



License Agreement

This License Agreement is entered into by and between Mod9 Technologies, a California corporation located at 2081 Center Street, Berkeley, CA 94704 (“Mod9” or “Supplier”), and _____, a _____, with its principal office located at _____ (“Partner”) effective as of _____ (the “Effective Date”).

This License Agreement is governed by the Master Terms and Conditions previously executed by the parties effective as of _____ (the “Master Terms and Conditions”), which are attached hereto as Exhibit A and hereby incorporated herein by reference (this License Agreement and such Master Terms and Conditions, collectively, the “Agreement”). Capitalized terms used but not defined herein shall carry the meanings ascribed to them in the Master Terms and Conditions. No provision of this License Agreement shall be construed to supersede any provision of the Master Terms and Conditions unless the provision being superseded is specifically identified as such in this License Agreement. In consideration of the mutual promises contained herein, the sufficiency of which is hereby acknowledged, the parties agree to the terms and conditions set forth herein and have caused this Agreement to be executed by their duly authorized representatives.

1. Term: The term of this Agreement shall commence on the Effective Date and shall continue for an initial period of twelve (12) months following the Software Approval Date (as defined below). This Agreement shall automatically renew for successive 12-month periods thereafter, unless either party provides the other party with written notice of non-renewal at least sixty (60) days prior to the expiration of the then-current term. The initial term and all renewal terms are collectively referred to as the “Term.” This Agreement is also subject to earlier termination by either party as set forth in the Master Terms and Conditions. If Partner requires use of the Software in connection with a particular end customer program for a period that extends beyond any termination of this Agreement, the parties will negotiate in good faith and mutually agree upon the terms and conditions of any such extended use for that particular program.

2. Software Approval Date. For purposes of this Agreement, the “Software Approval Date” shall mean the date on which Partner confirms in writing that the Software has been properly onboarded, is functioning as expected and meets Partner’s quality requirements. If the Software Approval Date does not occur within thirty (30) days following the Effective Date, Partner may terminate this Agreement without liability upon written notice to Mod9.

3. Software: The Software licensed under this Agreement consists of the Mod9 ASR Engine software, including the latest versions and all future Upgrades (as defined below). Mod9 will furnish executable software as Linux binaries or Docker images, at <https://mod9.io> and <https://hub.docker.com/r/mod9/asr>, for use by Partner in connection with deployment of the Authorized Products.

4. Authorized Products: Partner’s _____.

5. Fees:

(a) Monthly License Fee: Commencing on the Software Approval Date, Partner will pay to Mod9 a license fee of **\$10,000.00 per month** for unlimited use of the Software (the “License Fee”).

(b) Other Fees:

(i) Setup Fee. Partner will pay to Mod9 a one-time fee of \$_____.

(ii) Other Custom Services. For any other services to be provided, Mod9 will provide a quotation to Partner for any additional fees associated therewith. Any such fees and related payment terms will be mutually agreed upon by Supplier and Partner in writing prior to commencement of such development or other services.

(c) Payment. The License Fee and all other fees due hereunder will be invoiced and paid pursuant to Sections 4.3 and 5 of the of the Master Terms and Conditions. The parties acknowledge and agree that Sections

4.1, 4.2 and 4.4 of the Master Terms and Conditions are superseded by this Agreement's Section 5 and Section 7 and will not be applicable to this Agreement.

6. Maintenance and Support. Mod9 will provide: (i) all upgrades released by Mod9, including modifications, bug fixes, error corrections, updates, enhancements and new releases of the Software (collectively, "Upgrades") promptly upon release, to ensure that Partner at all times has the latest versions of all engines included in the Software provided by Mod9 to any other third party, and (ii) technical support, including troubleshooting and similar problem resolution and assistance with implementation and operation of the Software.

7. Reporting and Reviews.

(a) Usage Reporting. On a monthly basis, Partner will provide a report to Mod9 summarizing Partner's usage of the Software during the preceding calendar month. Mod9 will have the right, upon at least 30 days prior written notice to Partner and at reasonable times (but not more frequently than once in any 12-month period), to have an auditor from an independent certified public accounting firm examine Partner's records specifically pertaining to the usage reports solely as required for such auditor to verify that the accuracy of such reports. Partner shall have the right to require any such auditor to sign a confidentiality agreement prior to conducting such audit.

