



## BOARDEFFECT® MASTER TERMS

These Master Terms set out (1) the terms and conditions under which Licensor licenses to, and Licensee subscribes to use the BoardEffect Platform (as defined in this Agreement), and (2) the services to be provided to Licensee in connection with the License pursuant to this Agreement.

In consideration of the promises and mutual covenants set forth herein, Licensor and Licensee hereby agree as follows:

### 1. DEFINITIONS

**1.1 Defined Terms.** In addition to other capitalized terms defined throughout this Agreement, the following terms shall have the meanings provided below:

- a. *"Content"* shall mean the text and other information that are published on the BoardEffect Platform by Licensee.
- b. *"Licensee Documentation"* shall mean any documentation that Licensor provides to Licensee for the purpose of supporting Licensees use of the BoardEffect Platform.
- c. *"Licensor's Trademarks"* shall mean *"BoardEffect"* and any future trademarks owned or licensed by Licensor for use in promoting the BoardEffect Platform.
- d. *"Servers"* shall mean the physical machine or machines on which the BoardEffect Platform will be installed.
- e. *"BoardEffect Platform"* or *"Platform"* shall mean the object code versions of the Platform described in this document and provided to Licensee and related BoardEffect Platform documentation as such software and documentation may be updated from time to time hereunder, including BoardEffect Platform upgrades.
- f. *"BoardEffect Platform Documentation"* or *"Documentation"* shall mean any documentation, specifications or technical information or materials which Licensor either supplies generally in conjunction with the BoardEffect, or supplies specifically in accordance with this Agreement.
- g. *"BoardEffect Platform Upgrades"* or *"Upgrades"* shall mean upgrades, updates and/or enhancements of the BoardEffect Platform as created and/or developed by or for Licensor which are marketed under the same product number and nomenclature or which are marketed as a replacement for the BoardEffect Platform.
- h. *"Software as a Service (SaaS)"* shall mean the act of running Licensor's Platform on Licensor's servers on behalf of Licensee.

### 2. GRANT OF RIGHTS

**2.1 License.** Subject to the terms and conditions set forth in this Agreement, Licensor hereby grants to Licensee, and Licensee hereby accepts from Licensor, a limited, non-exclusive, non-transferable, license to:

- a. Access to and use of the BoardEffect Platform, for all legal uses contemplated by this Agreement.
- b. permit Licensee and end users to access the BoardEffect Platform via the internet and use the BoardEffect Platform, for all legal uses contemplated by this Agreement.



**2.2 Restrictions on License.** The license granted in section 2.1 above shall be limited as follows:

- a. except as permitted hereunder, Licensee shall not copy or reproduce the BoardEffect Platform nor in any way modify, sell, rent, lease, license, sublicense, resell any of its rights, distribute all or any portion of the BoardEffect Platform to any person or entity; and
- b. Licensee shall not reverse engineer, decompile, or otherwise attempt to determine the source code or algorithms of the BoardEffect Platform.

**2.3 Trademarks.** Licensor hereby grants Licensee the non-exclusive right to display and use Licensor's Trademarks. Licensee shall assure that the use of Licensor's Trademarks is per Licensor's express specifications. Licensee agrees that Licensor's Trademarks shall remain the sole property of Licensor and that Licensee will obtain no proprietary interest by virtue of this Agreement in any of Licensor's Trademarks. You hereby grant to Licensor for the sole purpose of fulfilling our obligations hereunder, the limited right to publish your name, logo and/or other marks as part of Licensee's branding of the Platform, and also to reference Licensee as a user of the Service. Licensor agrees to discontinue such use upon Licensee's written request.

**2.4 Transfer of Agreement.** This Agreement may not be transferred without approval by Licensor and Licensee. Approval will not be unreasonably withheld.

**2.5 Ownership of Content.** Content residing in the BoardEffect Platform is the property of Licensee.

### **3. DELIVERY OF PLATFORM AND SERVICES**

**3.1 Delivery of the BoardEffect Platform and Upgrades.** Licensor shall deliver to Licensee the BoardEffect Platform by means of installing it on a Server operated by Licensor. Licensor may design or develop BoardEffect Platform upgrades. Licensor shall deliver to Licensee such BoardEffect Platform upgrades by means of installing them on the Server operated by Licensor. Licensor will provide BoardEffect Platform upgrades to Licensee during the term of this Agreement at no additional charge. There may be a charge for labor associated with migrating existing customization during implementation of the upgrade. This charge will be communicated to Licensee prior to any upgrade being implemented. Licensor reserves the right to modify the database design and structure with any subsequent Platform release. In the event of such modification, Licensor shall ensure that new versions provide Licensee with full access to all database content created under previous releases.

