Agreement unless specifically stated in the notice. Any termination of the Agreement shall automatically terminate all Addenda and Orders. In the event of any termination or expiration of the Agreement: (i) each party shall promptly return or destroy all Confidential Information of the other party and all copies thereof; (ii) all licenses granted to Partner under the Agreement (including under all Addenda) shall immediately terminate; (iii) Partner shall immediately cease representing itself as a IBI Partner and shall immediately cease use of all Marks; and (iv) Partner shall pay IBI any fees, charges or reimbursable expenses that were committed or due and unpaid at the effective date of termination for the Products, and shall also pay for all IBI Services performed and expenses incurred up through the effective date of termination or expiration. Sections 1, 2.5, 5.2, 7, 8, 9, 10, 11, 12, 13, 14.2, 15 and 16 shall survive any expiration or termination of the Agreement.

## 16. GENERAL.

16.1. **Entire Agreement.** The “Agreement” (including the Enrollment Agreement, these General Terms, the Program Guide, and all Addenda and Orders, and all exhibits, schedules, appendices and attachments to any of the foregoing, which are each incorporated herein by reference) constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements between the parties, whether written or oral, relating to the same subject matter. Partner expressly acknowledges and agrees that any term or condition in any Order, confirmation or other document provided to IBI or any IBI Affiliate in connection with the Agreement before, on or after the Effective Date which is in any way inconsistent with or in addition to the terms of the Agreement shall have no force or effect. In the event of a conflict between, the terms of this Agreement and any Addenda and Orders including exhibits, schedules, appendices and attachments, then the terms of the Addenda and Orders shall take precedence solely as they apply to the specific license, Product or IBI Service provided therein.

16.2. **Governing Law.** The terms and conditions of this Agreement shall be governed by and interpreted under the laws of the state of New York, in the United States of America except its choice of law rules. The parties agree that the making and performance of this Agreement constitutes the transaction of business in New York sufficient to give the federal and state courts therein jurisdiction over both parties. Any action or proceeding involving, arising out of or relating to this Agreement, or the making or breach thereof, shall be brought in a federal or state court located in the County, City and State of New York, and in no other forum, and the jurisdiction of such courts over such matters shall be exclusive. Each party agrees that service of process may be effected in the same manner as notice is given in this Agreement. Any judgment or ruling of any such court may be entered in any court having jurisdiction over a party. To the extent not expressly prohibited by any applicable law, the U.N. Convention on Contracts for the International Sale of Goods and all international and domestic legislative or other implementations of such Convention will not apply to this Agreement.

16.3. **Severability.** If any provision in this Agreement should be held illegal or unenforceable by a court having jurisdiction, such illegal or unenforceable provision shall be modified to the extent necessary to render it enforceable without losing its intent, or severed from this Agreement if no such modification is possible, and other provisions of this Agreement shall remain in full force and effect.

16.4. **Modifications.** The Agreement may not be modified or amended except in writing signed by a duly authorized representative of each party; provided that IBI reserves the right to modify and/or amend at any time these General Terms, the Program Guide and/or any Addendum upon reasonable prior written notice to Partner (which notice may be made, without limitation, by email or by posting on the Partner Portal). The effective date of any such modification and/or amendment shall be as specified in such notice (or if not specified in such notice, the effective date of such modification and/or amendment shall be fifteen (15) days after Partner’s receipt of such notice). If Partner does not wish to accept such modification and/or amendment, Partner may terminate the Agreement by providing IBI written notice of termination of the Agreement prior to the effective date of such modification and/or amendment. If Partner does not provide such written termination notice to IBI prior to the effective date of such modification and/or amendment, such modification and/or amendment shall be deemed accepted by Partner and effective as of such effective date. Notwithstanding the foregoing, IBI reserves the right to make at any time without notice any modification and/or amendment to IBI’s and/or any IBI Affiliate’s operations, policies, practices, processes and/or procedures relating to the Program and/or the Agreement, provided that any such modification and/or amendment does not have a material adverse effect with respect to Partner’s rights or obligations under the Agreement.

16.5. **Assignment.** Partner may not assign, delegate or otherwise transfer the Agreement or any right or obligation under the Agreement, whether by agreement, operation of law or otherwise, without the express prior written consent of IBI in its sole discretion. Subject to this Section, the Agreement will bind each party and its permitted successors and assigns.

16.6. **Waivers.** All waivers must be in writing. No waiver of any provision or right will affect the right of the waiving party to enforce any other provision or right herein or the same provision or right in the future.



16.7. **Remedies.** In the event of any actual or threatened breach of the Agreement, the non-breaching party will be entitled to seek immediate injunctive relief and/or other equitable remedies, in addition to whatever remedies it might have at law or under the Agreement. All rights and remedies under the Agreement shall be cumulative, may be exercised singularly or concurrently, and shall not be deemed exclusive, except to the extent expressly set forth in the Agreement. If any legal action is brought to enforce any obligation under the Agreement, the prevailing party shall be entitled to receive its reasonable attorneys' fees, court costs and other collection expenses, in addition to any other relief it may receive.