(b) Business Reviews. The parties will hold business reviews periodically, at mutually agreed upon times, to review and discuss topics such as quantitative and qualitative assessments of engine performance, usage of the Software relative to other engines on Partner's platform within the same cognition class, technical issues and remediation plans, planned product enhancements, and other topics mutually agreed upon by the parties.

8. Remedies. Notwithstanding anything stated to the contrary in Section 10.2 of the Master Terms and Conditions, the parties agree that, in the event that the Software is found to be infringing, if in Supplier's reasonable judgment neither of the options set forth in subsections (1) and (2) of Section 10.2 is commercially feasible, Supplier may terminate this Agreement and refund (i) any prepaid amounts for unused Services, and (ii) any one-time fees paid by Partner to Supplier related to the Software, prorated using a 5-year straight line depreciation method.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized representatives as of the date first above written.

MOD9 TECHNOLOGIES

_____**("Partner")**

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Exhibit A

Master Terms and Conditions

(Copy Attached)



MASTER TERMS AND CONDITIONS

These Master Terms and Conditions apply to the License Agreement executed as of _____ by Mod9 Technologies (“Mod9”) and _____ (“Partner”) which references these Master Terms and Conditions.

1. Definitions.

1.1. “Authorized Products” means the product(s) or service(s) made commercially available by Partner to customers which are identified in the License Agreement, hereto where such product(s) or service(s) provide significant functionality in addition to the functionality provided by the Software.

1.2. “Effective Date” means the date set forth on the License Agreement as the “Effective Date.”

1.3. “Intellectual Property Rights” means all forms of proprietary rights, titles, interests, and ownership relating to patents, copyrights, trademarks, trade dresses, trade secrets, know-how, mask works, *droit moral* (moral rights), and all similar rights of every type that may exist now or in the future in any jurisdiction, including without limitation all applications and registrations therefore and rights to apply for any of the foregoing.

1.4. “Software” means Mod9’s software application, as specified in the License Agreement, supplied to Partner for use within Partner’s Authorized Products.

1.5. “Software Documentation” means Mod9’s Software reference materials, as amended or revised from time to time.

2. License Grant.

2.1. License to Use the Software. Subject to the terms and conditions of this Agreement, including Partner’s compliance with all payment obligations hereunder, Mod9 hereby grants to Partner and the end users of its Authorized Products, under Mod9’s copyrights in the Software and the Software Documentation, a restricted, non-exclusive, non-transferable, royalty-bearing, limited license to use the Software and its services within the Authorized Products, which are made commercially available to Partner’s customers. Partner has no right or license to reproduce, sublicense or distribute the Software or the Software Documentation independent of the Authorized Products.

3. Ownership. As between the parties, Mod9 owns all right, title and interest (including all Intellectual Property Rights) in and to the Software, Software Documentation and any software, technology, materials and information owned by Mod9 prior to the Effective Date or created, authored, developed, conceived or reduced to practice after the Effective Date. Nothing herein shall be construed to transfer any rights, title or ownership of any Mod9 software, technology, materials, information or Intellectual Property Rights to Partner. As between the parties, all elements of the Authorized Products, including all modifications to any of the foregoing and all derivative works thereof, shall at all times remain the property of Partner. Nothing herein shall be construed to transfer any rights, title or ownership of any Partner software, technology, materials, information or Intellectual Property Rights to Mod9.

4. Payment; Reporting.

4.1. Usage Fee. Partner shall pay Mod9 for the use of the Software based on the fee structure set forth in the License Agreement ("Usage Fee").

4.2. Usage Report. Partner shall provide Mod9 with reports relating to Partner's usage of the Software for the purposes of Mod9's invoicing of the Usage Fee ("Usage Report"). Such Usage Reports shall be monthly and provided to Mod9 within five (5) business days of the end of each calendar month.

4.3. Method of Payment. Payments are due on a monthly basis in arrears. Mod9 shall invoice Partner via e-mail or regular mail. All invoices issued by Mod9 hereunder shall be due and payable in full within thirty (30) days after receipt. Mod9 may charge a late fee on all past due undisputed amounts at the rate of 1.5% per month or, if lower, the maximum rate permitted by applicable law.