**3.2 Technical Support and Services.** Licensor shall provide technical support services as outlined in the BoardEffect License and the BoardEffect Licensee Support and Maintenance

Guide located at <http://www.boardeffect.com/support-guide>.

The staff of Licensee will perform all tasks related to content management such as editing or deleting content. All services performed by Licensor will be performed in a workmanlike manner per standard industry standards.



#### 4. CONSIDERATION

**4.1 Payment of Fees.** Licensee agrees to pay Licensor all fees required by the Order Forms no event later than thirty (30) days after the date of an invoice from Licensor. Licensor expressly reserves the right to change the fees payable under any Order Form with respect to any renewal of such Order Form sixty (60) days prior to the expiration of its then-current term. Licensee will pay all fees in U.S. dollars unless otherwise set forth in the applicable Order Form. Payments shall be sent to the address indicated on the invoice.

**4.2 Late Fees.** Licensor may charge interest on any overdue amounts at the lower of: (a) the highest permissible rate, or (b) 18% per annum, charged at 1.5% per month from the date on which such amount fell due until the date of payment, whether before or after judgment. Licensee acknowledges that any delay in payment for any Initial Term or Renewal Term may result in termination of the BoardEffect license and/or an interruption in service at BoardEffect's sole discretion.

**4.3 Taxes.** The fees hereunder do not include any sales, use, excise, import or export, value-added ("VAT"), goods and services ("GST"), or similar tax or interest, or any costs associated with the collection or withholding thereof, or any government permit fees, license fees or customs or similar fees ("Taxes") levied on the delivery of any Software or Equipment or the performance of Services by BoardEffect to Customer. Customer will be responsible for payment of such Taxes at point of sale. If Customer is exempt from any such Taxes, then such Taxes shall not be charged to Customer upon BoardEffect's receipt of a copy of documentation acceptable to BoardEffect that satisfies the requirements of the relevant tax authority to exempt such fees from such Tax (such as Customer's tax exemption certificate, or VAT Registration Number.) All payments due under this Agreement shall be made without any deduction or withholding, unless such deduction or withholding is required by any applicable law, regulation, or rule then in effect. If Customer is required to deduct or withhold, Customer will promptly notify BoardEffect of the requirement, timely pay the required amount to the relevant tax authority, provide BoardEffect with an official receipt, certified copy or other documentation acceptable to BoardEffect evidencing payment, and pay to BoardEffect the amount to which BoardEffect is otherwise entitled under this Agreement, less the amount required to be deducted or withheld. In the event, and to the extent, that BoardEffect is unable to claim an income tax credit for the full amount deducted or withheld (the "Unrecouped Withholding"), Customer shall pay BoardEffect, within sixty (60) days following receipt of an invoice from BoardEffect, the Unrecouped Withholding.

#### 5. TERM AND TERMINATION

**5.1 Term.** This Agreement shall become effective on and as of the date of execution of the Agreement by the parties to this Agreement and shall continue for a period of one (1) year (the "Initial Term") thereafter. Upon expiration of the initial term, the Agreement shall automatically renew for subsequent one-year periods (the "Renewal Term") unless terminated by either party. In order to terminate the Agreement during a subsequent period, Licensee must give written notice to the Licensor at least sixty (60) days prior to expiration of the Renewal Term.



**5.2 Termination with Cause.** In the event of an uncured material breach of this Agreement by either party, the non-breaching party may terminate this Agreement by sending the breaching party written notice of the nature of such breach and by providing the breaching party an opportunity to cure such breach within thirty (30) days. Non-payment of either access or consulting fees shall be considered a material breach. If the material breach is not cured within thirty (30) days of written notification, this Agreement will be automatically terminated.

**5.3 Effect of Termination.** Upon termination of this Agreement, all of the licenses granted to Licensee shall immediately terminate. Each party shall return to the other party any and all information received from the other party pursuant to this Agreement that has been marked "Confidential." Licensee has the ability to export data in a .csv format from the BoardEffect Platform at any time. Licensor will present content in the Resources area of the tool as a .zip file to the Licensee. Licensor will stop access to the BoardEffect Platform within 90 days of termination notification from Licensee.

**5.4 Effect of Breach.** No breach by Licensee shall relieve it of its obligation to pay the fees in accordance with section 4.1 hereof. The remedies set forth in this Agreement are cumulative and not exclusive. Each party shall be entitled to pursue, in connection with any breach, such remedies as are provided by law or equity in connection with such breach.

