

## MAIN SUBSCRIPTION TERMS AND CONDITIONS

Last Updated: March 31, 2023

THESE SUBSCRIPTION TERMS AND CONDITIONS (TOGETHER WITH THE ADDITIONAL TERMS OF ANY ORDER, THE “**AGREEMENT**”) ARE MADE BETWEEN YOU, AS AN INDIVIDUAL, COMPANY, CORPORATION, OR OTHER ENTITY (“**CUSTOMER**”) AND BITSIGHT TECHNOLOGIES, INC. (“**BITSIGHT**”) ON THE DATE OF ACCEPTANCE (THE “**EFFECTIVE DATE**”). “**CUSTOMER**” MAY ALSO INCLUDE A VENDOR OF A CUSTOMER REQUESTING INFORMATION VIA THE BITSIGHT SERVICES WHO ACCEPTS THESE TERMS AND CONDITIONS. YOU ACCEPT THIS AGREEMENT BY USING THE BITSIGHT SERVICES OR OTHERWISE ACKNOWLEDGING YOUR ACCEPTANCE (FOR EXAMPLE, BY CLICKING THE “**ACCEPT**” BUTTON OR SIGNING AN ORDER REFERRING TO THESE TERMS). IF YOU ARE ACCEPTING THIS AGREEMENT ON BEHALF OF A CUSTOMER ENTITY AS DESCRIBED ABOVE, YOU AND SUCH ENTITY REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THIS AGREEMENT AND THE TERMS “**YOU**” OR “**YOUR**” AND “**CUSTOMER**” WILL REFER TO SUCH ENTITY. ACCEPTANCE OF THIS AGREEMENT IS A CONDITION OF YOUR ACCESS TO THE BITSIGHT SERVICES. IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT, YOU MAY NOT ACCESS OR USE THE BITSIGHT SERVICES.

### Background

Bitsight has developed proprietary methodologies and technology for assessing information security risk of organizations, including vendor risk management capabilities (the “**Bitsight Technology**”). Customer desires to purchase, access or subscribe to the Bitsight services set forth in an Order (defined below), which may include vendor risk management and monitoring services (accessed through either the Bitsight customer portal or the Bitsight application programming interface), and related customer support, customer success and enablement services (together, the “**Bitsight Services**”) and Bitsight accepts such engagement by Customer subject to the terms and conditions described in this Agreement. Bitsight and Customer are each referred to herein as a “**Party**” and together as the “**Parties.**” In consideration of the foregoing and the mutual covenants and conditions set forth below, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

### Section 1 — Services

**1.1 Services.** Bitsight will provide the Customer with access to the Bitsight Services during the term of the subscription. Bitsight may also make available as part of the Bitsight Services certain data, services or integrations originating from external third parties (“**Third-Party Services**”), which may require separate or additional terms imposed by such third party prior to access.

**1.2 Use of Services.** Subject to the terms and conditions of this Agreement, Bitsight hereby grants to Customer the nonexclusive and nontransferable right to access and use the Bitsight Services as follows: (i) access and use the Bitsight Services solely for its internal business purposes; (ii) reproduce and store the information and data contained in the Bitsight Services made available to and accessed by Customer (the “**Bitsight Data**”) in one or more databases in its custody or control for analysis, manipulation, report preparation, or other lawful purposes, in each case for the purposes described in the immediately foregoing clause; (iii) provide and distribute to Users (defined below) internally, in the ordinary course of Customer's business, reports, presentations and other materials that incorporate, use or display the Bitsight Data of rated organizations or derivations therefrom; (iv) share with any third party, including publicly, any Bitsight Data that relates exclusively to the Customer and Customer's Bitsight-provided industry sector rating; and (v) share the Bitsight Data that relates exclusively to a rated organization with such organization via functionality provided in the Bitsight Service for the purpose of initiating or maintaining a business relationship so long as such rated organization is a current or prospective

vendor/service provider, regulator, insured, or affiliate (including any portfolio companies or potential acquisition or investment targets) of Customer.