4.4. Audit Right. Mod9 shall have the right, upon no less than thirty (30) days prior written notice to Partner (but not more frequently than once in any twelve (12) month period), to have an auditor from an independent certified public accounting firm examine the other party's files and records specifically pertaining to the figures reported on the Usage Report and Usage Fees, provided such independent auditor shall only report to the auditing party whether the amount of the Usage Fees payable hereunder has been accurately determined and shall not provide any other information. Partner shall have the right to require all such auditors to sign a confidentiality agreement reasonably satisfactory to such party. The provisions of this Section 4.4 shall survive the termination of this Agreement for six (6) months.

5. Payment Terms; Taxes. All amounts due under this Agreement are payable in U.S. dollars. Mod9 shall be solely responsible for the payment of any and all sales, use, value added, excise, import, or other similar taxes or payments in lieu thereof, including interest and penalties thereon, imposed by any authority, government or governmental agency arising out of or in connection with amounts due hereunder, and Mod9 shall make such payments, and timely file any return or information required by treaty, law, rule or regulation. Upon request, Mod9 shall provide Partner with documentation evidencing such payments. If Partner is required to pay any such taxes, duties or fees, Mod9 shall reimburse Partner immediately upon receipt of Partner's invoice thereof.

6. Confidentiality. Each party shall keep confidential all information and materials provided by the other party that is marked as confidential or proprietary or that by its nature and under the circumstances surrounding its disclosure is generally considered proprietary and confidential ("Confidential Information"). The Software and Software Documentation, as well as any information regarding planned modifications or updates thereto or information regarding future products and services constitutes Confidential Information of the respective parties. Each party shall keep and instruct its employees and agents to keep Confidential Information confidential by using at least the same care and discretion as used with that party's own confidential information, but in no case less than a prudent and reasonable standard of care. Neither party shall use Confidential Information other than for purposes of performing its obligations hereunder or as authorized by the disclosing party. Information or materials shall not constitute Confidential Information if it is: (i) in the public domain through no fault of the receiving party; (ii) known to the receiving party prior to the time of disclosure by the disclosing party; (iii) lawfully and rightfully disclosed to the receiving party by a third party on a non-confidential basis; or (iv) developed by the receiving party without reference to Confidential Information. In addition, a disclosure of Confidential Information that is required by law or legal process shall not constitute a breach of this Section 6, provided that the party subject to such requirement promptly provides notice to the disclosing party of such request or requirement so the disclosing party may seek appropriate protective orders. If any party, its employees or agents breaches or threatens to breach the obligations of this Section 7, the affected party may seek injunctive relief from a court of competent jurisdiction, in addition to its other remedies, as the inadequacy of monetary damages and irreparable harm are acknowledged.

7. Representations, Warranties and Covenants.

7.1. Mutual. Each party represents, warrants and covenants to the other party that: (i) it has the full power and authority to enter into this Agreement; (ii) the execution of this Agreement and performance of its

obligations under this Agreement does not violate any other agreement to which it is a party; and (iii) this Agreement constitutes a legal, valid and binding obligation when executed and delivered.

7.2. By Mod9. Mod9 represents, warrants and covenants to Partner that: (i) it has all rights, title, and interest in and to the Software, Software Documentation, the features and functionality of the Service and any other software or technology in connection with the Service, including all Intellectual Property Rights; (ii) it has all rights, title, interest, licenses, consents, permissions and release, including all Intellectual Property Rights, necessary to validly grant to Partner the license granted under Section 2; (iii) the Software will conform in all material respects to the Software Documentation and related documents provided and be reasonably free from unknown defects in manufacture and workmanship other than such defects disclosed to the Customer at the point of delivery; (iv) the Software and the media on which the Software is delivered are free from viruses and other malicious code and take all reasonable endeavors not to introduce any viruses onto Partner's systems; and (v) the Software, any modification, their supply and/or provision by Mod9 and their receipt, use and possession by Partner, to the best of Mod9's knowledge do not, and will not, infringe the Intellectual Property Rights of any third party.

