



Measured Terms of Service

These Terms of Service (“Terms”) are a legally binding agreement between you (a single natural or legal person, hereinafter referred to by the term (“Customer” or “You” or words of similar import) and Measured, Inc. a Delaware corporation located at 1801 Rockmoor Ave. Austin, TX 78703 and its Affiliates (“Measured”, “We”, “Our” or words of similar import) with regard to Your use of the Services as further described below.

IMPORTANT - PLEASE READ THESE TERMS CAREFULLY BEFORE USING THE SERVICES. BY REQUESTING, ACCESSING OR USING THE SERVICES IN ANY FORM OR MEDIA, CUSTOMER CONFIRMS THAT CUSTOMER HAS READ AND UNDERSTANDS THESE TERMS AND THAT CUSTOMER AGREES TO BE BOUND BY THESE TERMS. IF CUSTOMER DOES NOT AGREE OR DOES NOT WISH TO BECOME A PARTY TO THESE TERMS, CUSTOMER SHOULD NOT REQUEST, ACCESS OR USE THE SERVICES. CUSTOMER CONFIRMS THAT IT UNDERSTANDS THESE TERMS AND AGREES TO BE BOUND BY THESE TERMS BY EXECUTING AN ORDER FORM OR ONLINE ORDERING DOCUMENT REFERENCING THESE TERMS. ANY ORDER FORM OR ONLINE ORDERING DOCUMENT OR WEBPAGE PROVIDED BY MEASURED SHALL BE REFERRED TO HEREIN AS AN “ORDER FORM”.

IF CUSTOMER IS ENTERING INTO THESE TERMS ON BEHALF OF (AND FOR USE ON BEHALF OF) A COMPANY, GOVERNMENTAL ENTITY OR OTHER ENTITY (AN "ENTITY"), CUSTOMER REPRESENTS THAT IT HAS THE AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS. THE TERM "CUSTOMER" REFERENCED HEREIN REFERS TO: (1) THE ENTITY, ITS OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES OR (2) YOU, AS AN INDIVIDUAL, IN THE CASE OF A NON-LEGAL ENTITY.

THE “EFFECTIVE DATE” FOR THESE TERMS IS THE EARLIER OF THE FIRST DATE OF ANY APPLICABLE ORDER FORM OR THE FIRST DAY CUSTOMER REQUESTS, USES OR ACCESSES THE SERVICES. EACH ORDER FORM MAY NOT BE CANCELLED ONCE THESE TERMS HAS BEEN ACCEPTED, AND NO REFUNDS WILL BE GRANTED.

We update these Terms from time to time. If you have an active subscription to the Subscription Service (defined below), Measured will let You know when we update these Terms via in-application notification or by email (if You subscribe to receive email updates).

Date last modified: October 24, 2022

1. **DEFINITIONS.**

“**Affiliates**” means any corporation, partnership or other entity now existing or hereafter organized that directly or indirectly controls, is controlled by or under common control with a Party. For purposes of this definition “control” means the direct possession of a majority of the outstanding voting securities of an entity.

“**Benchmark Category Insights**” are a specific category of Insights that use aggregated and anonymized data to illustrate trends relating to media performance. Benchmark Category Insights are created without the use of any PII. Benchmark Category Insights are distributed to all Measured customers.

“**Clean Room**” is an isolated cloud cluster that functions as the primary data collection and transformation hub for PII contained in Your Data. The Clean Room is provided for your convenience so that you may easily submit Your Data to Measured. The Clean Room is designed to Process such PII into Non-identifiable Data before access such data is made available to any other downstream processes in the Services. Its sole purpose is to transform PII into anonymized records and geography-based cohorts of Non-identifiable Data. For the avoidance of doubt, PII is only stored and transformed into Non-identifiable Data in the Clean Room, and no other Services are performed in the Clean Room or using PII. You have access to the Clean Room, and You are able to delete PII from the Clean Room at any time. A Clean Room is only provided if it is expressly identified on the applicable Order Form as included.

“**Consulting Services**” means any consulting, implementation, configuration, training, or other professional services that may be provided to You under a Sales Order Form (“SOF”).

“**Data**” means text, images, documents, materials, statistics, graphics, and all other forms of data or communication.

“**Deliverables**” means any work product, deliverables, programs, interfaces, modifications, configurations, reports, documentation or other material delivered in the performance of Consulting Services.



“Documentation” means any manual and other documentation regarding the Subscription Service made generally available by Measured to its customers, as maybe updated from time to time.

“Insights” means insights, reports, benchmarks and other analysis provided to You by Measured as part of the Services. Insights includes Benchmark Category Insights. Insights do not include any PII.

“Measured Data Warehouse” or “mMDW” means a data repository for Your Data. No PII is stored in the mMDW.