## 6. NOTICES

Any notice or other communication to be given hereunder shall be in writing and shall be: (i) personally delivered; (ii) transmitted by postage prepaid registered or certified airmail, return receipt requested; (iii) deposited prepaid with a nationally recognized overnight courier service; or (iv) by facsimile or e-mail, the receipt of which is confirmed in writing. Unless otherwise provided herein, all notices shall be deemed to have been duly given on: (a) the date of receipt (or if delivery is refused, the date of such refusal) if delivered personally or by courier; or (b) upon voice confirmation of receipt of facsimile or e-mail. Either party may change its address for purposes hereof on not less than three (3) days prior notice to the other party. Notice hereunder shall be directed to the following addresses:

### Licensor

BoardEffect LLC  
161 Leverington Avenue  
Suite 1001  
Philadelphia, PA 19127 USA  
t. 215.508.4920  
toll free 866.672.2666  
f. 215.508.4590  
contracts@boardeffect.com

### Licensee

To the contact identified on the Order Form.



## 7. LIMITED WARRANTY

**Disclaimer of Warranty.** BOARDEFFECT warrants that the Service will perform in substantial accordance with the Licensee Documentation. **EXCEPT AS EXPRESSLY AND SPECIFICALLY PROVIDED IN ANY ORDER FORM :** (A) THE OFFERINGS ARE PROVIDED "AS IS" AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, BOARDEFFECT AND ITS LICENSORS AND SUPPLIERS DISCLAIM ALL OTHER REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE; (B) NEITHER BOARDEFFECT NOR ITS LICENSORS WARRANT THAT THE FUNCTIONS OR INFORMATION CONTAINED IN THE SOFTWARE OR SERVICE WILL MEET ANY REQUIREMENTS OR NEEDS CUSTOMER MAY HAVE, OR THAT THE SOFTWARE WILL OPERATE ERROR FREE OR WITHOUT INTERRUPTION, OR THAT ANY DEFECTS OR ERRORS IN THE SOFTWARE WILL BE CORRECTED, OR THAT THE SOFTWARE OR SERVICE IS COMPATIBLE WITH ANY PARTICULAR COMPUTER SYSTEM OR SOFTWARE; AND (C) BOARDEFFECT AND ITS LICENSORS MAKE NO GUARANTEE OF ACCESS TO OR OF ACCURACY OF THE CONTENT CONTAINED IN OR ACCESSED THROUGH THE OFFERINGS.

## 8. PROPRIETARY INFORMATION

### **Protection of Proprietary Information.**

Each party will refrain from using the other party's proprietary information except as contemplated herein, and from disclosing such proprietary information to any third party except to employees who participate directly in the performance of the receiving party's obligations hereunder. Each party shall protect and safeguard the proprietary information of the other party using at least the same degree of care such party uses to protect its own confidential information of like importance.

### **Proprietary Information Defined.**

For purposes of this Agreement, proprietary information (or "Confidential Information") includes any information and data which is, or should be reasonably understood to be, confidential or proprietary to the disclosing party, which may include, without limitation, proprietary technical, financial, personnel, marketing, pricing, sales and/or commercial information with respect to the products and services of the parties, as well as ideas, concepts, designs, computer programs (including source code and object code) and inventions and all record bearing media containing or disclosing such proprietary information which are disclosed pursuant to this Agreement. Proprietary information does not include information (a) already rightfully known to the receiving party without restriction or that has been independently developed by the receiving party without the use of any proprietary information, (b) disclosed in published materials through no violation of this Agreement, (c) generally known to the public without restriction through no fault of the receiving party, (d) obtained without restriction from any third party rightfully empowered to disclose such information or (e) information required to be disclosed by law.



## 9. INDEMNIFICATION AND LIABILITY PROVISIONS

**9.1 Indemnification.** Licensor will defend at its expense any action brought against Licensee to the extent it is based on a claim that the Platform, Documentation or any part thereof, when used within the scope of this Agreement and as provided by Licensor hereunder, infringes a patent, copyright or other proprietary right of a third party, and Licensor will pay any settlements, expenses, costs, and damages finally awarded, including attorney's fees incurred by Licensee, in such action and which are attributable to such claim; provided that Licensee notifies Licensor promptly in writing of any claim or potential claim, gives Licensor the exclusive control of the defense and settlement thereof, and provides all reasonable assistance in connection therewith. In the event use of the Platform becomes, or in Licensor's reasonable opinion is likely to become, the subject of a claim of infringement of a patent, copyright or other proprietary right, it is Licensor's option to remedy the situation by (i) procuring the continuing right to use the Platform, or (ii) replacing or modifying the Platform so that it no longer infringes, or (iii) terminating this Agreement.

Licensor represents that as of the effective date there are no known or expected claims that the Platform infringes a patent, copyright or other proprietary right of a third party and further represents that the Platform does not infringe a patent, copyright or other proprietary right of a third party.