7.3. By Partner. Partner represents, warrants and covenants to Mod9 that: (i) it will not attempt to reverse engineer, decrypt, disassemble, decompile, decipher, reconstruct or re-orient the circuit design, algorithms, logic or program code in Mod9's Software; and (ii) it will take all action reasonably necessary, and at least the same precautions as it would take to safeguard its own similarly valued proprietary and Confidential Information to secure Mod9's Confidential Information against theft, loss or unauthorized disclosure.

8. Disclaimer. EXCEPT AS OTHERWISE PROVIDED HEREIN, THE SOFTWARE AND SOFTWARE DOCUMENTATION ARE MADE AVAILABLE OR PROVIDED TO PARTNER "AS IS" AND, TO THE FULLEST EXTENT PERMITTED BY LAW, MOD9 AND ITS LICENSORS DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF NONINFRINGEMENT, MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE.

9. Limitation of Liability. EXCEPT FOR A BREACH OF SECTIONS 6 OR SECTION 7.3, OR IN CONNECTION WITH SECTION 10: (A) UNDER NO CIRCUMSTANCES WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL OR PUNITIVE DAMAGES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOST DATA, BUSINESS INTERRUPTION, LOSS OF BUSINESS REPUTATION OR GOODWILL, OR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, UNDER OR RELATING TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND (B) IN NO EVENT WILL EITHER PARTY'S LIABILITY UNDER OR RELATING TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE AMOUNTS PAID OR PAYABLE HEREUNDER BY PARTNER DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE OF THE CLAIM.

10. Indemnification.

10.1. Partner agrees to indemnify, defend, and hold Mod9 and its directors, officers and employees harmless from and against any liabilities, damages, costs or expenses (including reasonable attorneys' fees) arising out of or relating to any claim, demand, action, or proceeding initiated by a third party arising out of or relating to any breach by Partner of any term of this Agreement; provided that Mod9 provides Partner with: (i) prompt written notice of the claim, except that any failure to provide this notice promptly only relieves Partner of its responsibility pursuant to this Section 10.1 to the extent its defense is materially prejudiced by the delay; (ii) sole control over the defense and/or settlement of the claim, provided that Partner may not agree to any settlement that admits fault by Mod9 or purports to bind Mod9 without Mod9's prior written consent; and (iii) at Partner's expense, with all assistance, information and authority reasonably required for the defense and/or settlement of the claim.

10.2. Mod9 agrees to indemnify, defend, and hold Partner and its directors, officers and employees harmless from and against any liabilities, damages, costs or expenses (including reasonable attorneys' fees) arising

out of or relating to any claim, demand, action, or proceeding initiated by a third party arising out of or relating to Mod9's breach of any term of this Agreement (a "Claim"), provided that Partner provides Mod9 with: (i) prompt written notice of the Claim, except that any failure to provide this notice promptly only relieves Mod9 of its responsibility pursuant to this Section 10.2 to the extent its defense is materially prejudiced by the delay; (ii) sole control over the defense and/or settlement of the Claim; and (iii) at Mod9's expense, all assistance, information and authority reasonably required for the defense and/or settlement of the Claim. Mod9 will have no obligation to defend or indemnify Partner if Partner or any third party has altered the Software or combined the Software with any other products or elements not furnished by Mod9, and the Claim would not have occurred but for this alteration or combination. This section contains Mod9's entire liability and Mod9's sole obligations with respect to any Claim.

11. Term and Termination. The term of this Agreement shall be as set forth in the License Agreement. Either party may terminate this Agreement prior to the end of such term if the other party: (a) becomes insolvent; (b) files or has filed against it a petition in bankruptcy that is not dismissed within ninety (90) days of commencement; (c) makes an assignment for the benefit of its creditors; or (d) materially breaches this Agreement and the breach, if capable of cure, is not cured within thirty (30) days from receipt of written notice of such breach from the non-breaching party. Upon termination of this Agreement for any reason, Partner shall immediately uninstall Mod9 Software and delete all copies thereof.

12. Rights and Obligations Upon Termination. Upon termination of this Agreement, Partner shall immediately cease any use of the Software. Termination of this Agreement shall not extinguish any accrued but unpaid payment obligations hereunder.