“Non-identifiable Data” means Your Data that does not relate to any identified or identifiable natural person.

“Order Form” means the document signed by You that further described the Services You are purchasing.

“Our Data” means all Data that We make available to You in connection with the Services. Our Data also includes knowledge database articles that may be made available from time to time via the Portal.

“PII” for the purposes of these Terms, means any information that can be attributed to an identified or identifiable natural person such as first name, last name, street address, phone number, email address, IP address, gender, or date of birth.

“Portal” means Measured’s portal, accessible via a username (email address) and password, that allows You to access Insights and some of Our Data.

“Process” (including any grammatically inflected forms thereof) means any operation or set of operations which is performed on Data or on sets of Data, whether or not by automated means, including without limitation collection, recording, organization, structuring, storage, adaptation or alteration, access, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

“Prohibited Data” means (i) social security numbers, credit card numbers, bank account numbers or biometric information, or (ii) any information that that is regulated by the Gramm–Leach–Bliley Act, also known as the Financial Services Modernization Act of 1999 (together with any regulations promulgated thereunder).

“Services” means the specific Subscription Service(s), the Portal, Consulting Services, Insights, and Our Data provided to You under these Terms. Other than the Clean Room, all Services use geography-based cohorts, anonymized Data, and/or Non-identifiable Data. PII is not used to perform Services.

“Subscription Service” means Measured’s proprietary subscription-based software solution(s) identified in the applicable Order Form. The Subscription Service may include: the Portal, Clean Room, mMDW, mExperiment, MDecisions and other services, in each case only if and to the extent described in the applicable Order Form.

“User” means individuals who are authorized by You to use the Services. Users consist of Your employees and contractors.

“Your Data” means any Data (including PII and Non-identifiable Data) to the extent We Process such Data solely on Your behalf under these Terms, including Data relating to visitors to the websites, mobile or tablet sites or applications, and/or other similar properties or services owned or controlled by You. Notwithstanding the foregoing, You shall not directly or indirectly make available or accessible to Us, and Your Data shall not include Prohibited Data.

2. SERVICES.

Subject to these Terms, and in consideration for the payment of fees set forth on the applicable Order Form, We hereby grant to You, solely during the term of the applicable Order Form, a non-exclusive, non-transferable (except as set forth in Section 13 (Assignment)) license to (a) access and use the Subscription Service solely for Your internal business purposes; and (b) use, display, transmit, and distribute Our Data and Insights solely for Your internal business purposes in connection with Your permitted use of the Subscription Service. This license is restricted to use by You and Your Users and does not include the right to use the Services on behalf of any third party. You are responsible for procuring and maintaining the network connections that connect You to the Subscription Service. You acknowledge and agree that we shall only provide you with the specific Services specified on the Order Form or SOF, and not any other products or services that Measured may offer.

If You have purchased Consulting Services then the Consulting Services are provided under the terms of these Terms, the applicable Order Form and/or SOF, and the additional terms set forth on Attachment 1 hereto.



Measured will use commercially reasonable efforts to provide the Subscription Services in accordance with the Service Level Addendum attached hereto as **Attachment 2**.

3. YOUR OBLIGATIONS.

You are responsible for all activities conducted, or directions or instructions issued, by You or under Your User logins and for Your Users' compliance with these Terms. Unauthorized use, resale or commercial exploitation of the Services in any way is expressly prohibited. Without Our express prior written consent in each instance, You shall not (and shall not allow any third party to): (i) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code form or structure of the Services; or (ii) access the Services in order to build a competitive product or service or copy any ideas, features, functions or graphics of the Services. Except as expressly permitted in these Terms, You shall not copy, license, sell, transfer, make available, lease, time-share, distribute, or assign this license to access and use the Services to any third-party. You shall be liable for any breach of these Terms by any of Your Users. In addition to Our other remedies hereunder, We reserve the right upon notice to You to terminate any User's right to access the Services if such User has violated any of the restrictions contained in these Terms. You will not, and will not authorize or encourage any third party to, attempt to discover or reverse engineer any confidential and proprietary criteria developed or used by Measured in the compilation of data through the use of its cookies and/or pixels.

You are solely responsible for all Your Data. We do not guarantee the accuracy, integrity or quality of Your Data. Neither You nor Your Users shall use the Services to: (a) send, upload or otherwise transmit any of Your Data that is unlawful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable; (b) upload or otherwise transmit, display or distribute any of Your Data that infringes any trademark, trade secret, copyright or other proprietary or intellectual property rights of any person; (c) upload or otherwise transmit any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment; (d) interfere with or disrupt the Services or networks connected to the Services; or (e) violate any applicable law or regulation.