“**Users**” means individuals who are authorized by Customer to use the Bitsight Services as permitted hereby and who have been supplied user identifications and passwords either by one of Customer's administrative users or Bitsight (at Customer's request). Users may be Customer's employees, contractors or consultants as long as the Bitsight Services are being used for the sole benefit of the Customer and that such Users are subject to confidentiality obligations no less restrictive than those in this Agreement. The Bitsight Services permit administrative Users to set access levels on a User-by-User basis to ensure that each User has the desired level of access to the Bitsight Data. Customer is responsible and liable for maintaining the confidentiality and security of logins and passwords for the Bitsight Services, for ensuring that the access levels are appropriately configured in the Bitsight portal and for ensuring compliance with this Agreement, including Sections 1.2, 1.3 and 6, by any Users or other individuals to whom it grants access to the Bitsight Services.

**1.3 Restrictions.** The Bitsight Services, the Bitsight Data, the databases that store such Bitsight Data and the selection, arrangement, structure, organization and source code of all of the foregoing constitute valuable trade secrets of Bitsight and its licensors and suppliers. Notwithstanding anything in this Agreement to the contrary, Customer will not, and will not permit any third party or any Users to (i) provide or make the Bitsight Services or Bitsight Data available to any third party, either for free or for consideration, except as expressly permitted by this Agreement, including Section 1.2; (ii) remove or alter any copyright, trademark or other notices included in the Bitsight Services or the Bitsight Data; (iii) use the Bitsight Services or the Bitsight Data except as expressly permitted in this Agreement; (iv) use the Bitsight Services to publish or disclose any competitive benchmarking tests or analysis; (v) use the Bitsight Services or Bitsight Data in a manner that would violate applicable law, including, without limitation, using it to intentionally disparage, malign or impugn any third party, or to engage in or facilitate, whether on behalf of the Customer, the User, or any other person or entity, any transactions that are prohibited by the U.S. economic sanctions administered by the Office of Foreign Assets Control, U.S. Department of the Treasury or use it to engage in unauthorized access to any third party's network or systems or to disrupt the security, integrity or performance of the same; (vi) use the Bitsight Services or Bitsight Data to initiate or support any litigation or arbitration against any third party, except as expressly permitted by Section 6.2; (vii) interfere with or disrupt the security, integrity or performance of the Bitsight Services or Bitsight Data; (viii) attempt to gain unauthorized access to the Bitsight Services or its related systems or networks; (ix) access or use the Bitsight Services or Bitsight Data or any documentation in order to build or provide a competitive product or service or to share such information for the purpose of generating security product or services revenue; (x) attempt to reverse engineer or decompile the Bitsight Services; or (xi) use the Bitsight Services in connection with any document related to the offering of securities (for example, a prospectus or “road show” deck).

## Section 2 — FEES AND PAYMENT

**2.1 Fees.** Unless the Customer is using the Bitsight Services in connection with an “**enable vendor access**” (“**EVA**”) program or other free access program or Customer has purchased the Bitsight Services via an authorized partner or reseller, Customer will pay the fees (the “**Fees**”) set forth in a quotation or an order form provided by Bitsight (the “**Order**”). Except as otherwise specified herein or in an Order, payment obligations to Bitsight are non-cancelable and fees paid are non-refundable. Any refunds provided hereunder will be made to the entity that paid the applicable Fee to Bitsight and, if applicable, Customer will look solely to the authorized partner or reseller to recover such refund.

**2.2 Taxes.** Customer will be responsible for all sales, use and other similar taxes resulting from Customer's purchase or use of the Bitsight Services, other than taxes based on Bitsight's income or revenues. Customer will not withhold any taxes from any amounts due to Bitsight.

**2.3 Payment Terms.** Customer will pay in full the amounts set forth in any Order within thirty (30) days of invoice receipt unless otherwise specified in the Order. Unless otherwise agreed to in writing by Bitsight (including in an Order), (i) all payments will be made by bank wire transfer in accordance with Bitsight's

instructions or by check drawn on a U.S. bank, and (ii) all payments will be free from all setoffs and made in U.S. dollars. If Bitsight does not receive timely payment, it shall be deemed a material breach.

