

TERMS OF SERVICE

These Terms of Service ("Agreement") is by and between Alltana, Inc. ("Alltana") and the party accepting this Agreement ("Licensee") to license the Alltana software as a service and associated applications the ("Alltana Platform") as specified herein subject to this Agreement. The Agreement sets forth the terms and conditions under which Licensee may Use (as defined herein) the Alltana Platform..

1. LICENSE GRANT AND RIGHT OF USE

- 1.1. **License Grant.** Subject to all limitations and restrictions contained herein, Alltana grants Licensee a subscription, software as a service (SaaS), nonexclusive and nontransferable right to use the Alltana Platform. ("Use").
- 1.2. **Use.** Licensee may Use the Alltana Platform in connection with content owned or licensed by Licensee ("Content") or other files, materials, and/or data owned or licensed by Licensee ("Materials").
- 1.3. **Additional Restrictions.** In no event shall Licensee disassemble, decompile, or reverse engineer the Alltana Platform or Confidential Information (as defined herein) or permit others to do so. Disassembling, decompiling, and reverse engineering include, without limitation: (i) converting the Alltana Platform from a machine-readable form into a human-readable form; (ii) disassembling or decompiling the Alltana Platform by using any means or methods to translate machine-dependent or machine-independent object code into the original human-readable source code or any approximation thereof; (iii) examining the machine-readable object code that controls the Alltana Platform's operation and creating the original source code or any approximation thereof by, for example, studying the Alltana Platform's behavior in response to a variety of inputs; or (iv) performing any other activity related to the Alltana Platform that could be construed to be reverse engineering, disassembling, or decompiling. To the extent any such activity may be permitted pursuant to written agreement, the results thereof shall be deemed Confidential Information subject to the requirements of this Agreement. Licensee may use Alltana's Confidential Information solely in connection with the Alltana Platform and pursuant to the terms of this Agreement.

2. PAYMENT

- 2.1. **Fees.** Licensee shall pay Alltana the fees indicated on the quote provided by Alltana to Licensee. Unless otherwise provided in the quote, all fees shall be paid to Alltana within thirty (30) days of the date of invoice. Any late payment shall be subject to any costs of collection (including reasonable legal fees) and shall bear interest at the rate of one and one-half percent (1.5%) per month (prorated for partial periods) or at the maximum rate permitted by law, whichever is less.
- 2.2. **Taxes.** The license, service fees, and other amounts required to be paid hereunder do not include any amount for taxes or levy (including interest and penalties). Licensee shall reimburse Alltana and hold Alltana harmless for all sales, use, VAT, excise, property or other taxes or levies which Alltana is required to collect or remit to applicable tax authorities. This provision does not apply to Alltana's income or franchise taxes, or any taxes for which Licensee is exempt, provided Licensee has furnished Alltana with a valid tax exemption certificate.

3. SUPPORT AND MAINTENANCE SERVICES

- 3.1. **Support.** Alltana shall use commercially reasonable efforts to provide corrections to reported problems that (i) prevent the Alltana Platform from conforming in material respects to its specifications, and (ii) are replicated and diagnosed by Alltana as defects in the Alltana Platform ("Maintenance and Support Services"). Maintenance and Support Services are further defined at www.alltana.io/support. Alltana shall use

commercially reasonable efforts to begin working on a resolution to Licensee's written notice of reported problems within fourteen (14) days, provided corrections shall be prioritized in Alltana reasonable discretion. A response is not a guaranty of a solution to the reported problem; however, Alltana will keep Licensee apprised of the resolution closure. Additional features and functions are not included as part of the Maintenance and Support Services.

- 3.2. **Exclusions.** Alltana shall not be obligated to provide Maintenance and Support Services for any software other than the generally available Alltana Platform delivered to Licensee pursuant to this Agreement (collectively the "Unsupported Code"). Any Alltana support services related to Unsupported Code shall be subject to execution of a mutually agreed upon assignment order issued under a professional services agreement.
- 3.3. **Third Parties.** Alltana shall have the right to use third parties, in performance of its obligations and services hereunder and, for purposes of this Section, all references to Alltana or its employees shall be deemed to include such subcontractors.