4. DATA.

Except for the license rights granted in these Terms, as between You and Measured, You retain ownership of all right, title and interest in and to all Your Data. Taking into account the risk of harm, We shall implement commercially reasonable technical and organizational measures designed to protect Your Data from accidental or unlawful destruction, loss, or alteration, or unauthorized disclosure or access. You represent, warrant, and covenant that: (i) You have (and will have) Processed, collected, and disclosed Your Data in compliance with all applicable laws; (ii) You have (and will have) provided any notice and obtained all consents and rights required by applicable law to enable Us to lawfully Process Your Data as permitted by these Terms; (iii) You have (and will continue to have) full right and authority to make Your Data available to Us under these Terms; and (iv) Our Processing of Your Data in accordance with these Terms and Your directions to Us do and will not infringe upon or violate any applicable law or any rights of any third party. You understand and agree that We may use cookies, pixels, tags, web beacons and/or other technologies to collect some of Your Data in connection with the Services. You further understand, agree, and consent that we may implement, and You will reasonably assist us in implementing, such cookies, pixels, tags, web beacons and/or other technologies on websites, mobile or tablet sites or applications, and/or other similar properties or services owned or controlled by You. You hereby grant to Us a worldwide, non-exclusive, sublicensable, royalty-free right and license to use Your Data (but excluding any PII) in combination with other data for the purpose of creating Insights, provided that any benchmark category Insights that are distributed to other Measured customers do not identify You or Your Users. For the avoidance of doubt, only benchmark category Insights are distributed to Measured's other customers, all other Insights incorporating Your Data are only for Your use as part of the Services. The terms of the Data Processing Addendum, available at <https://www.measured.com/DPA> (the "DPA"), shall apply to: (i) the Processing of personal data (as defined in the GDPR) to the extent regulated by the General Data Protection Regulation (EU) 2016/679 (the "GDPR") by Us solely on Your behalf, if any; and/or (ii) the Processing of personal information (as defined in the CCPA) to the extent regulated by the California Consumer Privacy Act of 2018 (together with any rules or regulations promulgated thereunder, the "CCPA") by Us solely on Your behalf, if any. You acknowledge and agree that We shall have the right to copy, use, distribute, and display any information, analysis, statistics, usage analytics, and other data generated by the Services (or derived from Your use of the Services), including compilation of aggregated and anonymized statistics (collectively "Usage Data") as part of the Services and/or (without limitation) for our lawful business purposes, including benchmarking and online marketing.

5. SECURITY.

Both You and Measured shall implement commercially reasonable measures designed to ensure the integrity and security of Your Data. During the Term of these Terms, We shall maintain and comply with a formal information security program that is reasonably designed to: (a) ensure the security and integrity of Your Data; (b) protect against threats or hazards to the security



or integrity of Your Data; and (c) prevent unauthorized access to or disclosure of Your Data. In the event that either party experiences a security breach which actually affects Your Data, the party experiencing such breach shall promptly: (1) notify the other party in writing; and (2) to the extent known by such party, promptly advise the other party of when, how, and why the breach occurred and what portion of Your Data was affected.

6. FEES.

You agree to pay Us for Services provided and expenses incurred on the basis and at the rates specified in each Order Form or SOF. Payment is due thirty (30) days after receipt of invoice and shall be made in US Dollars. You understand We may charge You a late charge of one percent (1%) per month (or part of a month), or the maximum lawful rate permitted by applicable law, for any amounts not paid on time. You will pay all pre-approved reasonable travel and out-of-pocket expenses incurred by Us in connection with any Services rendered.

Fees are exclusive of taxes. You are responsible for the payment of all sales, use and similar taxes arising from or relating to the Services rendered hereunder, except for taxes related to Our net income and any taxes or obligations imposed upon Us under federal, state and local wage laws.

7. CONFIDENTIALITY

During the term of these Terms, each party will regard any information provided to it by the other party and designated in writing as proprietary or confidential to be confidential ("Confidential Information"). Confidential Information shall also include information which, to a reasonable person familiar with the disclosing party's business and the industry in which it operates, is of a confidential or proprietary nature. Information will not be deemed Confidential Information hereunder if such information: (i) is known prior to receipt from the Discloser, without any obligation of confidentiality; (ii) becomes known to the Recipient directly or indirectly from a source other than one having an obligation of confidentiality to the Discloser; (iii) becomes publicly known or otherwise publicly available, except through a breach of these Terms; or (iv) is independently developed by the Recipient without use of the disclosing party's Confidential Information.