13. Surviving Obligations and Limitations. The following provisions shall survive expiration or termination of this Agreement: 1, 3, 4, 5, 6, 7.3, 8, 9, 10, 12, 13 and 14.

14. Miscellaneous.

14.1. Publicity. Neither party will make any public statement regarding this Agreement without the prior written consent of the other party; provided, however, that either party may, without consent of the other party, disclose the name of the other party and the Software in connection with Partner's use of the Software.

14.2. Assignment. Neither party may assign any of its rights or obligations under this Agreement without the prior written consent of the other party, except that either party may assign its rights and obligations under this Agreement without the consent of the other party in connection with any merger (by operation of law or otherwise), consolidation, reorganization, change in control or sale of all or substantially all of its assets related to this Agreement or similar transaction. This Agreement inures to the benefit of and shall be binding on the parties' permitted assignees, transferees and successors.

14.3. Notices. All notices under the terms of this Agreement shall be given in writing and sent by an internationally recognized overnight carrier with delivery confirmation or shall be delivered by hand, in each case to the address set forth in the License Agreement for the party to which the notice is being sent. All notices shall be sent to the attention of "Legal Department." All notices shall be presumed to have been received when they are hand delivered, or on the business day following the day of delivery by overnight carrier.

14.4. Independent Contractors. The relationship between Mod9 and Partner is that of independent contractors and nothing herein contained shall be deemed to establish or otherwise to create a relationship of principal and agent, partners, fiduciaries, or joint venturers between Mod9 and Partner. Neither party has any right or authority to assume or create any obligation of any kind, whether express or implied, on behalf of the other party.

14.5. Force Majeure. Except for payment obligations, neither party will be responsible for any failure or delay in its performance under this Agreement due to causes beyond its reasonable control, including, but not limited to, labor disputes, strikes, lockouts, internet or telecommunications failures, shortages of or inability to obtain labor, energy, or supplies, war, terrorism, riot, acts of God or governmental action, acts by hackers or other

malicious third parties and problems with the Internet generally, and such performance shall be excused to the extent that it is prevented or delayed by reason of any of the foregoing.

14.6. Waivers. No waiver by either party of any right or remedy hereunder shall be valid unless the same shall be in writing and signed by the party giving such waiver. No waiver by either party with respect to any default, misrepresentation, or breach of warranty or covenant hereunder shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

14.7. Entire Agreement. This Agreement constitutes the entire agreement between Mod9 and Partner with respect to the use and license of the Software and Software Documentation, and hereby supersedes and terminates any prior agreements or understandings relating to such subject matter. No addendum, waiver, consent, modification, amendment or change of the terms of this Agreement shall bind either party unless in a writing that references this Agreement and is signed by duly authorized representatives of Mod9 and Partner.

14.8. Construction. This Agreement shall be fairly interpreted and construed in accordance with its terms and without strict interpretation or construction in favor of or against either party. Each party has had the opportunity to consult with counsel in the negotiation of this Agreement.

14.9. Severability; Counterparts. In the event that any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable because it is invalid or in conflict with any law of any relevant jurisdiction, the validity of the remaining provision shall be not be affected, and the parties shall negotiate a substitute provision that, to the extent possible, accomplishes the original business purpose. This Agreement may be signed in counterparts. Each of them is an original, and all of them constitute one agreement.

14.10. Governing Law; Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without giving effect to its conflict of laws provisions. All disputes arising in relation to this Agreement shall be subject to the exclusive jurisdiction of the state and federal courts located in Orange County, California, and the parties hereby consent to such exclusive jurisdiction. Notwithstanding the foregoing, nothing in this Section 14.10 shall be deemed to limit the parties' rights to seek injunctive relief in any other court of law of competent jurisdiction

14.11. Headings. Unless otherwise expressly stated in this Agreement, the words "herein," "hereof," "hereto," and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular section, subsection, or other subdivision. The words "include" and "including" shall not be construed or interpreted as terms of limitation. The words "day," "month," and "year" mean, respectively, calendar day, calendar month, and calendar year. Section headings are for reference purposes only, and should not be used in the interpretation hereof.