16.8. **Force Majeure.** Each party will be excused from performance for any period during which, and to the extent that, it is prevented from performing any obligation or service as a result of causes beyond its reasonable control and without its fault or negligence, including acts of God, strikes, lockouts, riots, epidemics, acts of war, communication line failures, and power failures.

16.9. **Construction.** Headings and subheadings shall not be considered a part of the Agreement. Unless otherwise reasonably required by the context, any phrase introduced by the term "including" or "include(s)" shall be construed without limitation and shall not limit the sense of the words preceding such term, or such phrase. The Agreement (including the Enrollment Agreement, any Addendum and/or any Order) may be executed and exchanged in several counterparts (including by hard copy, facsimile copy or electronically scanned copy), all of which shall constitute one and the same agreement.

16.10. **Notices.** Any notice or communication permitted or required under the Agreement will be in writing and delivered in person or by traceable courier, sent by confirmed electronic mail return receipt requested or mailed by certified or registered mail, postage prepaid, return receipt requested, and addressed to the applicable party as set forth in the Enrollment Agreement or to such other address as given in accordance with this Section. If the IBI entity that executes the Enrollment Agreement is not Information Builders, Inc., a New York Corporation, U.S.A. any notice to IBI shall be copied at the same time in writing to: Information Builders, Inc. (Attn: Senior Vice President and Chief Financial Officer), Two Penn Plaza, New York, New York, U.S.A. 10121-2898. Notice will be effective upon receipt.

16.11. **Publicity.** Neither party will issue any press release regarding the Agreement without the prior written consent of the other party; provided that (i) subject to Partner's prior written consent of the contents of such press releases, IBI shall be entitled to issue press releases announcing the execution of the Agreement and/or the use of the Products and (ii) IBI may include Partner and End Users in IBI's partner and customer lists. IBI may use Partner's name, logo, address and contact information, and a description of Partner's business and relationship with IBI and/or any IBI Affiliate, on IBI's and/or any IBI Affiliate website and in any marketing of the Program and/or any products and/or services of IBI and/or any IBI Affiliate.

16.12. **Relationship of Parties.** The relationship between IBI and Partner is that of independent contractors and does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between Partner and IBI, notwithstanding the use of the term "partner" in this Agreement. Neither party, nor its agents or its employees, shall be deemed to be the agent of the other party. Neither party shall have the right to bind the other party, transact any business in the other party's name or in its behalf or incur any liability for or on behalf of the other party. Without limiting the generality of the foregoing, Partner has no express, implied or apparent authority hereunder to make any representation or commitment on behalf of IBI or in IBI's name, nor to alter the terms of any warranty provided by IBI, nor to enter into any agreement on IBI's behalf. There are no third-party beneficiaries to the Agreement.

16.13. **Cooperation on Disputes.** Partner agrees to cooperate with IBI in regard to any inquiry, dispute or controversy in which IBI may become involved and of which Partner may have knowledge. Such cooperation shall include disclosure of relevant documents and financial information, and if needed interviews of Partner's personnel. Such obligation shall continue after the expiration or termination of this Agreement.

16.14. **Language.** The Agreement (including the EA, the General Terms, Addenda, Exhibits and all Orders) is in the English language and any translation shall be considered indicative only. In the event of any conflict, the English language version of the Agreement shall prevail over any translation prepared in any other language.

## IBI GLOBAL PARTNER PROGRAM LICENSE ADDENDUM

This IBI Global Partner Program License Addendum ("License Addendum") is incorporated by reference into the Information Builders Global Partner Program Enrollment Agreement and General Terms between the Partner identified in the Enrollment Agreement and the IBI entity that executes the Enrollment Agreement ("IBI"). In the event of a conflict between the terms contained in this License Addendum and the Agreement, the terms and conditions of this Addendum shall take precedence only for the matters contemplated by this License Addendum.

Partner agrees to the terms of this License Addendum by accepting the License Addendum as part of the Agreement, submitting an Order or otherwise using the IBI Products provided hereunder. Except as otherwise provided in this License Addendum, any capitalized term not defined in this License Addendum shall have the meaning set forth in the EA, General Terms or the Program Guide.

You may not receive licenses to any Products under this License Addendum (i) if you do not accept these terms and conditions, or (ii) are or become in whole or in part a direct competitor of IBI, except with IBI's prior written consent and permission.

In consideration of the promises and mutual covenants contained herein and other good and valuable consideration, the sufficiency of which is hereby acknowledged, IBI and Partner agree as follows:

### 1. DEFINITIONS.

- 1.1. **"License Addendum Effective Date"** means, except as otherwise agreed in writing by the parties, the Effective Date of the Agreement.
- 1.2. **"Core(s)"** means one or more chips in a multi-core server containing multiple processors, each referred to as "Core".
- 1.3. **"Demonstration License"** means the license granted by IBI to Partner pursuant to Section 2.2 (Demonstration License).
- 1.4. **"Demonstration Tools"** means any Software, environment, website, webpage, data, materials or other demonstration tool(s) as may be provided by IBI or any IBI Affiliate or Representative to Partner for purposes of the Demonstration License. Demonstration Tools are not included in and exclude the Products.
- 1.5. **"Development License"** means the license granted by IBI to Partner pursuant to Section 2.3 (Development License).
- 1.6. **"Domain"** refers to a specific data domain where identification and control of the master data is focused. For example:
  - General Domains: Customer, Citizen, Student, Vendor, Product, Location/Asset, Employee, etc.
  - Healthcare Domains: Member, Patient, Facility, Provider, Employee, etc.
- 1.7. **"Evaluation License"** means the license granted by IBI to Partner pursuant to Section 2.1 (Partner Evaluation/Trial License).
- 1.8. **"IBI Tool(s)"** means any development, implementation or other tools, methodologies or materials as may be provided by IBI or any IBI Affiliate to Partner hereunder for use solely in connection with developing Partner Implementation Tools and/or providing Partner Services in accordance with this License Addendum. IBI Tools will be treated as IBI Confidential Information and exclude (and are not included in) the Products. "
- 1.9. **"Image"** means a single instance or installation of the licensed Products. If not otherwise expressly identified, a single Image is provided per server or per environment.
- 1.10. **"Implementation License"** means the license granted by IBI to Partner pursuant to Section 2.3 (Implementation License).
- 1.11. **"License Fee(s)"** means the fee(s) charged by IBI for the applicable Product(s) as set forth in the Price List, less the applicable discount as set forth in the Program Guide for Partner's then-current Tier or as otherwise agreed in writing by the parties.
- 1.12. **"Partner Implementation Tools"** means software that (i) is developed solely by Partner in connection with Partner's authorized use of the Products hereunder, (ii) interacts with the Software only through the Software's published, public APIs, and (iii) is used by Partner solely in connection with providing Partner Services to End Users.
- 1.13. **"Partner Internal Training License"** means the license granted by IBI to Partner pursuant to Section 2.4
- 1.14. **"Partner Processing Site/Equipment"** means (i) any facility owned by or under the exclusive control of Partner or (ii) any computer that is owned by or under the exclusive control of Partner and that is operated solely by employees or contractors of Partner for the benefit of Partner in accordance with this License Addendum.
- 1.15. **"Prospect"** means a third party potential customer for the Products and/or the Partner Services.
- 1.16. **"Third Party Product/Service"** means any third party software, documentation or other product or service that is provided by IBI or any IBI Affiliate, including as part of any Product or IBI service.
- 1.17. **"User"** means an individual Partner employee, except as otherwise defined in the applicable Order, that is named (by password or other user identification) and is granted the permitted to access or use of the Products whether or not they are actively using the Products at that time. If applicable, the maximum number of Users for each Product is set forth in the applicable Order.
- 1.18. **"User Restrictions"** means all restrictions on Users or the applicable Products as set forth in this License Addendum, the EA and/or the applicable Order and/or as otherwise agreed in writing by the parties.

### 2. LICENSE RIGHTS.

- 2.1. Partner Evaluation/Trial License. "Evaluation License" means the right, on a case by case basis as specified in an Order to this License Addendum and subject to IBI's then-current evaluation terms, to permit Partner to evaluate and familiarize Partner with a Product or other IBI Property for a limited term solely in connection with Partner's determination whether to acquire a license or related services for such Products, IBI Tools or other IBI Property. Partner may use the Products and IBI Tools to gain a better understanding of, and generally familiarize itself with how to use the Products solely for the purpose of Partner's performance of the IBI Partner Program. The Evaluation License does not include the right: to use the Products, IBI Tools or other IBI Property in any production or commercial capacity, or for purposes of benchmarking for purposes of competing with IBI. Partner may not release the results of any evaluation or benchmark tests without the prior written consent of IBI. Such evaluation shall be made pursuant to an Exhibit or Order to this Addendum executed by the parties. The applicable

exhibit may contain additional evaluation, confidentiality and restricted use provisions applicable to the specific Products, IBI Tools or other IBI Property. Partner shall be responsible for the compliance with this Section and any additional restrictions contained in the Evaluation License Exhibit, Order or as may be required by IBI at the time of an Order.