Each party (a "Recipient") shall use the same degree of care that it uses to protect its own confidential information of like kind (but in no event using less than a reasonable standard of care) to not disclose or use any Confidential Information of the other party (a "Discloser") except as reasonably necessary to perform Recipient's obligations or exercise Recipient's rights pursuant to these Terms or with the Discloser's prior written permission. Either party may disclose the Confidential Information of the other on a need-to-know basis to its contractors and service providers bound by confidentiality obligations at least as restrictive as those in this section. To the extent required by Law, Recipient's disclosure of Discloser's Confidential Information shall not be considered a breach of these Terms provided that Recipient promptly provides Discloser with prior notice of such disclosure (to the extent legally permitted) and reasonable assistance, at Discloser's cost, if Discloser wishes to contest the disclosure. Discloser shall have the right to seek injunctive relief to enjoin any breach or threatened breach of this section, it being acknowledged by the parties that other remedies may be inadequate.

8. LIMITED WARRANTY

We warrant that during the term of any Order Form for the Subscription Service, the Subscription Service will conform, in all material respects, with its Documentation. We make no warranty regarding features or services provided by third parties. For any breach of the above warranty, We will, at no additional cost to You, provide remedial services necessary to enable the Subscription Service to conform to the warranty. You will provide Us with a reasonable opportunity to remedy any breach and reasonable assistance in remedying any defects. The remedies set out in this section are Your sole remedies for breach of this warranty. This warranty will only apply if the Services have been utilized by You in accordance with the Order Form and these Terms.

The limited warranty for the Consulting Services is set forth in Attachment 1 to these Terms.

WE DO NOT REPRESENT THAT THE SERVICES WILL BE ERROR-FREE OR THAT THE SERVICES WILL MEET YOUR REQUIREMENTS OR THAT ALL ERRORS IN THE SERVICES WILL BE CORRECTED. THERE ARE NO OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED. YOU ASSUME ALL RESPONSIBILITY FOR DETERMINING WHETHER THE SERVICES ARE ACCURATE OR SUFFICIENT FOR YOUR PURPOSES. **OUR INTELLECTUAL PROPERTY.**



You acknowledge and agree that as between Us and You, all right, title and interest in and to the (i) Services (and all our other products and services) and (ii) all improvements, derivatives, enhancements, modifications, releases, configurations, methodologies, related technologies, and the like (“Modifications”) to the Services created by any party, and (iii) any and all patents, copyrights, trade secret rights, trademarks, trade names and other proprietary rights embodied in (i) and/or (ii) or associated therewith are and shall remain Ours or Our licensors’ sole and exclusive property, and We in no way convey any right or interest in the Services or any Modifications other than a limited license to use the Services in accordance herewith. We also retain ownership of all right, title and interest in and to all Usage Data.

9. LIMITATION OF LIABILITY.

EXCEPT FOR A PARTY’S INDEMNIFICATION OBLIGATIONS, NEITHER PARTY WILL BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR LOSS OF PROFITS, OR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF DATA AND LOST PROFITS AND COSTS, IN CONNECTION WITH THE PERFORMANCE OF THE SERVICES, OR THE PERFORMANCE OF ANY OTHER OBLIGATIONS UNDER THESE TERMS, EVEN IF IT IS AWARE OF THE POSSIBILITY OF THE OCCURRENCE OF SUCH DAMAGES. OUR TOTAL CUMULATIVE LIABILITY TO YOU FOR ANY AND ALL CLAIMS AND DAMAGES UNDER THESE TERMS, WHETHER ARISING BY STATUTE, CONTRACT, TORT OR OTHERWISE, WILL NOT EXCEED THE FEES ACTUALLY PAID BY YOU TO US UNDER THE ORDER FORM AND/OR SOF FOR THE SERVICES WHICH FORM THE SUBJECT OF THE CLAIM DURING THE 12 MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

10. TERM & TERMINATION

These Terms will begin on the Effective Date as set forth above and will continue until otherwise terminated under this Section 11. The term of each Order Form or SOF shall be set forth on the Order Form or SOF. We reserve the right to change the rates, applicable charges and usage policies for all Services (or any part thereof) and to introduce new charges, in each case to be effective at the start of the next renewal date, by providing You written notice (by email) of the change at least 60 days prior to the next renewal date.

Either party may terminate these Terms or any Order Form or SOF (i) immediately in the event of a material breach of these Terms or any such Order Form or SOF by the other party that is not cured within thirty (30) days of written notice from the other party, or (ii) immediately if the other party ceases doing business or is the subject of a voluntary or involuntary bankruptcy, insolvency or similar proceeding, that is not dismissed within sixty (60) days of filing. Termination of an Order Form or a SOF will not terminate these Terms. Termination of these Terms will however terminate all outstanding Order Forms and SOFs. Either party may also terminate these Terms by providing 30 days’ prior written notice to the other party, if there are no outstanding Order Forms or SOFs then currently in effect. All rights and obligations of the parties which by their nature are reasonably intended to survive such termination or expiration will survive termination or expiration of these Terms and each Order Form and SOF.

