

END USER LICENSE AND SERVICE AGREEMENT

PLEASE READ THIS END USER LICENSE AND SERVICE AGREEMENT (“AGREEMENT”) CAREFULLY BEFORE DOWNLOADING THE INKY PHISH FENCE ADD-INS, NATIVE CLIENT, MOBILE CLIENT, BROWSER EXTENSIONS OR OTHER SOFTWARE (“CLIENT SOFTWARE”) OR USING THE INKY PHISH FENCE SECURE EMAIL SERVICES (“SERVICES”) OFFERED BY INKY TECHNOLOGY CORPORATION (“INKY”). THIS AGREEMENT SETS FORTH THE LEGALLY BINDING TERMS AND CONDITIONS FOR YOUR USE OF THE CLIENT SOFTWARE AND SERVICES. BY CLICKING “ACCEPT” BELOW OR BY DOWNLOADING THE CLIENT SOFTWARE OR USING THE SERVICES, YOU AGREE TO BE BOUND BY THIS AGREEMENT. IF YOU ARE ACTING ON BEHALF OF A BUSINESS OR OTHER ORGANIZATION, YOU ARE AGREEING TO THESE TERMS ON BEHALF OF THAT BUSINESS OR ORGANIZATION AND YOU REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT TO BIND THAT BUSINESS OR ORGANIZATION TO THIS AGREEMENT.

1. SERVICES AND SUPPORT

1.1 Subject to the terms and conditions of this Agreement, Inky will provide Customer with access to the Services through the internet. The Services are subject to modification from time to time at Inky’s sole discretion, for any purpose deemed appropriate by Inky. Inky will use reasonable efforts to give Customer prior written notice of any such modification.

1.2 Inky will undertake commercially reasonable efforts to make the Services available twenty-four (24) hours a day, seven (7) days a week. Notwithstanding the foregoing, Inky reserves the right to suspend Customer’s access to the Services: (i) for scheduled or emergency maintenance, or (ii) in the event Customer is in breach of this Agreement.

1.3 Subject to the terms hereof, Inky will provide reasonable support and training in relation to the onboarding, configuration and general operation of the Services to one (1) technical representative of Customer who will be responsible for all matters relating to this Agreement (“Primary Contact”). Customer may change the individual designated as Primary Contact at any time by providing written notice to Inky. Such training and support shall be made available from Monday through Friday during Inky’s normal business hours. Such support and training shall be provided via email and/or telephone. Additional training and support is available upon request and is provided subject to the terms of a separate, mutually agreed Professional Services Agreement.

1.4 Customer agrees to participate in press announcements, case studies, or other forms of publicity reasonably requested by Inky. Inky is permitted to disclose that Customer is one of its customers.

2. RESTRICTIONS AND RESPONSIBILITIES

2.1 Access to the Services requires Customer to install certain Client Software. Inky authorizes Customer to distribute the Client Software to its own bonafide employees and independent contractors (“End Users”) and hereby grants Customer (including its End Users) the limited, non-exclusive, royalty-free right to install and operate the Client Software solely for Customer’s authorized use of the Services for so long as Customer maintains an active Services subscription with Inky (whether purchased directly from Inky or from a distributor, reseller or other third party authorized by Inky to sell Services subscriptions (“Reseller”). Customer’s use of the Services is subject to any further limitations set forth in a quotation issued by Inky and accepted by Customer or, if the Services are acquired through a Reseller, in an order form, purchase confirmation or similar ordering document issued by the Reseller (any such quotation or ordering document, an “Order Form”), which may include, without limitation, “site” or “seat” limits or capacity restrictions.

2.2 Customer will not, and will not permit its End Users or any third party to: copy, distribute, reproduce or use any the Services and Client Software except as expressly permitted under this Agreement. reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Services or Client Software (provided that reverse engineering is prohibited only to the extent such prohibition is not contrary to applicable law); modify, translate, or create derivative works based on the Services or Client Software; use the Services or Client Software for timesharing or service bureau purposes or for any purpose other than its own use for the benefit of End Users; or use the Services or Client Software other than in accordance with this Agreement and in compliance with all applicable laws and regulations. Customer will be responsible for maintaining the security of Customer account, passwords (including but not limited to administrative and user passwords) and files, and for all uses of Customer account with or without Customer’s knowledge or consent.

