

“**Confidential Information**” shall mean information, data, technology, training products and content, customer, business or technical information that is not generally known to the public and at the time of disclosure by the disclosing party is identified as or would reasonably be understood by the receiving party to be, proprietary or confidential.

3. **Confidential Information.**

- (A) Each party (in such context, a “**Receiving Party**”) will keep confidential and not disclose to any other party or use (except as expressly authorized in these Terms and Conditions and pursuant to fulfilling the Service obligations in the Order Form) Confidential Information obtained from the other party (in such context, a “**Disclosing Party**”), regardless of form (written, verbal, electronic, visual, or by any other medium).
- (B) The Receiving Party may disclose Confidential Information of the Disclosing Party to its Representatives who have a need to know such Confidential Information and who agree to keep such Confidential Information confidential as set forth herein and in connection with an audit, review or examination by a governmental, regulatory or self-regulatory authority or auditor.
- (C) Notwithstanding anything contained herein, the confidentiality obligations under the Agreement shall not apply to information that is at any time: (i) already known to the Receiving Party at the time it is disclosed to the Receiving Party; (ii) publicly known through no wrongful act of the Receiving Party; (iii) rightfully received from a third party without, to the Receiving Party's knowledge, restriction on disclosure and without breach of the Agreement; (iv) independently developed by the Receiving Party without the use of Confidential Information; (v) approved for release by written authorization of the Disclosing Party; (vi) furnished by the Disclosing Party to a third party without written restriction on disclosure; or (vii) disclosed pursuant to a requirement of a governmental agency or of law, provided, however, that in the case of the foregoing subclause (vii), to the extent reasonable under the circumstances and permitted by law, the party subject to the disclosure requirement has notified the Disclosing Party in advance of such disclosure and the Disclosing Party has had an opportunity to seek, at the Disclosing Party's sole cost and expense, a protective order or other appropriate remedy and the party subject to the disclosure requirement has reasonably cooperated with such efforts.
- (D) Upon the effective date of termination or expiration of the Agreement, each party shall cease use of the other's Confidential Information, and if the Disclosing Party so requests, either: (i) return to the Disclosing Party all Confidential Information of the Disclosing Party that is in the Receiving Party's possession or control; or (ii) destroy all Confidential Information of the Disclosing Party that is the Receiving Party's possession or control and, at the Disclosing Party's request, send a written confirmation of destruction to the Disclosing Party. Notwithstanding the foregoing, it is understood and agreed that (i) information in an intangible or electronic format containing Confidential Information cannot be removed, erased or otherwise deleted from archival systems (also known as “computer system back-ups”) and that such computer system

back-ups shall be protected under the confidentiality requirements contained in the Agreement and not violate the Agreement and (ii) the Receiving Party and its Representatives may keep a copy of any Confidential Information (including in electronic or paper form) for record and compliance purposes pursuant to an internal document retention policy implemented in order to comply with applicable law, professional standards or reasonable business practices (including, without limitation, any defense the Receiving Party or its Representatives may raise to any claim made by or on behalf of the Disclosing Party that the Receiving Party or its Representatives violated the Agreement).

- (E) The parties agree that money damages may not be an adequate remedy if this Paragraph 3 is breached and, therefore, either party may, in addition to any other legal or equitable remedies, seek an injunction or other equitable relief against such breach or threatened breach.