4. OWNERSHIP

- 4.1. **Reservation of Rights.** By using the Alltana Platform, Licensee irrevocably acknowledges that, subject to the licenses granted herein, Licensee has no ownership interest in the Alltana Platform or other Alltana materials provided to Licensee. Alltana shall own all right, title, and interest in the Alltana Platform and Alltana materials, subject to any limitations associated with intellectual property rights of third parties. Alltana reserves all rights not specifically granted herein.
- 4.2. **Content and Materials Ownership.** Alltana has no ownership rights in the Content or Materials secured by the Alltana Platform.
- 4.3. **Data.** Licensee shall own all data collected through the Alltana Platform including, but not limited to, user data ("Licensee Data"). Nothing in this Agreement shall preclude Alltana from using in any manner or for any purpose it deems necessary, the know-how, techniques, or procedures acquired or used by Alltana in the performance of services hereunder. Alltana owns and shall continue to own all right, title and interest in and to all aggregate and statistical information, benchmarking, comparison, and other analytics or analyses created or developed by Alltana from performance and usage data generated through Licensee's use of the Alltana Platform (collectively, "Aggregate Data").

4.4. CONFIDENTIALITY

- 4.5. **Definition.** "Confidential Information" includes all information marked pursuant to this Section and disclosed by either party, before or after the Effective Date, and generally not publicly known, whether tangible or intangible and in whatever form or medium provided, as well as any information generated by a party that contains, reflects, or is derived from such information.
- 4.6. **Confidentiality of Software.** All Confidential Information in tangible form shall be marked as "Confidential" or the like or, if intangible (e.g. orally disclosed), shall be designated as being confidential at the time of disclosure and shall be confirmed as such in writing within thirty (30) days of the initial disclosure. Notwithstanding the foregoing, the following is deemed Alltana Confidential Information with or without such marking or written confirmation: (i) the Alltana Platform and other related materials furnished by Alltana; (ii) the oral and visual information relating to the Alltana Platform; and the terms and conditions of this Agreement.

- 4.7. **Exceptions.** Without granting any right or license, the obligations of the parties hereunder shall not apply to any

material or information that: (i) is or becomes a part of the public domain through no act or omission by the receiving party; (ii) is independently developed by the other party without use of the disclosing party's Confidential Information; (iii) is rightfully obtained from a third party without any obligation of confidentiality; or (iv) is already known by the receiving party without any obligation of confidentiality prior to obtaining the Confidential Information from the disclosing party. In addition, neither party shall be liable for disclosure of Confidential Information if made in response to a valid order of a court or authorized agency of government, provided that notice is promptly given to the disclosing party so that the disclosing party may seek a protective order and engage in other efforts to minimize the required disclosure. The parties shall cooperate fully in seeking such protective order and in engaging in such other efforts.

4.8. **Ownership of Confidential Information.** Nothing in this Agreement shall be construed to convey any title or ownership rights to the Alltana Platform or other Confidential Information to Licensee or to any patent, copyright, trademark, or trade secret embodied therein, or to grant any other right, title, or ownership interest to the Alltana Confidential Information. Neither party shall, in whole or in part, sell, lease, license, assign, transfer, or disclose the Confidential Information to any third party and shall not copy, reproduce or distribute the Confidential Information except as expressly permitted in this Agreement. Each party shall take every reasonable precaution, but no less than those precautions used to protect its own Confidential Information, to prevent the theft, disclosure, and the unauthorized copying, reproduction or distribution of the Confidential Information.

4.9. **Non-Disclosure.** Each party agrees at all times to keep strictly confidential all Confidential Information belonging to the other party. Each party agrees to restrict access to the other party's Confidential Information only to those employees or subcontractors who (i) require access in the course of their assigned duties and responsibilities; and (ii) have agreed in writing to be bound by provisions no less restrictive than those set forth in this Section.

4.10. **Injunctive Relief.** Each party acknowledges that any unauthorized disclosure or use of the Confidential Information would cause the other party imminent irreparable injury and that such party shall be entitled to, in addition to any other remedies available at law or in equity, temporary, preliminary, and permanent injunctive relief in the event the other party does not fulfill its obligations under this Section.