3. INTELLECTUAL PROPERTY RIGHTS

3.1 Except as expressly set forth herein, Inky alone (and its licensors, where applicable) will retain all intellectual property rights relating to the Services and the Client Software and shall be free to use for any purpose any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Customer or any third party relating to the Services and/or the Client Software. This Agreement is not a sale and does not convey to Customer any rights of ownership in or related to the Services or Client Software, or any intellectual property rights.

3.2 Inky will obtain and process all content and data provided by or on behalf of Customer (“Content”), including, without limitation, email headers, message content and related information, only to perform its obligations under this Agreement. Customer represents and warrants that its has the right to provide Inky with all Content submitted through the Services. If Inky receives any notice or claim that any Content, or activities hereunder with respect to any Content, may infringe or violate rights of a third party, Inky may (but is not required to) suspend activity hereunder with respect to that Content and Customer will indemnify Inky from all liability, damages, settlements, attorney fees and other costs and expenses in connection with any such claim, as incurred.

3.3 Inky shall hold Customer harmless from liability to third parties resulting from infringement by the Services of any United States patent or any copyright or misappropriation of any trade secret, provided Inky is promptly notified of any and all claims, suits, allegations and other proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over defense and settlement; Inky will not be responsible for any settlement it does not approve. The foregoing obligations do not apply with respect to portions or components of the Services (i) not created by Inky, (ii) resulting in whole or in part in accordance with Customer specifications, (iii) that are modified after delivery by Inky, (iv) combined with other products, processes or materials (including Content) where the alleged infringement relates to such combination, (v) where Customer continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement, or (vi) where Customer’s use of the Client Software or Services is not strictly in accordance with this Agreement and all related documentation. Customer will indemnify Inky from all damages, costs, settlements, attorneys’ fees and expenses related to (i) any claim of infringement or misappropriation excluded from Inky’s indemnity obligation by the preceding sentence.

4. TERM; TERMINATION

4.1 This Agreement shall commence as of the date it is executed in writing or electronically accepted, as the case may be, and thereafter shall run for the initial term specified in the applicable Order Form (“Initial Term”). If no initial term is specified in the Order Form, the Initial Term shall be one (1) month. After the Initial Term, the Agreement shall automatically renew for one or more successive renewal terms (each, a “Renewal Term”) unless either party gives the other party written notice of its intent not to renew the Agreement at least thirty (30) days prior to the end of the then-current Initial Term or Renewal Term as the case may be. If the Services subscription was purchased through a Reseller, such notice must also be given to the Reseller. Non-payment of applicable Fees shall not be considered notice of non-renewal.

4.2 In the event of any material breach of this Agreement, the non-breaching party may terminate this Agreement by giving thirty (30) days prior written notice to the breaching party; provided, however, that this Agreement will not terminate if the breaching party has cured the breach prior to the expiration of

such thirty-day period. Either party may terminate this Agreement, without notice, (i) upon the institution by or against the other party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other party's making an assignment for the benefit of creditors, or (iii) upon the other party's dissolution or ceasing to do business.

4.3 All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, restrictions, accrued rights to payment, confidentiality obligations, intellectual property rights, warranty disclaimers, and limitations of liability.

5. WARRANTY

5.1 Inky represents and warrants that (i) the Services will be provided in a professional manner in accordance with the terms of this Agreement and substantially in conformity with all official end-user documentation supplied by Inky and (ii) it will not knowingly include in any Client Software any computer code or other computer instructions, devices or techniques, including without limitation those known as disabling devices, trojans, or time bombs, that intentionally disrupt, disable, harm, infect, defraud, damage, or otherwise impede in any manner, the operation of a network, computer program or computer system or any component thereof, including its security or user data.

5.2 If, at any time, Inky fails to comply with the above warranty, Customer may promptly notify Inky in writing of any such noncompliance. Inky will, within thirty (30) days of receipt of such written notification, either correct the noncompliance or provide Customer with a plan for correcting the noncompliance within a reasonable period of time. If the noncompliance is not corrected or if a reasonably acceptable plan for correcting them is not established during such period, Customer may terminate this Agreement as its sole and exclusive remedy for such noncompliance and Inky shall issue a refund (or a credit to the Reseller, if applicable) for any prepaid and unused portions of the initial term or renewal term, as the case may be.