Licensor has no responsibility for the Licensee Content posted on Licensee's hosted BoardEffect® Platform. Licensee will indemnify and hold harmless Licensor for any third party claims or legal actions brought against Licensor as a direct result any such Licensee Content, and will hold Licensor harmless from any damages, liabilities, or other costs, including reasonable attorney fees and court costs, in an amount not to exceed the amount of fees actually paid by Licensee during the initial term or the renewal term in which Licensee Content in question was posted on the Licensee's hosted BoardEffect® Platform. Licensee will promptly notify Licensor of any claims by a third party with respect to Licensee's Content and Licensor and Licensee will cooperate at their respective expense in any defense of such claims.

**9.2 Limitation on Liability.** EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, LICENSOR, ITS SUPPLIERS, AGENTS, AND ASSIGNEES SHALL NOT BE LIABLE TO LICENSEE OR ITS AGENT OR ASSIGNEES FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, OR FOR ANY DAMAGES IN EXCESS OF TWELVE MONTHS' FEES (ACTUALLY PAID BY LICENSEE), EVEN IF LICENSOR HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY OTHER PARTY. THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO LIABILITY FOR DEATH OR PERSONAL INJURY TO THE EXTENT APPLICABLE LAW PROHIBITS SUCH LIMITATION. FURTHERMORE, SOME STATES AND JURISDICTIONS DO NOT ALLOW THE LIMITATION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES SO THE ABOVE LIMITATIONS MAY NOT APPLY TO LICENSEE.



## 10. GENERAL PROVISIONS

**10.1 Remedies.** Except where otherwise specified, the rights and remedies granted to a party under this Agreement are cumulative and in addition to, and not in lieu of, any other rights or remedies which the party may possess at law or in equity.

**10.2 Applicable Law.** This Agreement shall be interpreted, construed and enforced in all respects in accordance with the laws of the state in which Licensee is primarily headquartered, without regard to conflicts of law's provisions thereof.

**10.3 Jurisdiction.** Each party hereby consents to the exclusive jurisdiction of the state or federal courts located in Philadelphia County, Pennsylvania, USA, and irrevocably agrees that all actions or proceedings relating to this Agreement shall be litigated in such courts and each party waives any objection which it may have based on lack of personal jurisdiction, improper venue or forum non convenient to the conduct of any proceeding in any such court and waives personal service of any and all process upon them.

**10.4 Further Assurances.** Either party shall take such action (including, but not limited to, the execution, acknowledgment and delivery of documents) as may reasonably be requested by the other party for the implementation or continuing performance of this Agreement.

**10.5 Construction.** In the event that any provision of this Agreement conflicts with the law under which this Agreement is to be construed or if any provision is held invalid by a court with jurisdiction over the parties to this Agreement, such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law, and the remainder of this Agreement shall remain in full force and effect.

**10.6 No Waiver.** The failure of either party to insist upon or enforce strict performance by the other party of any provision of this Agreement or to exercise any right under this Agreement shall not be construed as a waiver or relinquishment to any extent of such party's right to assert or rely upon any such provision or right in that or any other instance; rather, the same shall be and remain in full force and effect.

**10.7 Amendment.** No change, amendment or modification of any provision of this Agreement shall be valid unless set forth in a written instrument signed by both parties.

**10.8 Entire Agreement.** This Agreement, including its exhibits and attachments, represents the entire Agreement of the parties with respect to the subject matter hereof and supersedes all prior and/or contemporaneous Agreements and understandings, written or oral, between the parties with respect to the subject matter hereof. The terms and conditions of any present or future purchase order or invoice submitted by Licensor or Licensee that conflict with or in any way purport to amend or add to any other terms and conditions of this Agreement or any exhibit hereto shall be of no force or effect nor shall it govern in any way the subject matter hereof, unless the same is expressly agreed to in writing and is executed by authorized representatives of Licensor and Licensee.



**10.9 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document, and may be delivered to the other party by facsimile transmission of the signature pages hereto.

**10.10 Independent Contractors.** The parties to this Agreement are independent contractors. Neither party is an agent, representative or partner of the other party. Neither party shall have any right, power or authority to enter into any Agreement for or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other party. This Agreement shall not be interpreted or construed to create an association, agency, joint venture or partnership between the parties or to impose any liability attributable to such a relationship upon either of the parties.

**10.11 Survival.** The following provisions of this Agreement shall survive the expiration or termination of this Agreement: 1, 8, 9, 10.2, and 10.3.

**10.12 Force Majeure.** Except with regard to payment obligations, neither Party will be responsible for any failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts or inability to obtain any export or import license or other approval or authorization of any government authority.