4.11. **Suggestions/Improvements to the Alltana Platform.** Notwithstanding this Section, unless otherwise expressly agreed in writing, all suggestions, solutions, improvements, corrections, and other contributions provided by Licensee regarding the Alltana Platform or other Alltana materials provided to Licensee shall be owned by Alltana, and Licensee hereby agrees to assign any such rights to Alltana. Nothing in this Agreement shall preclude Alltana from using in any manner or for any purpose it deems necessary, the know-how, techniques, or procedures acquired or used by Alltana in the performance of services hereunder.

5. WARRANTY

5.1. **Authorized Representative.** Licensee and Alltana warrant that each has the right to enter into this Agreement and that the Agreement shall be executed by an authorized representative of each entity.

5.2. **Content and Materials.** Licensee represents and warrants that Licensee has the right to provide the Content and Materials as described herein and the Content and Materials shall not infringe the copyright, trademark or other rights of a third party. Licensee shall be fully responsible for all Content and Materials uploaded to through the Alltana Platform either by Licensee or users created by the Licensee.

5.3. **Disclaimer of Warranties.** Licensee acknowledges and agrees that it is not relying on any statement or warranty not expressly provided herein with respect to the Alltana Platform or maintenance, or other services provided hereunder. THE ALLTANA PLATFORM AND THE MATERIALS ACCESSIBLE THROUGH THE ALLTANA PLATFORM ARE PROVIDED "AS IS" WITHOUT WARRANTIES OF ANY KIND EITHER EXPRESS OR IMPLIED. ALLTANA SHALL HAVE NO RESPONSIBILITY OR LIABILITY FOR ANY DATA, CONTENT OR MATERIALS ACCESSED THROUGH THE ALLTANA PLATFORM AND ALLTANA MAKES NO REPRESENTATION THAT ANY DATA, CONTENT OR MATERIALS IS ACCURATE OR COMPLETE. ALLTANA MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

5.4. **No Modifications.** Notwithstanding anything to the contrary in this Section, any and all warranties under this Agreement are VOID if Licensee has made changes to the Alltana Platform or has permitted any changes to be made other than by or with the express, written approval of Alltana.

6. LIMITATION OF LIABILITY

6.1. **Liability Cap.** IN NO EVENT SHALL ALLTANA BE LIABLE UNDER ANY THEORY OF LIABILITY, WHETHER IN AN EQUITABLE, LEGAL, OR COMMON LAW ACTION ARISING HEREUNDER FOR CONTRACT, STRICT LIABILITY, INDEMNITY, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, FOR DAMAGES WHICH, IN THE AGGREGATE, EXCEED THE AMOUNT OF THE FEES PAID BY LICENSEE FOR THE ALLTANA PLATFORM WHICH GAVE RISE TO SUCH DAMAGES IN THE SIX (6) MONTHS PRIOR TO THE CLAIM AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.

6.2. **Disclaimer of Damages.** IN NO EVENT SHALL ALLTANA BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND AND HOWEVER CAUSED INCLUDING, BUT NOT LIMITED TO, BUSINESS INTERRUPTION OR LOSS OF PROFITS, BUSINESS OPPORTUNITIES, OR GOODWILL EVEN IF NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGE, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.

7. TERM AND TERMINATION

7.1. **Term.** The term of this Agreement shall begin when the Alltana Platform is purchased and provisioned by Alltana the ("Initial Term"). At the conclusion of the Initial Term, Agreement shall automatically renew for an additional one (1) year period unless either party provides written notice of termination at least thirty (30) days prior to the conclusion of the applicable period.

7.2. **Termination by Alltana.** This Agreement and any license created hereunder may be terminated by Alltana (i) if Licensee fails to make any payments due hereunder within thirty (30) days of the due date; (ii) on thirty (30) days written notice to Licensee if Licensee fails to perform any other material obligation required of it hereunder, and such failure is not cured within such thirty (30) day period; or (iii) Licensee files a petition for bankruptcy or insolvency, has an involuntary petition filed against it, commences an action providing for relief under bankruptcy laws, files for the appointment of a receiver, or is adjudicated a bankrupt concern.

7.3. **Termination by Licensee.** This Agreement may be terminated by Licensee on thirty (30) days written notice to Alltana if Alltana fails to perform any material obligation required of it hereunder, and such failure is not cured within thirty (30) days

from Alltana's receipt of Licensee's notice or a longer period if Alltana is working diligently towards a cure.