6. WARRANTY DISCLAIMER

OTHER THAN THE WARRANTY EXPRESSLY PROVIDED IN SECTION 6, THE SERVICES, CLIENT SOFTWARE AND ALL RESULTS PROVIDED BY OR OTHERWISE OBTAINED THROUGH THE SERVICES ARE PROVIDED "AS-IS," WITHOUT ANY WARRANTIES OF ANY KIND AND SERVICE PROVIDER HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. NO GUARANTEE IS MADE THAT ANY PARTICULAR RESULTS WILL BE ACHIEVED, THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT THE RESULTS OF THE SERVICES WILL BE ACCURATE OR COMPLETE.

7. LIMITATION OF LIABILITY

IN NO EVENT WILL SERVICE PROVIDER BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OF THE SERVICES OR ANYTHING PROVIDED IN CONNECTION WITH THIS AGREEMENT, THE DELAY OR INABILITY TO USE THE SERVICES OR ANYTHING PROVIDED IN CONNECTION WITH THIS AGREEMENT OR OTHERWISE ARISING FROM THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS OR LOST SALES, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, EVEN IF SERVICE PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGES. IN NO EVENT SHALL SERVICE PROVIDER BE LIABLE FOR THE FAILURE TO DETECT A "PHISHING", "HACKING" OR OTHER ATTEMPT BY A THIRD PARTY TO GAIN UNAUTHORIZED ACCESS TO INFORMATION, DATA OR PERSONNEL OR FOR THE FRAUDULENT, DECEPTIVE, DESTRUCTIVE OR OTHERWISE DAMAGING ACTS OR ATTEMPTED ACTS BY A THIRD PARTY. THE TOTAL LIABILITY OF SERVICE PROVIDER, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR OTHERWISE, WILL NOT EXCEED, IN THE AGGREGATE THE AMOUNTS PAID AND PAYABLE TO INKY (OR, IF APPLICABLE, THE APPLICABLE RESELLER) DURING THE SIX (6) MONTH PERIOD ENDING ON THE DATE THAT A CLAIM OR DEMAND IS FIRST ASSERTED. THE FOREGOING LIMITATIONS WILL APPLY

NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

8. U.S. GOVERNMENT MATTERS

Notwithstanding anything else, Customer may not provide to any person or export or re-export or allow the export or re-export of the Services or any software or anything related thereto or any direct product thereof (collectively "Controlled Subject Matter"), in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. Without limiting the foregoing Customer acknowledges and agrees that the Controlled Subject Matter will not be used or transferred or otherwise exported or re-exported to countries as to which the United States maintains an embargo (collectively, "Embargoed Countries"), or to or by a national or resident thereof, or any person or entity on the U.S. Department of Treasury's List of Specially Designated Nationals or the U.S. Department of Commerce's Table of Denial Orders (collectively, "Designated Nationals"). The lists of Embargoed Countries and Designated Nationals are subject to change without notice. Use of the Services is representation and warranty that the user is not located in, under the control of, or a national or resident of an Embargoed Country or Designated National. The Controlled Subject Matter may use or include encryption technology that is subject to licensing requirements under the U.S. Export Administration Regulations. As defined in FAR section 2.101, any software and documentation provided by Inky are "commercial items" and according to DFAR section 252.227-7014(a)(1) and (5) are deemed to be "commercial computer software" and "commercial computer software documentation." Consistent with DFAR section 227.7202 and FAR section 12.212, any use modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

9. MISCELLANEOUS

If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. This Agreement is not assignable, transferable or sublicensable by Customer except with Inky's prior written consent. Inky may transfer and assign any of its rights and obligations under this Agreement with written notice to Customer. Both parties agree that this Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Customer does not have any authority of any kind to bind Inky in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; and upon receipt, if sent by certified or registered mail (return receipt requested), postage prepaid. Inky will not be liable for any loss resulting from a cause over which it does not have direct control. This Agreement will be governed by the laws of the state of Maryland, U.S.A. without regard to its conflict of laws provisions. The federal and state courts in the state of Maryland, U.S.A. will have proper and exclusive jurisdiction and venue with respect to any disputes arising from or related to the subject matter of this Agreement.