Upon any termination or expiration of these Terms or any applicable Order Form or SOF, We will no longer provide the applicable Services to You, and You will stop using the Services (and, without limitation of the foregoing, You will immediately cease use of any action tags or pixels deployed on any of your web properties in connection with the Services). You will pay Us for all fees that had accrued prior to the termination date. Upon termination of these Terms, each party will promptly return or destroy all Confidential Information of the other party in its possession. Within thirty (30) days following termination, You may retrieve Your Data in accordance with established and reasonable system access procedures. After such period, We will have no further obligation to store and/or make available Your Data and may delete the same.

11. INDEMNIFICATION

We will indemnify, defend and hold You harmless from and against any and all costs, liabilities, losses, and expenses (including, but not limited to, reasonable attorneys’ fees) (collectively, “Losses”) incurred arising out of or in connection with a claim, suit, action, or proceeding brought by any third party against You alleging that the use of the Services as permitted hereunder infringes any United States patent, copyright or trademark, or constitutes a misappropriation of a trade secret of a third party. Excluded from the above indemnification obligations are claims to the extent arising from (a) use of the Services in violation of these Terms or applicable law, (b) use of the Services after We notify You to discontinue use because of an infringement claim, (c) any claim relating to any third party products , data or services (d) any claim relating to Your Data, (e) modifications to the Services made by anyone other than Us (where the claim would not have arisen but for such modification), (f) the combination, operation, or use of the Services with software, materials, data or equipment which was not provided by Us, to the extent that Your liability for such claim would have been avoided in the absence of such combination, operation, or use; or (g) compliance by Us with Your custom requirements or specifications if and to the extent such compliance with Your custom requirements or specifications resulted in the infringement. If the Services are held to infringe, We will, at Our own expense, in Our sole discretion use commercially reasonable efforts either (a) to procure a license that will protect You against such claim without cost to You; (b) to replace the Services with non-infringing Services without material loss of functionality; or (c) if (a) and (b) are not commercially feasible, terminate these Terms or the applicable Order Form and SOF and refund to You any prepaid unused



fees paid to Us for the infringing Services. The rights and remedies granted to You under this Section 12 state Our entire liability, and Your exclusive remedy, with respect to any claim of infringement of the intellectual property rights of a third party, whether arising under statutory or common law or otherwise.

You shall indemnify, defend, and hold Us harmless from and against any and all Losses resulting from a claim, suit, action, or proceeding brought by any third party against Us that arises out of or results from (i) a claim alleging that Your Data, or any use thereof, infringes the intellectual property rights or proprietary rights of others, or has caused harm to a third party; or (ii) Measured's compliance with any directions or instructions issued by You, on Your behalf, or otherwise conveyed through Your account to Measured, including without limitation any such directions or instructions to Process Your Data in any way or to disclose any of Your Data to any third party.

The indemnified party shall (i) promptly notify the indemnifying party in writing of any claim, suit or proceeding for which indemnity is claimed, provided that failure to so notify will not remove the indemnifying party's obligation except to the extent it is prejudiced thereby, and (ii) allow the indemnifying party to solely control the defense of any claim, suit or proceeding and all negotiations for settlement; provided that the indemnifying party shall not settle any claim without the indemnified party's prior written consent (such consent not to be unreasonably withheld or delayed). The indemnified party shall also provide the indemnifying party with reasonable cooperation and assistance in defending such claim (at the indemnifying party's cost).

12. GENERAL PROVISIONS

Modifications to these Terms. We may modify any part or all of these Terms by posting a revised version here [\[link to webpage where this form is located\]](#). The revised version will become effective and binding the next business day after it is posted. We will provide you notice of this revision by email or via in-application notification. If You would like to receive an email notification when Measured updates these Terms, please email Measured here: [INSERT](#). If You do not agree with a modification to these Terms, You must notify Measured in writing within thirty (30) days after Measured sends notice of the revision. If You give Us this notice, then Your Order Form will continue to be governed by the terms and conditions of the Terms prior to modification until Your next renewal date, after which the current terms posted will apply.

Entire Terms. These Terms, including all Attachments hereto and all Order Forms and SOFs, contains the entire agreement between the parties, and supersedes all prior or contemporaneous proposals, understandings, representations, warranties, covenants, and any other communications (whether written or oral) between the parties relating thereto and is binding upon the parties and their permitted successors and assigns. Any Order Form or SOF may be modified only by a written amendment that refers to the applicable Order Form or SOF and is signed by both parties. These Terms may not be modified without Measured's prior written consent. Any inconsistent or conflicting terms and conditions contained in any purchase order issued by You shall be of no force or effect, even if the purchase order is accepted by Us. In the event of any conflict between the terms of these Terms and any Order Form or SOF, these Terms shall control, unless such Order Form or SOF expressly states that it is to control. These Terms shall be construed and interpreted fairly, in accordance with the plain meaning of its terms, and there shall be no presumption or inference against the party drafting these Terms in construing or interpreting the provisions hereof.

Assignment. These Terms shall be binding upon and for the benefit of each party and their permitted successors and assigns. Either party may assign these Terms and all Order Form and SOFs as part of a corporate reorganization, consolidation, merger, or sale of substantially all of its assets. Except as expressly stated in these Terms, neither party may otherwise assign its rights or delegate its duties under these Terms either in whole or in part without the prior written consent of the other party, and any attempted assignment or delegation without such consent will be void. Notwithstanding the foregoing, we may use independent contractors or subcontractors to assist in the delivery of Services; provided, that We remain liable for the actions or omissions of the independent contractors or subcontractors and for the payment of their compensation.

Feedback. You acknowledge that any suggestions, comments, improvements, ideas, requests for Modifications or feedback provided to Us relating to the Services or any of Our other services (the "Feedback") are voluntarily provided by You, and You agree that the Feedback may be used by Us without compensation, accounting or attribution to You, and You hereby grant Us a transferable, sublicensable, worldwide, perpetual, irrevocable, royalty-free, fully paid up right and license to freely exploit and make available all Feedback.

Governing Law. These Terms shall be governed by and construed in accordance with the laws of the State of New York, USA without regard to its conflict of law provisions. Any dispute arising between the parties will be settled in an action commenced and maintained in any court sitting in New York, New York. The parties irrevocably consent and submit to the exclusive personal jurisdiction of such courts if there is any dispute between them and agree not to challenge or assert any defense to the jurisdiction of such courts.

Relationship of the Parties. Each party is an independent contractor, and nothing in these Terms shall be construed as a partnership or creating the relationships of employer and employee, or principal and agent, for any purpose whatsoever.



Neither party shall make any contracts, warranties or representations or assume or create any obligations, express or implied, in the other party's name or on its behalf.

Force Majeure. Except for the obligation to make payments, nonperformance of either party shall be excused to the extent that performance is rendered impossible by strike, fire, flood, governmental acts or orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the reasonable control of the non-performing party.

Notices. Any notice, approval, request, authorization, direction or other communication under these Terms shall be given in writing and shall be deemed to have been delivered and given for all purposes (i) via email, at the email address set forth on the applicable Order Form; (ii) on the delivery date if delivered personally to the party to whom the same is directed; (iii) one (1) business day after deposit with a nationally recognized overnight carrier, with written verification of receipt, or (iv) five (5) business days after the mailing date whether or not actually received, if sent by U.S. certified mail, return receipt requested, postage and charges pre-paid or any other means of rapid mail delivery for which a receipt is available, to the address of the party set forth on the applicable Order Form or SOF. Furthermore, Measured may provide notices via in-application notification in the Subscription Service.

No Third-Party Beneficiaries. Nothing contained in these Terms is intended or shall be construed to confer upon any person any rights, benefits or remedies of any kind or character whatsoever, or to create any obligation of a party to any such person.

Modifications. We may make modifications to the Services or particular components of the Services from time to time provided that such modifications do not materially degrade any functionality or features of the Services.

Waiver and Severability. Performance of any obligation required by a party hereunder may be waived only by a written waiver signed by an authorized representative of the other party, which waiver shall be effective only with respect to the specific obligation described therein. The failure of either party to exercise any of its rights under these Terms will not be deemed a waiver or forfeiture of such rights. The invalidity or unenforceability of one or more provisions of these Terms will not affect the validity or enforceability of any of the other provisions hereof, and these Terms will be construed in all respects as if such invalid or unenforceable provision(s) were omitted.

Insurance. Measured shall maintain at least the following minimum insurance requirements: workers' compensation and employer's liability insurance of not less than US\$1,000,000 in accordance with and to the extent required by applicable law; (ii) commercial general liability insurance with a limit of not less than US\$2,000,000 in the aggregate; and (iii) cyber liability/errors and omissions insurance with a limit of not less than US\$3,000,000 in the aggregate. Measured shall provide a certificate of insurance upon Customer's request.



ATTACHMENT 1

CONSULTING SERVICES

1. Consulting Services. We will provide installation, integration, configuration, consulting, training and/or other computer related Consulting Services pursuant to Order Form(s) and/or SOFs executed by the parties and referencing these Terms.

2. Change Requests. Either party may request a change to an SOF, and for such purpose shall submit to the other party a written notice ("Change Request") setting forth the requested change and the reason for such request. Within five (5) business days (or such other period of time as agreed by the parties) after the receipt of such Change Request, the parties shall discuss the necessity, desirability and/or acceptability of the Change Request. When and if both parties have agreed in writing upon the changes, and any resulting change in the estimated fees for the project, the parties shall complete and execute the Change Request.

3. License. We hereby grant You a non-exclusive, non-transferable license to use any Deliverables developed by Us in the performance of Consulting Services and delivered to You, upon Your payment in full of all amounts due hereunder, solely in conjunction with, and consistent in scope with, Your permitted use of the Subscription Service under these Terms. We retain ownership of all information, software and other property owned by Us prior to these Terms or which We develop independently of these Terms and all Deliverables received, compiled or developed by Us in the performance of these Terms, including, but not limited to all configurations of the Subscription Service and any applications. All such information shall be treated as Confidential Information of Us in accordance with these Terms. We may utilize any and all methods, computer software, know-how or techniques related to programming and processing of data, developed by Us while providing the Consulting Services and may incorporate the work product in future releases of any of Our products and/or services.

4. Consulting Services Warranty. We warrant that any Consulting Services provided hereunder shall be provided in a competent manner in accordance with any specifications set forth in the Order Form or SOF (as the case may be), in all material respects. We further warrant that any Deliverables provided pursuant to any Consulting Services engagement shall comply, in all material respects, with the specifications set forth in the SOF. If the Consulting Services are not performed as warranted or the Deliverables do not comply, then, upon Your written request, We shall promptly re-perform, or cause to be re-performed, such Consulting Services, at no additional charge to You. Such warranties and other obligations shall only survive for sixty (60) days following the completion of the Consulting Services or the delivery of each applicable Deliverable, as the case may be. Such re-performance shall be Your exclusive remedy and Our sole liability for any such non-performance. If, however, after repeated efforts, We are unable to remedy such defect in any Deliverable, then Your sole remedy and Our entire liability shall be to refund to You any amounts previously paid by You for the particular deficient Consulting Services or Deliverables.

5. Staffing. We shall have sole discretion regarding staffing for the Consulting Services, including the assignment or reassignment of Our Services personnel.

6. Your Obligations. You will cooperate with Us, will provide Us such assistance as We may reasonably request, and will fulfill Your responsibilities as set forth in these Terms and the Order Form and SOF. If Our personnel are required to be present at Your location, You will provide adequate workspace. You shall be responsible for obtaining and paying for any releases, rights, licenses, clearances or permissions necessary to use any third-party materials which are the responsibility of You to provide in connection with any Consulting Services performed by Us under any Order Form or SOF. You will appoint a contact person. This contact, or a designated alternate, should be reasonably available on site or by phone at all times that Consulting Services are being provided.



ATTACHMENT 2

SERVICE LEVEL ADDENDUM

1. Scope. Measured monitors the availability of the Subscription Service and performs preventive service maintenance tasks from time to time. This SLA describes availability levels and the technical assistance offered by Measured for the Subscription Service, subject to Customer's compliance with the Terms.
2. Scheduled Maintenance.
 - a. Scheduled Maintenance Period. "Scheduled Maintenance Period" means the period of time elapsed during any scheduled maintenance performed by Measured on the Subscription Service. Measured will provide Customer with at least one (1) day advance notice of a Scheduled Maintenance Period. Measured will use commercially reasonable efforts to (a) schedule maintenance during hours other than during regular business hours (9am-5pm U.S. Eastern Time), and (b) ensure that Scheduled Maintenance Periods do not exceed 6 hours per month during regular business hours. Scheduled maintenance notifications will be posted within the Portal.
 - b. Emergency Maintenance Period. "Emergency Maintenance Period" means the period of time elapsed during any maintenance performed on the Subscription Service, which maintenance is required as a result of conditions beyond Measured's reasonable control. Emergency maintenance may occur at any time, as Measured deems necessary. Measured will use reasonable efforts to provide Customer with at least thirty (30) minutes advance notice for emergency maintenance, via the Portal or via the email addresses used to register access to the Portal.

3. Availability. The Subscription Service shall meet the following service level standard: Availability of not less than 98% of the aggregate time per month ("Availability Commitment"). "Availability" means the availability of the Measured Subscription Service expressed as a percentage and calculated by multiplying 100 times the quotient of (i) total number of minutes the Measured Subscription Service is available (other than unavailability due to Permitted Downtime as defined in Section 5 below) in the applicable calendar month divided by (ii) the total number of minutes in the month less Permitted Downtime.

For any partial calendar month during which Customer subscribes to the Subscription Service, Availability will be calculated based on the entire calendar month, not just the portion for which Customer subscribed. In addition, unavailability of some specific features or functions within the Subscription Service, while others remain available, will not constitute unavailability of the Subscription Service, so long as the unavailable features or functions are not, in the aggregate, material to the Subscription Service as a whole.

4. Permitted Downtime. "Permitted Downtime" means the following:
 - a. Inoperability due to any scheduled or emergency maintenance occurring during a Scheduled Maintenance Period or Emergency Maintenance Period;
 - b. Problems caused by Customer's or its Users' equipment, telecommunications or Internet services;
 - c. Problems caused by Amazon Web Services or Tableau;
 - d. Problems due to data latency or unavailability from Customer or a third-party product (such as Facebook API, Google AdWords API, etc.);
 - e. Problems due to force majeure events, as described in the Terms and other causes beyond Measured's reasonable control, including, without limitation, unforeseen computer, telecommunications, internet service provider, or hosting service provider failures, and network intrusions or denial of service attacks;
 - f. Problems due to acts or omissions of Customer, its agents, employees or contractors; and
 - g. Any interruption of five (5) consecutive minutes or less in the availability of the Measured Subscription Service.
5. Service Credits. If during any full calendar month of the term of the Terms, the Availability described above in Section 4 is lower than 98%, and Customer notifies Measured in writing about such failure within ten (10) days of the end of the applicable calendar month, Measured shall provide Customer with a service credit in accordance with the applicable Service Credit % set forth below. The service credit shall be calculated against Monthly Fee associated with the Subscription Service (excluding any set up fees) for the applicable month where the Availability Commitment was not met. The service credit shall be used to offset future Subscription Service fees and shall be applied to Customer's next invoice (or refunded if there are no forthcoming invoices).



<u>Actual Availability Percentage:</u>	<u>Service Credit %:</u>
≥ 96.5% but < 98%	2% of Monthly Fee
≥ 95.5% but < 96.5%	4% of Monthly Fee
≥ 94.0% but < 95.5%	6% of Monthly Fee
≥ 92.0% but < 94.0%	8% of Monthly Fee
≥ 90.0% but < 92.0%	10% of Monthly Fee
< 90.0%	25% of Monthly Fee

All claims will be verified against Measured’s system records. Should any periods of downtime submitted by Customer be disputed, Measured will provide to Customer a record of Availability for the period in question. Measured will only provide records of system availability in response to good faith Customer claims.

Any service credits provided pursuant to this SLA will constitute Measured’s sole liability and Customer’s sole and exclusive remedy for any failure to achieve the Availability Commitment.

6. Contact Information. Support hours are: Monday through Friday, from 9am – 5pm Eastern Time, excluding the following holidays: New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the day after, and Christmas Day through New Year’s Eve (“Standard Support Hours”).

Support is offered via email (support@measured.com) and in-product chat. Slack support is available for enterprise and growth customers only (as identified on the applicable Order Form).

All calls and support cases should be routed through designated customer contacts. Customer shall provide Measured with the name, email address and business phone number of each contact, and shall be responsible for updating this contact information from time to time.

7. Priority Levels. Customer incident reports must include a clearly written description of the problem(s) and any steps that Customer can reasonably identify that would allow Measured to replicate the problem(s). Measured shall have the right to determine the Priority Level of an incident reported by Customer based on the criteria according to the table below. The Priority Level defines the targeted response times. A “response” consists of confirmation that Measured has received the issue and an indication of active remediation efforts. Initial response times are based on Standard Support Hours.

Priority code	Severity description	Expected response times
S1	Mission Critical. Essential services are down, causing critical impact to business operations; no workaround available.	Measured will provide a status update by e-mail within two (2) business hours within the initial occurrence of the S1 issue. Measured will work continuously to provide a solution to the problem or reduce the severity of the problem to an S2.
S2	High. Essential services are significantly degraded and/or impacting significant aspects of business operations.	Measured will provide a status update by e-mail within six (6) business hours as warranted until the problem is resolved, until an acceptable workaround is found or until the problem is determined to be outside of Measured’s ability to control.
S3	Medium. Services are noticeably impaired, but most business operations continue as normal.	Measured will provide a status update by e-mail as warranted until the problem is resolved, until an acceptable workaround is found or until the problem is determined to be outside of Measured’s ability to control.
S4	Low. Low impact services impaired; solution identified.	Measured will provide a status update by e-mail within two (2) business days.



8. Limitations and Exclusions. Measured is not obligated to provide support if: (a) the Subscription Services have not been used in a manner consistent with the documentation; (b) the Subscription Services have been altered or modified by any party other than Measured; (c) an upgrade, update or patch that Measured has recommended and made available has not been installed due to Customer's actions or instructions; or (d) Measured is not able, after commercially reasonable efforts, to replicate an error or problem in the Subscription Services. Measured does not provide support for third-party software or hardware.