- 7.4. **Termination.** Upon termination of this Agreement, Licensee shall no longer access the Alltana Platform and Licensee shall not circumvent any security mechanisms contained therein.
- 7.5. **Other Remedies.** Termination of this Agreement shall not limit either party from pursuing other remedies available to it, including injunctive relief, nor shall such termination relieve Licensee's obligation to pay all fees that have accrued or are otherwise owed by Licensee under this Agreement.

8. MISCELLANEOUS

- 8.1. **Compliance With Laws.** Licensee agrees to comply with all applicable laws, regulations, and ordinances relating to its performance under this Agreement. The parties agree that the Agreement shall not be governed by the United Nations Convention on the International Sale of Goods or by UCITA, the application of which is expressly excluded.
- 8.2. **Assignment.** Licensee may not assign this Agreement or otherwise transfer any license created hereunder whether by operation of law, change of control, or in any other manner, without the prior written consent of Alltana. Any assignment or transfer in violation of this Section shall be null and void.
- 8.3. **Survival.** The provisions set forth in Sections 2, 4, 6.2, 7, 8.4, and 9 of this Agreement shall survive termination or expiration of this Agreement and any applicable license hereunder.
- 8.4. **Notices.** Any notice required under this Agreement shall be given in writing and shall be deemed effective upon delivery to the party to whom addressed. All notices shall be sent to the applicable address specified on the face page hereof or to such other address as the parties may designate in writing. Unless otherwise specified, all notices to Alltana shall be sent to the attention of the CEO. Any notice of material breach shall clearly define the breach including the specific contractual obligation that has been breached.
- 8.5. **Force Majeure.** Alltana shall not be liable to Licensee for any delay or failure of Alltana to perform its obligations hereunder if such delay or failure arises from any cause or causes beyond the reasonable control of Alltana. Such causes shall include, but are not limited to, acts of God, floods, fires, loss of electricity or other utilities, or delays by Licensee in providing required resources or support or performing any other requirements hereunder.
- 8.6. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof and supersedes all proposals and prior discussions and writings between the parties with respect thereto. Any signed

copy of this Agreement made by reliable means (e.g., photocopy or facsimile) shall be considered an original.

- 8.7. **Modifications.** The parties agree that this Agreement cannot be altered, amended or modified, except by a writing signed by an authorized representative of each party.
- 8.8. **Nonsolicitation.** During the term of this Agreement and for a period of two (2) years thereafter, Licensee agrees not to hire, solicit, nor attempt to solicit, the services of any employee or subcontractor of Alltana without the prior written consent of Alltana. Licensee further agrees not to hire, solicit, nor attempt to solicit, the services of any former employee or subcontractor of Alltana for a period of one (1) year from such former employee's or subcontractor's last date of service with Alltana. Violation of this provision shall entitle Alltana to liquidated damages against Licensee equal to two hundred percent (200%) of the solicited person's gross annual compensation.
- 8.9. **Publicity.** Licensee agrees to cooperate with Alltana (i) in preparation of at least one (1) press release, where the aforementioned materials can be used in/on Alltana's website, marketing materials, trade shows, public advertisements, and other associated marketing uses ("Alltana Marketing Materials"); and (ii) in preparation of an Alltana-sponsored testimonial advertisement to be run in newspapers, magazines, and other publications and for use in Alltana Marketing Materials. The parties further agree that Alltana may include Licensee's logo on publicly displayed customer lists (including Alltana's website and public advertisements).
- 8.10. **No Waiver.** No failure or delay in enforcing any right or exercising any remedy will be deemed a waiver of any right or remedy.
- 8.11. **Severability and Reformation.** Each provision of this Agreement is a separately enforceable provision. If any provision of this Agreement is determined to be or becomes unenforceable or illegal, such provision shall be reformed to the minimum extent necessary in order for this Agreement to remain in effect in accordance with its terms as modified by such reformation.
- 8.12. **Choice of Law.** THIS AGREEMENT SHALL BE GOVERNED AND INTERPRETED BY THE LAWS OF THE STATE OF TEXAS WITHOUT REGARD TO THE CONFLICTS OF LAW PROVISIONS OF ANY STATE OR JURISDICTION. ANY ACTION RELATED TO THIS AGREEMENT SHALL BE BROUGHT IN THE STATE OR FEDERAL COURTS LOCATED IN AUSTIN, TEXAS AND LICENSEE HEREBY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS.