

# Software-As-a-Service Master Services Agreement

This Software-As-a-Service Master Services Agreement (this “Agreement”) governs all Order Forms entered into by and between PeopleDoc, Inc., a Delaware corporation with its principal place of business located at 535 8<sup>th</sup> Ave., Ste 1800, New York, NY 11018 (“**PeopleDoc**”) and the customer named on the signature page of such Order Form (the “Customer”). This Agreement governs the use and provision of any Services purchased by Customer as described in any Order Form. Terms not defined herein have the meaning given to them in the applicable Order Form.

## 1. DEFINITIONS.

**1.1 “Access Credentials”** means login information, passwords, security protocols, and policies through which Users access a PeopleDoc Services.

**1.2 “Active Employees”** means each of Customer’s employees, independent contractors, directors and other individuals who are contained within the PeopleDoc directory, where the individual is not identified as a “former” employee, contractor, director or other service provider. “Active Employees” count is the basis for monthly and annual service charges.

**1.3 “Affiliated Companies”** means entities that control, are controlled by and / or are under common control with Customer. “**Control**” means an entity owns at least 50% of the outstanding voting or equity securities of the entity in question.

**1.4 “Customer Content”** means the data or content, including applicable trademarks uploaded and / or stored by Customer via the PeopleDoc Services or otherwise identified as Customer Content in an Order Form. Customer Content is likely to include an Employee’s name, work and benefits history, performance reviews and other information commonly included within an employer’s human resources files.

**1.5 “Confidential Information”** means all written or oral information, disclosed by one party (the “**disclosing party**”) to the other (the “**recipient**”), related to the business, products, services or operations of the disclosing party that has been identified as confidential or that by the nature of the information or the circumstances surrounding disclosure ought reasonably to be treated as confidential, including, without limitation: (a) trade secrets, inventions, ideas, processes, computer source and object code, formulae, data, programs, other works of authorship, know-how, improvements, discoveries, developments, designs and techniques; (b) information regarding products, plans for research and development, marketing and business plans, budgets, financial statements, contracts, prices, employees, suppliers and agents and (c) information regarding the skills and compensation of the disclosing party’s employees, contractors, and other agents. Without limiting the foregoing, and for purposes of this Agreement, the Customer Content is the Confidential Information of Customer.

**1.6 “Documentation”** means text and/or graphical documentation, whether in electronic or printed format, provided by PeopleDoc to Customer that are identified as, or intended to be, user manuals and describe the features, functions and operation of the PeopleDoc Services.

**1.7 “Employees”** mean, collectively, Active Employees and Former Employees.

**1.8 “Employee Folders”** are collectively, Active Employee Folders and Former Employee Folders.

**1.9 “Folder”** means an electronic folder that contains information about any Employees.”

**1.10 “Former Employee”** means each of Customer’s employees and other individuals (e.g., independent contractors) associated with Customer that are contained within the PeopleDoc directory (or any successor portion of the PeopleDoc Services), where the individual is identified as a “former” employee, contractor, director or other service provider.

**1.12 “Go Live Date”** means the date established in writing by both Customer and PeopleDoc as the date for PeopleDoc software services to begin.

**1.13 “Order Form”** means a document signed by an authorized representative of each party identifying the specific Service(s) to be made available, the fees to be paid and other relevant customized terms and conditions.

**1.14 “Order Term”** means the term of any Order Form, as set forth in the Order Form.

**1.15 “PeopleDoc Services”** means any PeopleDoc software-as-a-service application identified in any Order Form that allows Users to access certain features and functions through a web interface. References to any PeopleDoc Services includes the Documentation.

**1.16 “Personal Information”** means any Customer Content that identifies any specific individual and accordingly is protected under applicable privacy laws, rules and regulations. Personal Information includes “Personal Data” as defined in EU Data Protection Directive (Directive 95/46/EC) and the EU General Data Protection Regulation (Regulation (EU) 2016/679).

**1.17 “Professional Services”** means professional services provided by PeopleDoc to Customer as described in any Order Form (as may be further elaborated in any statement of work) including configuration services, information technology development services and training services.

**1.18 “Services”** means the PeopleDoc Services, the Professional Services and any other services ordered by Customer, to be provided by PeopleDoc, as set forth in an Order Form.

**1.19 “User”** means each of Customer’s employees, agents, and independent contractors who are provided Access Credentials by Customer or PeopleDoc.

**2. SERVICES.** Subject to the terms and conditions of this Agreement, PeopleDoc will provide the Services to Customer in a workmanlike and professional manner in accordance with industry standards. The Services to be provided by PeopleDoc under this Agreement will be described and set forth in one or more Order Forms agreed upon by the parties from time to time.

## 3. ACCESS, RIGHTS, RESTRICTIONS AND SECURITY.

**3.1 Access Grant.** Subject to Customer’s compliance with the terms and conditions contained in this Agreement, PeopleDoc hereby grants to Customer a non-exclusive, non-transferable, non-sublicenseable, revocable right to allow Users to access and use the

PeopleDoc Services for the Order Form Term, as both are set forth in the applicable Order Form. Customer's access and use of the PeopleDoc Services is limited to Customer's internal use only.

**3.2 Access Credentials.** Customer will safeguard, and ensure that all Users safeguard the Access Credentials. Customer will be responsible for all acts and omissions of Users. Customer will notify PeopleDoc immediately if it learns of any unauthorized use of any Access Credentials or any other known or suspected breach of security.

**3.3 Customer Restrictions.** Customer will not: (a) adapt, alter, modify, improve, translate or create derivative works of the Services, (b) reverse engineer, decompile, disassemble or otherwise attempt to reconstruct or obtain the source code to all or any portion of the Services; and (c) except as may be specifically provided in an Order Form, or otherwise approved by PeopleDoc in writing, provide any third party access to the PeopleDoc Services or use the Services on behalf of any third party, including as part of a time-sharing, outsourcing or service bureau environment. Notwithstanding the foregoing, Customer may use, and may authorize its Users to access and use the PeopleDoc Services solely on behalf of Customer and its Affiliated Companies.

**3.4 Proprietary Rights and Confidential Information.**

**(a) Confidential Information.**

(i) Use and Disclosure. During this Agreement, each party will have access to the other party's Confidential Information. Except as otherwise expressly permitted, and without limiting each party's obligations, under this Agreement, each disclosing party agrees as follows: (A) it will not disclose the Confidential Information of the disclosing party to anyone except its employees, contractors and advisors who have a need to know and who have been advised of and have agreed to treat such information in accordance with the terms of this Agreement (each a "**Representative**"), (B) it will not use or reproduce the Confidential Information disclosed by the disclosing party for any purpose other than exercising its rights and / or performing its obligations as described herein and (C) it will take no less than commercially reasonable measures to protect the secrecy of, and avoid disclosure and unauthorized use of, the disclosing party's Confidential information. Each recipient will be liable for the acts and omissions of its Representatives with respect to the discloser's Confidential Information. Notwithstanding the preceding, Customer agrees that PeopleDoc may process the Customer Content to create and compile aggregated data and/or statistics to provide to others provided that such aggregated data and statistics will not enable Customer or any living individual to be identified.

(ii) Exceptions. The provisions of Section 3.4(a) will not apply to Confidential Information that: (A) is or becomes publicly available or enters the public domain through no fault of the recipient; (B) is in the recipient's possession without knowledge of any confidentiality obligations, or (C) is independently developed by the recipient without use of or reference to the disclosing party's Confidential Information. Notwithstanding the foregoing, each party may disclose Confidential Information to the limited extent required: (1) by securities laws, (2) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the party making the disclosure pursuant to the order will first have given written notice to the other party and made a reasonable effort to obtain a protective order; or (3) to establish a party's rights under this Agreement, including to make such court filings as it may be required to do.

**(b) Customer Content.** Except for the limited licenses granted to PeopleDoc in any Customer Content, as between Customer and PeopleDoc, Customer reserves all right, title and interest in the Customer Content.

**(c) PeopleDoc Services.** Except for the limited licenses and access grant provided to Customer in this Agreement, including any Order Form, PeopleDoc reserves all right, title and interest in its intellectual property and business including the Services, PeopleDoc Services and any PeopleDoc trademarks. Unless otherwise expressly set forth in any Order Form, and except for any Customer Content, all work product or services provided or developed pursuant to this Agreement or any Order Form (including any modifications and improvements to any PeopleDoc Services pursuant subsection (d) or any intellectual property developed pursuant to subsection (e) below), and all intellectual property and other proprietary rights derived therefrom, will be the sole and exclusive property of PeopleDoc.

**(d) Continuous Development.** The Customer acknowledges that PeopleDoc may continually develop, deliver and provide to the Customer ongoing innovation to the Services, including the PeopleDoc Services, in the form of new features, functionality, and efficiencies. Accordingly, PeopleDoc reserves the right to modify the Services, or any PeopleDoc Services, from time to time. Any modifications or improvements to the PeopleDoc Services listed on any Order Form will be provided to the Customer at no additional charge. In the event that PeopleDoc creates new products with additional features ("**New PeopleDoc Services**"), and the Customer desires these New PeopleDoc Services, then the Customer will have to pay PeopleDoc the appropriate fee for their use.

**(e) Professional Services; Training and Support.** Customer may request that PeopleDoc provide certain Professional Services related to Customer's use of the Services, including, by way of example, customization or training of Customer personnel. Unless otherwise agreed between the Parties in a separate Order Form and / or a statement of work, PeopleDoc will have no obligation to provide or perform such services for or on behalf of Customer.

**(f) Feedback.** PeopleDoc in its sole discretion, may utilize, all comments and suggestions, whether written or oral, furnished by Customer to PeopleDoc in connection with its access to and use of the Services (all reports, comments and suggestions provided by Customer hereunder constitute, collectively, the "**Feedback**"). Customer hereby grants PeopleDoc a worldwide, non-exclusive, irrevocable, perpetual, royalty-free right and license to incorporate the Feedback into PeopleDoc products and services.

#### **4. CUSTOMER CONTENT; COMPLIANCE WITH LAWS; SECURITY.**

**4.1 Quality of Customer Content.** Customer is solely responsible for any and all obligations with respect to the accuracy, quality and legality of Customer Content.

**4.2 Compliance with Laws.** Each party understands and agrees that it is responsible for complying with the laws and regulations of the US and each relevant foreign jurisdiction and authorities outside of the US regarding the storing, processing, collection and exporting of Personal Information, as applicable. To the extent possible and upon request by Customer, PeopleDoc may assist Customer in complying with such laws and regulations either free of charge, or for a fee to be determined between the parties if the Customer request necessitates significant resources from PeopleDoc as determined by PeopleDoc in its

sole discretion. PeopleDoc will promptly notify Customer of any request made by a governmental authority regarding the storage of any Customer Content within any Employee Folder.

**4.3 Processing of Personal Information from the European Economic Area.** Unless indicated in the Order Form or agreed upon by the parties, all Customer Content will be stored on servers located in the United States. Upon request from Customer and at no additional cost, PeopleDoc will migrate and host all Customer Content on servers located inside the European Economic Area (the "EEA"). In the event that Customer requires PeopleDoc to host any of Customer Content or Employees Folders simultaneously on two (2) separate platforms, then PeopleDoc will charge an additional fee for such services. Without limiting any other provision of this Agreement, to the extent that PeopleDoc processes Personal Information from within the European Economic Area in the course of providing the Services, it will do so as a processor on behalf of Customer (as controller). PeopleDoc will process the Personal Information in accordance with Customer's lawful instructions under applicable privacy law(s) and will not assume any responsibility for determining the purposes for which and the manner in which the Personal Information is processed. Customer authorizes PeopleDoc to subcontract processing of Personal Information to a third party in accordance with the Subprocessor Approval Policy described on the following page: <https://www.people-doc.com/legal/sub-processors>, provided that (a) PeopleDoc flows down its obligations under this Section to protect the Personal Information in full to any subcontractor it appoints in accordance with all applicable laws and regulations; and (b) PeopleDoc will remain fully liable to Customer for the acts, errors and omissions of any subcontractor it appoints to process the Personal Information.

**4.4 Security Measures.** PeopleDoc will maintain a comprehensive information security program consistent with industry standards that contains appropriate administrative, technical and physical safeguards reasonably designed to protect Personal Information from unauthorized disclosure. Such information security program will include business continuity and disaster recovery plans that are consistent with industry standards and are designed to protect against loss of Customer Content. PeopleDoc and the Services shall at all times be in compliance with all standards within the most recent versions of ISO/IEC 27001 and SSAE SOC 2 Type I & II, for which PeopleDoc is certified, and shall annually be audited by a reputable third party as compliant with such standard. In the event that PeopleDoc has reason to believe that there has been any unauthorized access to, or loss of, Personal Information from its systems or premises, then it will promptly notify Customer.

**4.5 Security Audits.** Customer, its auditors and regulators will be entitled to audit PeopleDoc's systems used for the provision of the PeopleDoc Services in order to fulfill any legal or regulatory requirement. Unless required by law or a regulatory authority, Customer will (a) provide reasonable notice of such audit, (b) conduct such audit only during normal business hours and (c) limit the frequency of any such audits to no more than once a year. Customer acknowledges that PeopleDoc will be entitled to restrict the scope of any such audit as may be reasonably necessary to protect the confidentiality and security of the data of PeopleDoc's other clients.

**4.6 Work Effort.** PeopleDoc will be entitled to charge Customer at its standard man day rate for cooperating with any such audits and for preparing responses to any vendor security questionnaires requested by Customer.

## **5. CONSIDERATION.**

**5.1 Fees.** Customer will pay the Fees to PeopleDoc in accordance with the payment schedule set forth in the applicable Order Form(s). Unless otherwise specified in any Order Form, (a) Fees for Professional Services according to the Statement of Work must be paid prior to beginning of the work; (b) Annual Recurring Fee is due and payable on the Order Form Effective Date, and annually thereafter, and will be adjusted based on actual usage on an annual basis; and (c) all Fees will be paid within thirty (30) days from receipt of invoice by Customer, in U.S. dollars and exclude all applicable sales, use, and other taxes. Any portion of the Fees that is not paid when due will accrue interest at one and one-half percent (1.5%) per month or the maximum rate permitted by applicable law, whichever is less, from the due date until paid. The Fees exclude, and Customer will be responsible for, all sales, use, excise, withholding and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental entity in connection with the Services (excluding taxes based solely on PeopleDoc's income). Alternatively, Customer may furnish to PeopleDoc an exemption certificate, provided however that if such exemption certificate is challenged or held invalid by a taxing authority then Customer agrees to pay for all resulting fines, penalties and expenses (including without limitation reasonable attorney's fees and costs).

At the end of the Initial Term (as defined under Section 9.1 below), the Fees may increase by a maximum of seven percent (7%) for each Renewal Period thereafter.

**5.2 Expenses.** Customer will reimburse PeopleDoc for any travel and out-of-pocket expenses incurred by PeopleDoc in connection with the provision of Services, provided that Customer has approved such expenses.

**6. MARKETING.** Unless pre-approved in writing by Customer, PeopleDoc shall not publicly refer to Customer as a PeopleDoc customer nor use Customer's logo for such purposes. The foregoing notwithstanding, Customer hereby authorizes PeopleDoc to use Customer's name and logo on PeopleDoc's website and in sales and marketing presentations. Such authorization may be withdrawn by Customer at any time for any reason or no reason at all upon written notice to PeopleDoc. Customer may publicly refer to itself as a customer of the PeopleDoc Services, including on Customer's website and in sales presentations. Each party hereby grants the other a limited, worldwide, license to use the other's logo in conformance with such party's trademark usage guidelines and solely for the purpose set forth in this Section 6. In no event will either party issue a press release publicly announcing this relationship without the approval of the other party, such approval not to be unreasonably withheld.

## **7. WARRANTY DISCLAIMER; LIMITATIONS ON LIABILITY.**

**7.1 General Representations.** Each party hereby represents and warrants: (a) that it is duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or organization; (b) that the execution and performance of the Agreement will not conflict with or violate any provision of any law having applicability to such party; and (c) that the Agreement, when executed and delivered, will constitute a valid and binding obligation of such party and will be enforceable against such party in accordance with its terms.

**7.2 Warranty Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED IN THE AGREEMENT, INCLUDING ANY ORDER FORM, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT OR FROM A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE IN TRADE. PEOPLEDOC DOES NOT WARRANT, AND SPECIFICALLY DISCLAIMS, THAT THE SERVICES WILL BE ACCURATE, WITHOUT INTERRUPTION, OR ERROR-FREE.

**7.3 Disclaimer of Indirect Damages.** IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, INTERRUPTION OF SERVICE, OR LOSS OF BUSINESS OR BUSINESS OPPORTUNITY, EVEN IF SUCH DAMAGES ARE FORESEEABLE AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY THEREOF. IN NO EVENT WILL PEOPLEDOC BE LIABLE FOR THE PROCUREMENT OF SUBSTITUTE SERVICES.

**7.4 Limitations on Liability.** EXCEPT FOR THE INDEMNIFICATION PROVIDED UNDER SECTION 8 BELOW, EACH PARTY'S MAXIMUM AGGREGATE LIABILITY UNDER THIS AGREEMENT OR ANY ORDER FORM WILL NOT EXCEED THE TOTAL AMOUNT OF FEES RECEIVED BY PEOPLEDOC UNDER SUCH ORDER FORM DURING THE TWELVE (12) MONTH PERIOD PRIOR TO THE FIRST DATE ON WHICH THE LIABILITY AROSE.

**7.5 Exceptions.** BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN LIABILITY, IN SUCH JURISDICTIONS THE LIABILITY OF PEOPLEDOC WILL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW. THE PROVISIONS OF THIS SECTION 7 WILL APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED, ANY LIMITED REMEDY HEREIN IS HELD TO FAIL OF ITS ESSENTIAL PURPOSE OR THE FORM OF THE CLAIM OR CAUSE OF ACTION, WHETHER IN CONTRACT, WARRANTY, STATUTE, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE).

## **8. INDEMNIFICATION.**

**8.1 PeopleDoc Indemnity.** Subject to Section 8.4 below, PeopleDoc will indemnify, defend and hold harmless Customer and its respective directors, officers, employees, representatives and agents from and against any and all claims, losses, liabilities, damages, costs and expenses (including reasonable attorney's fees), judgments or settlement amounts arising out of or in connection with (a) PeopleDoc's gross negligence, wilful misconduct or fraud; (b) any third party claim that the Services infringe any U.S. patent, copyright, or trademark of a third party, or any settlement of such claim to which PeopleDoc has agreed in advance; or (c) any third party claim directly arising from any breach of PeopleDoc's obligations under Sections 3.4 and 4.4 of this Agreement. Customer acknowledges and agrees that its sole and exclusive remedy with respect to any and all claims relating to alleged infringement of a third party intellectual property rights will be pursuant to the indemnification provisions set forth in this Section 8.1. For purposes of this Section 8.1, the term third party shall not include Customer's directors, officers, employees and agents.

**8.2 Exclusions.** Section 8.1 will not apply if the alleged claim arises, in whole or in part, from (a) a use or modification of the Services by any Customer or any Authorized User in a manner outside the scope of any right granted or in breach of this Agreement, (b) a combination, operation or use of the Services with other software, hardware or technology not provided by PeopleDoc if the claim would not have arisen but for the combination, operation or use, or (c) the Customer Content (any of the foregoing circumstances under clauses (a), (b) or (c) will be collectively referred to as a "**Customer Indemnity Responsibility**").

**8.3 Customer Indemnity.** Customer will indemnify, defend and hold harmless PeopleDoc, its directors, officers, employees, representatives and agents (each a "PeopleDoc Indemnified Party"), from and against any and all Losses arising out of any third party claim alleging any gross negligence or willful misconduct by the Customer.

**8.4 Indemnification Process.** The foregoing indemnification obligations are conditioned on the indemnified party: (a) notifying the indemnifying party promptly in writing of such action, (b) reasonably cooperating and assisting in such defense and (c) giving sole control of the defense and any related settlement negotiations to the indemnifying party with the understanding that the indemnifying party may not settle any claim in a manner that admits guilt or otherwise prejudices the indemnified party, without consent

**8.5 Infringement.** If any Service is, or in PeopleDoc's opinion, is likely to become the subject of any infringement-related claim, then PeopleDoc will, at its expense and in its discretion: (a) procure for Customer the right to continue using the Service; (b) replace or modify the infringing technology or material so that the Service becomes non-infringing and remains materially functionally equivalent; or (c) terminate the Order Form(s) pursuant to which the Service is provided and give Customer a refund for any pre-paid but unused fees.

**8.6** THE PROVISIONS OF THIS SECTION 8 STATE PEOPLEDOC'S ENTIRE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDIES FOR ANY CLAIM THAT THE SERVICES INFRINGE A THIRD PARTY'S INTELLECTUAL PROPERTY RIGHT.

## **9. TERM AND TERMINATION.**

**9.1 Term.** The term of this Agreement will commence on the first Order Form Effective Date and will continue for as long as any Order Form is in effect, unless terminated in accordance with this Section 9 or as otherwise expressly provided in this Agreement (the "Initial Term"). At the end of the Initial Term, this Agreement shall automatically renew for additional one (1) year periods (each, a "Renewal Period") unless written notice of non-renewal is provided to the PeopleDoc by Customer at least ninety (90) days prior to the expiration of the then-current Initial Term or Renewal Period.

**9.2 Termination.** Either party may terminate this Agreement or any Order Form, at its discretion, effective immediately upon written notice to the other if the other party materially breaches any provision of this Agreement and does not substantially cure the breach within thirty (30) days after receiving written notice.

**9.3 Suspension of Service(s).** At any time during the Term, PeopleDoc may, immediately upon notice to Customer, suspend access to any Service for the following reasons: (a) a threat to the technical security or technical integrity of the Services; or (b) any

amount due under this Agreement is not received by PeopleDoc within thirty (30) days after it was due.

**9.4 Termination upon Bankruptcy or Insolvency.** PeopleDoc may, at its option, terminate this Agreement immediately upon written notice to Customer, in the event (a) that Customer becomes insolvent or unable to pay its debts when due; (b) Customer files a petition in bankruptcy, reorganization or similar proceeding, or, if filed against, such petition is not removed within ninety (90) days after such filing; (c) Customer discontinues its business; or (d) a receiver is appointed or there is an assignment for the benefit of Customer's creditors.

**9.5 Return of Customer Content.** Upon termination of this Agreement for any reason, PeopleDoc will allow Customer the ability to download the Customer Content through the PeopleDoc Services or otherwise return to Customer, free of charge, the Customer Content in its native form or in a commonly used format at the end of the term. Whether or not Customer has retrieved or requested the Customer Content, PeopleDoc reserves the right to permanently and definitively delete the Customer Content thirty days (30) following termination of the Agreement (unless, of course, Customer has timely requested, and PeopleDoc has not yet complied with the Customer request to return the Customer Content). PeopleDoc may request, and Customer agrees to comply with any such request, that Customer acknowledge receipt of Customer Content as a condition for its return. During the 30 day period following termination of the Agreement, regardless of the reason for its termination, Customer will not have access to the PeopleDoc Services.

**9.6 Effects of Termination.** Upon termination or expiration of this Agreement for any reason, (a) any amounts owed to PeopleDoc before such termination or expiration will be immediately due and payable and (b) all licensed and access rights granted will immediately cease to exist. Sections 1, 3.4, 5 and 8 through 10 will survive any expiration or termination of this Agreement.

## **10. GENERAL**

**10.1 Assignment.** This Agreement cannot be assigned by either Customer or PeopleDoc without the prior written consent of the other; provided, however, that either party may assign this Agreement to any person or entity that is an affiliate, or acquires by sale, merger or otherwise, all or substantially all of its assets, stock or business. Any attempted assignment or delegation in violation of this Section 10.1 will be null, void and of no effect.

**10.2 Notices.** All notices, consents, and approvals under this Agreement must be delivered in writing by courier, by electronic facsimile (fax), or by certified or registered mail, (postage prepaid and return receipt requested) to the other party at the address set forth in the signature page below. Either party may change its address by giving notice of the new address to the other party.

**10.3 Governing Law; Disputes.** This Agreement will be governed by the laws of the State of New York, without reference to its conflicts of law principles. The United Nations Convention for the International Sale of Goods will not apply to this Agreement. Any dispute, controversy or claim arising out of or relating to this Agreement, will be made exclusively in the state or federal courts located in New

York, New York and both parties hereby submit to the jurisdiction and venue of such courts.

**10.4 Remedies.** Each party acknowledges that any actual or threatened breach of Section 3 will constitute immediate, irreparable harm to the other party for which monetary damages would be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach. If any legal action is brought to enforce this Agreement, the prevailing party will be entitled to receive its attorneys' fees, court costs, and other collection expenses, in addition to any other relief it may receive.

**10.5 Waivers.** All waivers must be in writing. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

**10.6 Severability.** If any provision of this Agreement is unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect.

**10.7 No Third Party Beneficiaries.** The parties acknowledge that the covenants set forth in this Agreement are intended solely for the benefit of the parties, their successors and permitted assigns. Nothing herein, whether express or implied, will confer upon any person or entity (including any User or any Employee) other than the parties, their successors and permitted assigns, any legal or equitable right whatsoever to enforce any provision of this Agreement.

**10.8 Construction.** The parties negotiated this Agreement with the opportunity to receive the aid of counsel and, accordingly, intend this Agreement to be construed fairly, according to its terms, in plain English, without constructive presumptions against the drafting party. The headings of Sections of this Agreement are for convenience and are not to be used in interpreting this Agreement. As used in this Agreement, the word "including" means "including but not limited to."

**10.9 Force Majeure.** Any delay in the performance of any duties or obligations of either party (except the payment of money owed) will not be considered a breach of this Agreement if such delay is caused by a labor dispute, shortage of materials, fire, earthquake, flood, or any other event beyond the control of such party. The affected party will use reasonable efforts, under the circumstances, to notify the other party of the circumstances causing the delay and to resume performance as soon as possible.

**10.10 Independent Contractors.** PeopleDoc acknowledges that it is an independent contractor and not an agent or employee of Customer and that it has no authority to bind or obligate Customer in any way. Nothing herein will be deemed to create any agency, partnership or joint venture between PeopleDoc and Customer.

**10.11 Entire Agreement.** This Agreement constitutes the entire agreement between the parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral. This Agreement may be amended only by a written document signed by both parties.

### **Exhibit A: SaaS Service Level Agreement**

- 1) **Definitions.** In this Exhibit, the term ‘available’ (or ‘availability’) means the SaaS is accessible to Customer and its Users; and the term ‘unavailable’ (or ‘unavailability’) means only Level 1 problems as defined in the table in Article 7 of this Exhibit.
- 2) **Calculation base - Availability Requirement.**
  - (a) PeopleDoc will achieve a **99.5%** availability rate for the SaaS ("Availability Rate"), calculated on a calendar-month basis as follows:  
$$\frac{(\text{Total} - \text{Unavailability Time} - \text{Planned Maintenance})}{\text{Total} - \text{Planned Maintenance}} \times 100$$
  - (b) **Definitions:**
    - (i) ‘Total’ means the number of total minutes in the month.
    - (ii) ‘Unavailability Time’ means the number of total minutes that the platform is unavailable in the month.
    - (iii) ‘Planned Maintenance’ (or ‘PM’) means the number of total minutes of planned maintenance and other scheduled system activities in the month, as set forth in Article 3.(a)(i) below.
- 3) **Unavailability Time.**
  - (a) The unavailability time (‘Unavailability Time’) of the SaaS is calculated by excluding from the total time the platform was unavailable for the following:
    - (i) the necessary time for PM and regular upgrades to the SaaS and its platforms, and for installing security patches (all of the foregoing, collectively, comprise the PM as defined in Article 2.(b)(iii) above), which may not exceed 120 minutes per calendar month. The PM will be performed by PeopleDoc as and when necessary. If these activities will impact the availability of the SaaS, PeopleDoc will do a reasonable effort to give Customer advance notice (which notice may be given via e-mail) at least 3 business days before such activities.
    - (ii) any other circumstance beyond PeopleDoc’s control, including but not limited to Internet problems, network congestion and internet service provider’s malfunctions caused by Customer’s systems.
    - (iii) Level 2 and Level 3 issues as defined in the table in Article 7 below.
  - (b) As an exception to the provisions of Article 3(a)(i) above, in the event of any kind of security threat, PeopleDoc may deploy any new version of the SaaS and platforms without providing advance notice to Customer; however, PeopleDoc shall inform Customer as soon as possible with reasonable details about the security threat and deployed fixes.
- 4) **Versions.**
  - (a) As and when necessary, PeopleDoc will ensure the upward compatibility of the different SaaS versions (major or minor) with Customer’s information system. Each new version will be subject to an acceptance test by PeopleDoc; after performing the tests, if normal operations are achieved and the non-regression testing is successful, then the version will be released.
  - (b) In addition, PeopleDoc will inform Customer’s contact (as authorized in advance by Customer) in writing (which writing may be an e-mail) of the availability of the new SaaS versions and the implementation deadline in the event of specific constraints (e.g., legal), and will provide Customer with the related Documentation for the new version.
- 5) **Availability Credits.** At any point in time, Customer will have direct access to a self-service portal showing current and historic system Availability Rate. If Customer reasonably disputes any data or calculations on that report, then the parties will discuss in good faith to resolve.
  - (a) If PeopleDoc does not meet the Availability Rate for the SaaS during a calendar month, then Customer shall notify PeopleDoc in writing (which writing may be an e-mail) within 30 days from the end of the calendar month for which the Availability Rate was not met and PeopleDoc will promptly issue to Customer a credit (“Availability Credit”) calculated as follows: 1% of the total subscription fee for the SaaS paid and payable by Customer for the current month (i.e. the yearly subscription fee divided by 12) for each 0.1% below the Availability Rate.
  - (b) Any credit issued to Customer for any given month under this Section 5 or Section 7 below may not exceed 10% of the total subscription fee paid and payable by Customer for the SaaS for that month. If Customer does not notify PeopleDoc within 30 days from the end of the month during which events giving rise to credit occurred, then Customer will be deemed to have waived its right to a credit for the month in question.
- 6) **Chronic Failures.** If the Availability Rate is lower than **99%** (i) over 3 consecutive months, or (ii) over 4 months in any rolling 12-month period, then Customer may terminate the Agreement for cause and without penalty effective 30 days after sending written notice to PeopleDoc, in addition to receiving any credits stated hereunder. Upon termination of the Agreement in accordance with this Section 6, PeopleDoc will refund Customer any prepaid but unused annual recurring fees.

- 7) **Response Time and Resolution Time.** At any point in time, Customer will have direct access to a self-service portal with Customer’s incidents details. If Customer reasonably disputes any data or calculations on that portal, then the parties will discuss in good faith to resolve. For the sake of clarity, if several issues relating to the same root cause are reported separately, all such related issues will be deemed to be one single incident for purposes of credit calculation.
- (a) PeopleDoc will respond and resolve the problems as described below. The Service Levels below do not apply to incidents already reported by Customer to PeopleDoc or to non-reproducible errors. In addition, if several issues relating to the same root cause are reported separately by the Customer, all such related issues will be deemed to be one single incident for purposes of credit calculation.

<b>Problem Severity</b>	<b>First Response Time</b>	<b>Resolution</b>
<p><b>Level 1 (High)</b> SaaS is not available. Level 1 incidents include, without limitation, disability of the following features: platform login, document upload, creation of document distribution, e-signature creation, request submission, and process creation.</p>	<p>PeopleDoc will provide an initial response to Customer and escalate the Level 1 issue to the technical teams within 60 business minutes</p>	<p>Immediately upon notice from Customer, PeopleDoc will use its best efforts, 24 hours/day and 7 days/week, to resolve the issue or provide Customer with an acceptable workaround.</p> <p><b>Escalation</b> If the problem has not been resolved within 1 hour after initial report by Customer, then PeopleDoc’s Customer Care team will escalate it to the appropriate team. Once escalated, PeopleDoc Customer Care will update Customer on progress every business hour.</p> <p><b>Credit</b> If the issue is not resolved or acceptable workaround provided within 3h36min (which equates to 0.5% of monthly Unavailability Time) from initial report from Customer, then Customer will be entitled to credit in accordance with the process set forth in Section 5.a) above.</p>
<p><b>Level 2 (Medium)</b> A function of the SaaS is unavailable, but this does not prevent the operation/use of the SaaS’ major functions as described in Level 1 above. Level 2 issues include, without limitation: non-availability of document preview, core HR data index issue, case assignment issues and workplace issues.</p>	<p>PeopleDoc will provide initial response to Customer and address the Level 2 issue within 4 business hours.</p>	<p>PeopleDoc will use its best efforts, during normal business hours, to resolve the issue or provide Customer with an acceptable workaround.</p> <p><b>Escalation:</b> If the problem has not been resolved within 4 business hours after initial report by Customer, then Customer can request that PeopleDoc’s Customer Care team escalate the problem to the appropriate team so that the escalated problem will have higher priority. Once escalated, PeopleDoc teams will update Customer on progress every 4 business hours.</p> <p><b>Credit</b> If the issue is not resolved or acceptable workaround provided within 30 days from initial report from Customer, then Customer will be entitled to credit calculated as follows: 1% of the total subscription fee for the SaaS paid by Customer for the current month (the yearly subscription fee divided by 12); provided that such process will not apply to any incidents relating to features released less than three (3) months prior to the incident.</p>
<p><b>Level 3 (Low)</b> A SaaS function is impaired, but this does not prevent normal operation/use.</p>	<p>PeopleDoc will provide initial response to Customer and address the Level 3 issue within 8 business hours.</p>	<p>PeopleDoc will use its best efforts, during normal business hours, to resolve the problem or provide Customer with an acceptable workaround. If the resolution requires a bug fix, then PeopleDoc will add the bug fix to the product roadmap for the next anticipated update.</p>