- 2.1.1. All Partners in good standing are eligible to request Products for Evaluation/Trial through the Partner Portal or as may be otherwise agreed by IBI. Such request shall be deemed an Order for an Evaluation License under this Addendum. Each Evaluation License shall be for a period of ninety (90) days from the date that IBI makes the Product(s) available to Partner ("License Term"), unless otherwise expressly agreed by IBI. IBI hereby grants to Partner, as Licensee, a non-exclusive limited term Evaluation License to use the Product(s) in accordance with section 2.1 of this License Addendum and any special terms or restrictions as may be noted upon request of the specified Product(s) during the specified License Term.
- 2.2. Demonstration License. "Demonstration License" means the right to use the Products and Demonstration Tools solely for Partner's demonstration of the Products to a Prospect or End User in connection with such entity's determination whether to acquire a license or related services for the Products. Such demonstration shall be made under a written agreement between Partner and such entity that contains confidentiality and restricted use provisions that are comparable to and sufficient to enable Partner to comply with the confidentiality and restricted use provisions of the Agreement. The Demonstration License does not include the right: (a) to use the Products or Demonstration Tools in any production or commercial capacity; (b) to provide a copy of the Products or Demonstration Tools to such entity or to install or use the Products or Demonstration Tools at any location or on any computer other than the Partner installation site/equipment or as hosted by IBI; or (c) except for such demonstration of the Products to such entity under close supervision of Partner, to permit any third party to use or access the Products or Demonstration Tools. Partner shall be responsible for the compliance of such prospect or End User with this Section and any additional restrictions contained in the Demonstration License Exhibit or Order.
- 2.3. Development License. "Development License" means the right to use the Products and IBI Tools in a Partner internal non-production environment solely in connection with Partner developing tools, software or complementary solutions for use in connection with the Program and Partner's performance of the Agreement, or for providing Partner Services to End Users. Subject to the terms of the Agreement and this License Addendum, Partner shall own all copyrights in and to all Partner tools, software or solutions to the extent such Partner tools, software or solutions do not include and are not based on or derived from any portion of any Products, IBI Tools, Innovations, IBI Confidential Information or any intellectual property of IBI, any IBI Affiliate or IBI Supplier. The Development License may be subject to additional restrictions contained in the Development License Exhibit or as may be required by IBI at the time of an Order.
- 2.4. Partner Internal Training License. "Partner Internal Training License" means the right to use the Products and IBI Tools during a limited term solely in connection with providing internal training or a center of excellence to Partner's employees and contractors regarding the authorized use of the Products in connection with the IBI Partner Program. The Partner Internal Training License does not include any right to use or copy the IBI Training Materials, including to provide any training to other Partner, End User or any third party or to provide any IBI Training Materials to any third party.
3. **Third Party Products/Services.** Notwithstanding anything to the contrary in the Agreement, (i) all rights and licenses granted hereunder with respect to any Product, IBI Tool or other IBI Property that is or includes any Third Party Product/Service are subject to (a) IBI's rights to provide such item and to IBI's continuing right to make such item generally available, and (b) to IBI's then-current terms with respect to such product or service, including the terms in any licensing Exhibit or Order to this License Addendum and/or any other terms required by the IBI Supplier(s) of such item; and (ii) the pricing and terms for any such item are subject to adjustment by IBI in the event of any price increase and/or changes in the terms by the IBI Supplier(s) of such item.
4. **Restrictions.**
  - 4.1. Except as otherwise expressly set forth in the Agreement, the applicable license Exhibit, Order or expressly agreed in writing by IBI, Partner shall not: (i) use or copy the Products or other IBI Property other than in accordance with the Agreement and the applicable license as set forth in the Exhibit or Order; (ii) adapt, alter, create derivative works of, translate or otherwise modify any Product or other IBI Property or any part thereof; provided that the foregoing prohibitions in this clause will not prevent any configuration changes to the Products to the extent such changes are expressly permitted by and made in accordance with the applicable Documentation; (iii) sell, distribute, lease, market, rent, sublicense, transfer, assign or otherwise grant rights to any Product or other IBI Property, in whole or in part, to any third party in any form; (iv) remove, alter or obscure any of the internet links or trademarks, trade names, logos, copyright, patent or other proprietary or confidentiality legends or notices on any Product or other IBI Property or that are displayed on pages served by the Products; (v) use any part of the Products or other IBI Property in connection with the operation of or as a service bureau, application service provider or other operation in which Partner processes information for the benefit of a third party or operates or hosts a private-branded or other site for the benefit of a third party; (vi) except and only as and to the extent expressly permitted by and in accordance with applicable law, directly or indirectly reverse engineer, decompile, disassemble, or otherwise obtain or derive (or attempt to obtain or derive) the source code for, the Products or any Software included in the IBI Property provided under the Agreement; provided that, to the extent applicable law specifically prohibits such restrictions, Partner shall, prior to engaging in any such activity, permit IBI a reasonable opportunity to provide interoperability or other information as permitted under applicable law, and shall give IBI at least fifteen (15) business days prior written notice of any such activity; (vii) use any Product or other IBI Property to process any of Partner's internal data or to develop any extensions to any IBI API or any code that interacts with any private APIs or database schema; or (viii) use any Product or other IBI Property in connection with any purpose that is competitive with IBI, an IBI Affiliate, Representative or IBI Supplier.
  - 4.2. Partner shall comply fully with all applicable laws, rules and regulations. Without limiting the foregoing, Partner shall notify IBI of, and with IBI's prior written consent shall promptly make, any filings or registrations of or relating to the Agreement or any license or Order in a timely manner as may be required by applicable local law; and at IBI's request, Partner will promptly provide evidence of such filings and registrations to IBI.
  - 4.3. Partner must have a valid license for the IBI Products and ensure that the license includes for each person that has access to or uses, or for whom any access to or use is made of, any portion of the Products. To the extent any IBI Tool(s), Innovation(s) and/or other IBI Property are provided to Partner, the restrictions set forth in this Section shall apply to such item(s) to the same extent as to the Products. The rights and licenses granted hereunder are subject to the applicable IBI policies and license restrictions. Except as otherwise set forth in the applicable Exhibit, Order or agreed in writing by IBI, the Products are subject to the terms and conditions of the applicable Order, Exhibit and this License Addendum.

5. **InfoResponse.** To the extent that Partner is entitled to receive InfoResponse Support from IBI in accordance with an License Exhibit to this License Addendum and or Partner's Program Type and Tier, IBI shall provide InfoResponse in accordance with IBI's global support policies as may be modified by IBI from time to time. Except as expressly provided in the Program Guide, the License Exhibit or as may be otherwise expressly agreed in writing by IBI, IBI shall not have any obligation to provide InfoResponse support for Partner's use of the Products, Demonstration Tools, IBI Tools and/or any other item. InfoResponse may be subject to the payment of the then-current applicable fees.
6. **Commercial Software.** The Products are "commercial computer software" and "commercial computer software documentation"; and pursuant to FAR 12.212 or DFARS 227.7202 and their successors, as applicable, use, reproduction and disclosure of such items are governed by the terms of the Agreement and this License Addendum
7. **Enforcement by Partner.** Partner shall immediately notify IBI of any actual or threatened violation, default or breach of the terms and conditions of this License Addendum or the Agreement, or of any actual or threatened violation, misappropriation or infringement of IBI's or any IBI Affiliate's or IBI Supplier's proprietary rights, or of any claim or proceeding involving the Products, Demonstration Tools, IBI Tools, Marks, Innovations, IBI Services or IBI Confidential Information, in each case which comes to Partner's attention. Upon request by IBI, Partner will take appropriate steps to remedy any such violation, default or breach or any unauthorized disclosure or use of any IBI Confidential Information, and Partner will cooperate reasonably with IBI, including in any legal action, to prevent or stop any unauthorized use, disclosure, reproduction, modification, distribution, resale or sublicensing of the Products, Demonstration Tools, IBI Tools, Marks, Innovations, IBI Confidential Information and/or intellectual property of IBI or any IBI Affiliate or IBI Suppliers, and/or to enforce the terms of the Agreement, this License Addendum and/or any Exhibit to this Addendum. Any action or inaction of any End User or Prospect in violation of this License Addendum or the Agreement or any End User Agreement, including any action or inaction that would constitute a violation, default or breach of this License Addendum had such End User or Prospect been "Partner" hereunder, shall be deemed a violation, default or breach of Partner under this License Addendum and the Agreement. Partner agrees to be responsible for, and to indemnify and hold harmless IBI from and against, any and all costs (including reasonable attorneys' fees and court costs), liabilities and damages arising out of or in connection with any such action or inaction of such End User or Prospect.
8. **Records; Audits.** Partner shall retain complete, clear and accurate records regarding the use of and the location of all copies of the IBI Property as reasonably necessary to verify compliance with the terms of the Agreement and this License Addendum. At IBI's expense and upon reasonable prior notice to Partner, IBI or its designee(s) shall have the right to inspect and audit, during regular business hours and in such a manner that does not unreasonably interfere with normal business activities, the use of the IBI Property and the records relating thereto, including the number and location of all copies of Products installed, used or distributed by Partner, the computers on which the Products are installed, the number of users using any Product, and such other information as may be reasonably requested by IBI. If any audit reveals that Partner has underpaid fees to IBI, including as a result of unauthorized use or copying of the Products, IBI Tools, Demonstration Tools or IBI Property, Partner will be invoiced and will pay for such underpaid fees, plus any late payment fees under the Agreement for the period from the initial date of the unauthorized use or copying and Partner shall bear all of the costs of the audit.
9. **Ownership.** Notwithstanding anything to the contrary in this License Addendum, as between the parties IBI retains and shall exclusively own, and Partner hereby assigns to IBI, all rights, title, and interest (including all intellectual property rights and the associated goodwill) in and to the Products, Demonstration Tools, IBI Tools, Marks, Innovations and the IBI Confidential Information, and all copies, modifications and derivatives thereof, and all technical know-how relating thereto and all related applications for protection of such rights. IBI does not assign or transfer any ownership interest to Partner under this License Addendum; and this License Addendum shall not be construed to grant Partner any right or license, whether by implication, estoppel or otherwise, except as expressly provided in this License Addendum. All rights not expressly granted in this License Addendum are reserved by IBI.
10. **DELIVERY.** IBI will electronically notify Partner when the Products have been made available for access or downloading by Partner via electronic means. If Products are being downloaded, Partner will download the Products to the download location specified in the Enrollment Agreement or the applicable Order (or as otherwise notified by Partner to IBI).
11. **WARRANTY.** IBI warrants to Partner that IBI has the right and authority to enter into this License Addendum; provided that IBI's sole and exclusive obligation and Partner's sole and exclusive remedy for any breach of the foregoing warranty shall be for IBI to indemnify Partner for any third party infringement or misappropriation claim against Partner pursuant to and in accordance with Section 11.1 (IBI Indemnity) of the General Terms. IBI DISCLAIMS ALL OTHER WARRANTIES AND REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF DESIGN, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE, OR WARRANTIES CONCERNING THE NON-INFRINGEMENT OF THIRD PARTY RIGHTS.
12. **LIMITATION OF LIABILITY.** Notwithstanding anything to the contrary set forth in the Agreement or this License Addendum, Partner's liability shall not be limited with respect to Partner's indemnity obligations pursuant to this License Addendum or in the event of any violation, default or breach by Partner of Section 2 (License Rights) of this License Addendum or of any intellectual property right or proprietary right of IBI or any IBI Affiliate or IBI Supplier.
13. **TERM; TERMINATION.** This License Addendum shall commence on the License Addendum Effective Date, and unless earlier terminated in accordance with this License Addendum or the Agreement, shall remain in effect for the Term. This License Addendum shall terminate concurrently with any termination or expiration of the Agreement. Either party may terminate any Order, this License Addendum and/or the Agreement for cause by giving written notice to the other party in the event that such other party shall breach any material term of such Order, this License Addendum or the Agreement and such breach is not cured within thirty (30) days after delivery to such other party of written notice of such breach. Either party may also terminate this License Addendum for convenience for any or no reason by giving the other party ninety (90) days written notice thereof. In the event of any termination or expiration of this License Addendum for Partner's material breach of this License Addendum, the Agreement, or an applicable License Exhibit or Order, Partner shall immediately cease all use of the IBI Property, and all licenses granted by or services provided by IBI or any IBI Affiliate under this License Addendum shall immediately terminate. Partner shall promptly cease access to, use of the Products and shall delete and remove all downloaded IBI Products. Sections 1, 4, 6, 7, 8, 9, 11, 12 and 14 of this License Addendum shall survive any expiration or termination of this License Addendum.
14. **GENERAL.** This License Addendum (including all exhibits, schedules, addenda, appendices and attachments hereto, which are each incorporated herein by reference) and the Agreement constitute the entire agreement between the parties with respect to the subject matter hereof, and supersede all prior or contemporaneous agreements between the parties, whether written or oral, relating to the same subject matter. Except as expressly modified hereby, this License Addendum is subject to all terms, conditions and provisions of the Agreement; provided that in the event of any inconsistency or conflict between the Agreement and this License Addendum, the terms, conditions and provisions of this License Addendum shall govern and control for purposes of this License Addendum.

## IBI GLOBAL PARTNER PROGRAM REFERRAL ADDENDUM

This IBI Global Partner Program Referral Addendum (“Referral Addendum”) is incorporated by reference into the Information Builders Global Partner Program Enrollment Agreement and General Terms between the Partner identified in the Enrollment Agreement and the IBI entity that executes the Enrollment Agreement (“IBI”). In the event of a conflict between the terms contained in this Referral Addendum and the Agreement, the terms and conditions of this Referral Addendum shall take precedence only for the matters contemplated by this Referral Addendum.

Partner agrees to the terms of this Referral Addendum by accepting the Referral Addendum as part of the Agreement or otherwise using or participating in the IBI Global Partner Referral Program. Any capitalized term not defined in this Referral Addendum shall have the meaning set forth in the EA, General Terms or the Program Guide.

You may not participate in the Referral Program (i) if you do not accept these terms and conditions, or (ii) are or become in whole or in part a direct competitor of IBI, except with IBI’s prior written consent and permission.

IBI has established an opportunity lead referral program that is intended to reward Partners for providing highly qualified leads that result in sales by IBI of IBI Software and IBI Product licenses. Partner desires to participate in the Referral Program in accordance with the terms and conditions of this Referral Addendum. In consideration of the promises and mutual covenants contained herein and other good and valuable consideration, the sufficiency of which is hereby acknowledged, IBI and Partner agree as follows:

### 1) Definitions.

- a) **“Referral Deal Registration Approval Date”** means the date IBI executes and accepts the Deal Registration Form, or the date IBI otherwise expressly approves in writing a sales opportunity as an accepted Deal Registration.
- b) **“Referral Deal Registration Expiration Date”** means the expiration date of the Deal Registration as set forth in the Deal Registration Form; or if no expiration date is specified, then the last day of the six (6) month period commencing on the Deal Registration Approval Date.
- c) **“Referral Fee”** means, with respect to the applicable accepted Referral Deal Registration, a one-time referral fee based on the Net Product Revenue of the IBI Received Fees directly resulting from such Referral Deal Registration in accordance with the Agreement and as specified in the Program Guide for Partner’s then current Partner Program Tier, unless otherwise expressly agreed by the parties on the accepted and approved Referral Deal Registration.
- d) **“Referral Deal Registration”** means a sales opportunity in the Territory for a Prospect to acquire, directly from IBI, software licenses or subscriptions for the Subscription Services, which opportunity is then-currently registered with and approved by IBI as a Referral Deal Registration pursuant to a Deal Registration Form or as otherwise expressly agreed in writing by IBI.
- e) **“Deal Registration Form”** means IBI’s then-current online submission form available through the IBI Global Partner Portal pursuant to which IBI registers and approves a Referral Deal Registration. .
- f) **“Deal Registration Period”** means the period beginning on the Referral Deal Registration Approval Date and ending on the Referral Deal Registration Expiration Date.
- g) **“Prospect”** means an end user third party entity located in and doing business in the Territory: (a) that has expressed a desire to license IBI Software for its own internal business use on a One-Time or Subscription limited term basis from IBI; (b) with which Partner has a pre-existing relationship and the ability to provide an introduction to IBI sales account managers; (c) that is not and has not been in the IBI direct or indirect sales pipeline, and has not received and is not scheduled to receive a presentation regarding IBI; and (d) that is verified by IBI as a Prospect.
- h) **“Net Product Revenue”** means: (a) the applicable One-Time software license fees actually received by IBI for the initial order accepted by IBI from a Prospect and directly resulting from a Referral Deal Registration for a license to install and use the Software on servers operated by or for such Prospect for its own internal business; or (b) the net total contract value for the initial order accepted by IBI from a Prospect for a Subscription license for IBI Products directly resulting from a Referral Deal Registration for a license to install and use the Products for its own internal business. Net Product Revenue does not include and shall be reduced by, and Referral Fees will not be payable on, any amounts that are received by IBI for the provision of any third party product or service or that are payable by IBI to any third party as a royalty or otherwise in connection with the provision of any third party product or service; any taxes (including, without limitation, any sales, use or excise tax, value added tax (VAT), goods and services tax (GST), withholding tax and/or any other taxes, levies, duties, assessments and/or withholdings that arise out of the Agreement); or any handling, delivery, consulting, services, InfoResponse support and maintenance, training, courseware fees or third party charges. Net Product Revenue does not include any fees covering subsequent orders for Software licenses or Products resulting from such Referral Deal Registration.
- i) **“Territory”** means the geographical area(s) (and/or any specified market segment(s) and/or other restrictions, if any) as specified in the EA and/or as otherwise agreed in writing by the parties.

### 2) Referral Deal Registration. For each sales opportunity that Partner wishes to register with IBI in order for Partner to be eligible to receive an Referral Fee, Partner:

- a) will have had actual contact with the Prospect to assess its interest in acquiring from IBI a license for the Products and related services;
- b) will enter all relevant and required information and submit the Referral Deal Registration through the IBI Global Partner Portal for such Prospect opportunity to IBI and/or comply with such other registration and approval process as may be modified by IBI from time to time; and
- c) will provide to IBI relevant account information for such opportunity and Prospect (including, without limitation unless otherwise mutually agreed, the potential number and type of licenses, expected close date, critical success and competitive factors, contact information for and introduction to the Prospect decision-maker and other influencers); if requested by IBI, collaborate with IBI on account strategy; and perform other pre-sales and cooperative activities as may be reasonably requested by IBI from time to time.
- d) acknowledges that simply identifying to IBI a potential sales opportunity or Prospect is not sufficient in order for the opportunity to be registered with IBI as an accepted Referral Deal Registration. A sales opportunity is not an accepted and registered Referral unless and until IBI provides Partner express written acceptance and approval as a registered Referral Deal Registration. IBI reserves the right to approve or not approve any opportunity as a Referral Deal Registration.

- e) understands that acceptance and approval of the submission for Referral Deal Registration status shall expire on the Deal Registration Expiration Date. After the Deal Registration Expiration Date, such opportunity shall no longer be registered or approved as a Referral, and Partner shall not be entitled to any Referral Fees for such opportunity or such Prospect, unless such opportunity is re-registered with and the new registration is approved by IBI as a Referral Deal Registration in accordance with this Referral Addendum.
  - f) will keep IBI informed of all relevant information of which Partner is aware relating to any Referral Deal Registration.
  - g) affirms to IBI that Partner has not and will not request any finder's fees, sales assistance fees, referral fees or similar fees and/or credits from any other third party for the potential sales opportunity for the submitted Referral Deal Registration during the Deal Registration Period.
  - h) agrees that during the Deal Registration Period and for twelve (12) months thereafter, Partner shall not advocate or sell to the Prospect any product or service competitive to those offered by IBI for the Referral Deal Registration.
- 3) Referral Fees.**
- a) Subject to the terms and conditions of this Agreement, IBI agrees to pay to Partner a Referral Fee based on the Net Product Revenue IBI received directly resulting from a Referral Deal Registration. Provided that Partner does not owe any outstanding amounts to IBI, Referral Fees will be paid by IBI to Partner within forty five (45) days after the month that IBI receives the corresponding IBI fees resulting in New Product Revenue. This schedule is in effect until one hundred (100%) percent of the Referral Fee has been paid to the Partner. Partner shall receive their Referral Fee solely for the applicable portion of the payments IBI has actually received from the Prospect.
  - b) The payment of the Referral Fees shall constitute full and exclusive payment for all referrals provided and services rendered by Partner under this Agreement. No Referral Fee will be paid on any fees received by IBI resulting from any deal:
    - i) that originates through or with any third party, including, without limitation, any reseller, solution provider or partner of IBI or any of its affiliates;
    - ii) that is bid or sold in or through a territory outside of the Territory;
    - iii) for any third party other than a Prospect; or
    - iv) where Partner is reselling IBI Products or will be providing the Prospect with other products or services whether with IBI or independently of IBI.
  - c) In the event of a dispute regarding Referral Fees payable hereunder, the decision of IBI shall be final and binding. IBI agrees to make best efforts to be fair and accurate regarding Referral Fees payments and to inform Partner of its acceptance and approvals. Partner agrees to accept IBI's good faith judgment regarding Referral Fees and agrees that in the event of a dispute regarding Referral Fees that no legal action will be taken by Partner against IBI.
  - d) In the event that IBI provides the Prospect with a full or partial credit or refund of any IBI received fees and the Net Revenue, IBI may at its option require either that Partner repay the applicable Referral Fees actually paid to Partner pursuant to the Referral Deal Registration within ten (10) business days after written notice from IBI, or that such amount be deducted from the next payment due to Partner.
  - e) Referral Fees shall not be paid on sales of products or services to Partner or any Affiliate of Partner.
  - f) IBI may withhold any amounts due to IBI from any Referral Fees payable hereunder; and IBI at its discretion may exercise or perform, or have exercised or performed, any of IBI's rights or obligations hereunder by or through any IBI Affiliate.
- 4) Reservation of Rights.** Notwithstanding anything herein to the contrary, IBI is under no obligation to negotiate or to enter into any agreement with any Prospect, or to license or provide any product or service to any Prospect. IBI reserves the right at any time, at IBI's sole discretion and without prior notice, to discontinue the production, development, support, maintenance, distribution, license or availability of any software, product or service, or to rename, repackage, modify, improve or change the design or functionality of any product or service.
- 5) Termination.** Either party may terminate this Referral Addendum upon written notice to the other party if the other party materially breaches this Referral Addendum or the Agreement and does not cure such breach within thirty (30) days following its receipt of written notice of such breach. In addition, either party may terminate this Referral Addendum at will for convenience at any time upon sixty (60) days prior written notice to the other party. Any expiration or termination of this Referral Addendum shall automatically terminate all Referral Deal Registrations.
- 6) Effect of Termination.** Following expiration or termination of this Referral Addendum, IBI shall have no further responsibility to Partner except to (i) pay any Referral Fees then due and (ii) pay when they become due any Referral Fees based on IBI received Net Product Revenue that a Prospect is contractually obligated to pay to IBI at the time of such expiration or termination. Except as expressly stated herein, IBI shall have no liability for Referral Fees after the effective date of expiration or termination of this Referral Addendum. Partner acknowledges and agrees that, in the event of expiration, termination or failure to agree upon an extension or renewal of the term of this Referral Addendum, IBI shall not be liable to Partner for compensation, reimbursement or damages on account of the loss of prospective profits, anticipated sales, or on account of expenditures, investments, leases or commitments in connection with the business or goodwill of Partner. Sections 1, 3.b, 3.c, 4, 5, 6, 7, and 8 shall survive any termination or expiration of this Agreement.
- 7) Limitation of Liability.** NOTWITHSTANDING ANYTHING IN THIS REFERRAL ADDENDUM TO THE CONTRARY OR ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW: IN NO EVENT SHALL IBI OR ANY OF ITS AGENTS, REPRESENTATIVES, EMPLOYEES, AFFILIATES OR SUPPLIERS BE LIABLE, WHETHER ARISING UNDER ANY THEORY OF LIABILITY (INCLUDING, WITHOUT LIMITATION, CONTRACT, STRICT LIABILITY, INDEMNITY, TORT OR NEGLIGENCE) OR OTHERWISE FOR (i) ANY TYPE OF SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES, OR FOR LOST REVENUE, LOST PROFITS, LOSS OF TECHNOLOGY, LOSS OF USE OR INTERRUPTION OF ACTIVITY, LOSS OF OR DAMAGE TO DATA, LOSS OF GOODWILL, OR ANY LIABILITY OR DAMAGE OF A NATURE SIMILAR TO THE FOREGOING, IRRESPECTIVE OF WHETHER THE POSSIBILITY OF SUCH LIABILITY OR DAMAGE WAS MADE KNOWN TO IBI OR COULD HAVE BEEN FORESEEN BY IBI; OR (ii) ANY DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS REFERRAL ADDENDUM (OR ANY CONTACTS OR NEGOTIATIONS BETWEEN THE PARTIES HERETO WHICH LED TO THE CONCLUSION OF THE AGREEMENT) WHICH, IN THE AGGREGATE, EXCEED THE REFERRAL FEES PAYABLE BY IBI TO PARTNER PURSUANT TO THIS REFERRAL ADDENDUM DURING THE CURRENT ANNUAL TERM OF THIS REFERRAL ADDENDUM.

8) **General.**

- a) **Entire Agreement.** This Referral Addendum and the Agreement, together with its exhibits, constitutes the entire agreement and understanding between the parties regarding the subject matter hereof, and supersedes and replaces any and all prior or contemporaneous discussions, negotiations, understandings and agreements, written and oral, regarding such subject matter.
- b) **Amendment.** No provisions of this Referral Addendum may be altered or amended unless such alteration or amendment is mutually agreed in writing and executed by both parties.