### **Section 3 — REPRESENTATIONS, WARRANTIES AND COVENANTS; INTELLECTUAL PROPERTY INDEMNIFICATION**

**3.1 Representations, Warranties, and Covenants.** Each Party hereby represents, warrants and covenants to the other that: (a) it has and will have full right, power and authority to enter into and perform this Agreement and all of the transactions contemplated by this Agreement; (b) no consent, approval, permit or order of any governmental authority or other entity is required in connection with the execution, delivery and performance of this Agreement by such Party; and (c) it will comply with all applicable laws and regulations in the provision of the Bitsight Services and the use and access of the Bitsight Services, respectively. Customer further represents, warrants and covenants that (y) all account and other information supplied by Customer is and will be accurate in all material respects and if there is any material change in such information during the Term, Customer will advise Bitsight of such change in writing; and (z) it has all necessary consents and permissions to provide any information it uploads or otherwise supplies to Bitsight in connection with the Bitsight Services.

**3.2 Disclaimer of Warranties.** EXCEPT AS EXPRESSLY SET FORTH IN SECTION 3.1: BITSIGHT HEREBY DISCLAIMS ANY AND ALL EXPRESS AND IMPLIED WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, TIMELINESS, COMPLETENESS, RELIABILITY, ERROR FREE OPERATION, NON-INTRUSION DUE TO HACKING OR OTHER SIMILAR MEANS OF UNAUTHORIZED ACCESS AND NON-INFRINGEMENT; AND THE BITSIGHT SERVICE AND THE BITSIGHT DATA (INCLUDING ANY RECOMMENDATIONS OR FORECASTS) AND ANY THIRD-PARTY SERVICES PROVIDED THEREWITH, ARE PROVIDED ON AN “AS IS” BASIS ONLY, WITHOUT ANY WARRANTIES WHATSOEVER, AND ARE SUBJECT TO CHANGE AT ANY TIME. CUSTOMER ASSUMES ALL RISK OF DAMAGE OR LOSS FROM RELYING UPON OR USING THE BITSIGHT SERVICE, THE BITSIGHT DATA, ANY RESULTANT DATA AND ANY THIRD-PARTY SERVICES PROVIDED THEREWITH FOR DECISION MAKING PURPOSES. CUSTOMER ACKNOWLEDGES THAT CERTAIN BITSIGHT SERVICES REQUIRE A SUPPORTED BROWSER AND THAT ACCESS TO THIRD-PARTY SERVICES PROVIDED WITH THE BITSIGHT SERVICES MAY HAVE ADDITIONAL REQUIREMENTS. THE BITSIGHT SERVICES AND BITSIGHT DATA DO NOT CONSTITUTE INVESTMENT OR FINANCIAL ADVICE, NOR RECOMMENDATIONS TO PURCHASE, SELL, OR HOLD PARTICULAR SECURITIES.

**3.3 Intellectual Property Indemnification.** Bitsight shall defend, at its own expense and with attorneys of its choosing, any legal action against Customer and its respective directors, officers, employees, and representatives, collectively (the “**Indemnified Parties**”) brought by a third party to the extent that the legal action is based upon a claim that the Bitsight Technology infringes any patents, trademarks or copyright of a third party (the “**Claim**”). Bitsight will pay those costs and damages finally awarded to such third-party claimant in any such legal action, or in a settlement of such legal action, that are specifically attributable to the Claim.

The foregoing indemnification obligations are conditioned on Customer (i) promptly giving Bitsight written notice of any such legal action; (ii) giving Bitsight sole control of the defense of any such claim and all related settlement negotiations; and (iii) assisting and fully cooperating in such defense, at Bitsight’s request and expense.

In the event that the Bitsight Technology becomes, or in Bitsight’s opinion are likely to become the subject of an infringement claim, then Bitsight may, at its sole discretion and expense, either (i) replace or modify the Bitsight Technology so that it is non-infringing; (ii) procure for Customer the right to continue to use the allegedly infringing Bitsight Technology; or (iii) terminate Customer’s right to use the Bitsight Technology and/or terminate this Agreement, in whole or in part, as appropriate, upon written notice to Customer and refund Customer (or authorized partner or reseller if the initial payment was made by such partner or reseller) any prepaid fees attributable to the remainder of the term of Customer’s subscription to the applicable Bitsight

Technology. Customer will have the right to participate, at its expense, in the defense of any claim covered under this Section with counsel of its own choosing.

Notwithstanding the foregoing, Bitsight shall have no obligation under this Section or otherwise with respect to any infringement claim based upon any use of the Bitsight Technology not in accordance with this Agreement; any use of the Bitsight Technology in combination with equipment, software, or data not supplied by Bitsight if such infringement would have been avoided but for the combination with other equipment, software or data; any modification of the Bitsight Technology by any person other than Bitsight or as authorized by Bitsight in writing; or Customer's continued use of the allegedly infringing Bitsight Technology after written notice to cease such use.

THIS SECTION STATES BITSIGHT'S ENTIRE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDY FOR ANY CLAIMS OF INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHT BY BITSIGHT'S PRODUCTS, TECHNOLOGY OR SERVICES OR BY THEIR DISTRIBUTION, OPERATION, USE OR RECEIPT.

#### **Section 4 — LIMITATION OF LIABILITY**

**4.1** TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES, SUPPLIERS, PARTNERS, RESELLERS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SHAREHOLDERS, INSURERS OR CONTRACTORS ("**RELATED PARTIES**") BE LIABLE UNDER THIS AGREEMENT FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING BUT NOT LIMITED TO LOST REVENUES, PROFITS OR DATA OR OTHER ECONOMIC LOSS) ARISING FROM ANY CAUSE OF ACTION OR LEGAL THEORY, INCLUDING BUT NOT LIMITED TO BREACH OF WARRANTY, BREACH OF CONTRACT, TORT, STRICT LIABILITY OR FAILURE OF ESSENTIAL PURPOSE EVEN IF THE PARTY OR A RELATED PARTY HAS BEEN ADVISED, KNEW, OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

**4.2** THE MAXIMUM LIABILITY OF EITHER PARTY UNDER THIS AGREEMENT, TAKEN AS A WHOLE, FOR ANY AND ALL CLAIMS IN CONNECTION WITH THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO CLAIMS FOR INDEMNIFICATION, BREACH OF WARRANTY, BREACH OF CONTRACT, TORT, STRICT LIABILITY, FAILURE OF ESSENTIAL PURPOSE OR OTHERWISE, WILL IN NO CIRCUMSTANCE EXCEED THE FEES PAID OR OWED TO BITSIGHT IN THE PAST TWELVE (12) MONTHS UNDER THIS AGREEMENT.

**4.3** NOTWITHSTANDING THE FOREGOING, SECTIONS 4.1 AND 4.2 WILL NOT APPLY WITH RESPECT TO ANY CLAIMS BASED ON A PARTY'S OBLIGATIONS UNDER SECTION 1.2 (USE OF SERVICES), SECTION 1.3 (RESTRICTIONS), SECTION 3.3 (INTELLECTUAL PROPERTY INDEMNIFICATION), OR SECTION 6 (CONFIDENTIALITY), OR ANY OTHER CLAIMS FOR WHICH LIABILITY CANNOT BE EXCLUDED OR LIMITED BY LAW.

#### **Section 5 — TERM AND TERMINATION**

**5.1 Term.** This Agreement commences on the Effective Date and, except for an EVA program or other free access program, it will continue until all subscriptions hereunder have expired or have been terminated and access to the Bitsight Services has been terminated (such period, the "**Term**"). The term of any EVA program or other free access program will end when Bitsight terminates access to the Bitsight Services.

**5.2 Term of Purchased Subscriptions.** The term of each subscription shall be as specified in the applicable Order or as agreed between the Customer and the applicable authorized partner or reseller and once the subscription terminates, access may be revoked. Except as otherwise specified in an Order, subscriptions purchased from Bitsight directly will automatically renew for additional periods equal to the expiring

subscription term or one year (whichever is longer) at then-current list prices, unless either Party gives the other notice of non-renewal at least thirty (30) days before the end of the relevant subscription term.

**5.3 Termination for Cause.** Either Party may immediately terminate this Agreement and any active Orders upon written notice if the other Party: (a) fails to cure a material breach of this Agreement within thirty (30) calendar days after its receipt of written notice regarding such breach (if capable of cure); (b) becomes insolvent or commits an affirmative act of insolvency; (c) makes an assignment for the benefit of creditors or takes similar action; (d) files a voluntary bankruptcy or similar petition; (e) acquiesces to any involuntary bankruptcy or similar petition and such involuntary petition is not dismissed within ninety (90) days; or (f) is adjudicated bankrupt or to similar effect. If Customer terminates this Agreement for cause only, Bitsight will provide Customer with a pro rata refund of the pre-paid Fees actually paid to Bitsight, as of the effective date of termination.

**5.4 Effects of Termination.** All provisions of this Agreement that reasonably may be interpreted or construed as surviving termination of this Agreement will survive the termination of this Agreement, including but not limited to the obligation to pay any accrued but unpaid fees and Sections 3, 4, 5.4, 6 and 7. In addition, after the Term, access to the Bitsight Services will be revoked but Customer may retain and store, in any medium (including, but not limited to, electronic storage) any reports that include any Bitsight Data that was properly acquired under this Agreement prior to expiration or termination of this Agreement, for use by Customer only as permitted in Sections 1.2 and 1.3.

## Section 6 — CONFIDENTIALITY

**6.1 Confidential Information.** “**Confidential Information**” means all information of either Party, whether of a technical, business or other nature (including, without limitation, trade secrets, know-how and information relating to the technology, strategic partners, customers, business plans, promotional and marketing activities, finances and other business affairs of such Party), that is disclosed by the disclosing Party to the receiving Party or that is otherwise learned by the receiving Party in the course of its discussions or business dealings with, or its physical or electronic access to the premises of or services of, the disclosing Party, and that has been identified as being proprietary and/or confidential or that the receiving Party by the nature of the circumstances surrounding the disclosure or receipt ought to know should be treated as proprietary and confidential. For the avoidance of doubt, (a) Confidential Information of Customer consists of, but is not limited to, the list of organizations that Customer is monitoring, and any non-public content provided by Customer regarding its vendor risk management program and cybersecurity risk profile (together, “**Customer Content**”), and User information included in the administrative portal, and (b) Confidential Information of Bitsight includes, without limitation, the Bitsight Services, the Bitsight Data, and the terms, conditions and pricing of this Agreement. Each Party will use reasonable care to hold the other Party’s Confidential Information in confidence and will not disclose such Confidential Information to anyone other than to its employees, board members, legal counsel, accountants, partners, contractors or consultants (and, in the case of Customer Content, Bitsight may disclose it to other customers of the Bitsight Services, as specifically authorized by Customer within the Bitsight Service), as long as they need to know the information and who are subject to confidentiality obligations no less restrictive than those set forth herein. A Party that receives the other Party's Confidential Information will not use such information for any purpose other than as reasonably required to perform pursuant to this Agreement.

**6.2 Exceptions.** The definition of Confidential Information shall not include any information that the receiving Party can demonstrate through written documentation (i) was already known to the receiving Party prior to its disclosure to the receiving Party; (ii) was or becomes known or generally available to the public (other than by act of the receiving Party); (iii) is disclosed or made available in writing to the receiving Party without an obligation of confidentiality by a third party having a bona fide right to do so; (iv) is independently developed by receiving Party without the use of any of the other Party’s Confidential Information; or (v) in the case of Customer, Customer Feedback or other information provided for the purpose of making it available to third parties as part of the Bitsight Service (such as annotations marked “**public**” by Customer that explain aspects of its rating, or information provided by Customer to create, correct or update its rated IP addresses or domains). Customer hereby grants to Bitsight a worldwide, royalty-free, nonexclusive, transferable right and license to

store, host and display any Customer Content within the Bitsight Services, including to share with other users of the Bitsight Services as authorized by Customer. In addition, either Party shall be permitted to disclose Confidential Information, as required to be disclosed to a regulator with competent jurisdiction over such Party or by compulsory process of law, provided that the receiving Party will notify the disclosing Party promptly upon any request or demand for such disclosure and shall cooperate with the disclosing Party to preclude or minimize any such disclosure.

**6.3 Injunctive Relief.** The Parties acknowledge that any breach of this Section 6 may cause immediate and irreparable injury to the non-breaching Party and that monetary damages may be inadequate compensation for such breach. In the event of such breach, the non-breaching Party will be entitled to seek injunctive relief, without the need to post bond, in addition to all other remedies available to it at law or in equity. This Section in no way limits the liability or damages that may be assessed against a Party breaching any of the provisions of this Section 6.

## Section 7 — MISCELLANEOUS

**7.1 Notices.** Any notice or other communication under this Agreement given by any Party to any other Party will be in English, in writing and will be deemed properly given when sent to the intended recipient by U.S. mail, certified letter, receipted commercial courier or e-mail transmission. Any such notices to Bitsight will be sent to 111 Huntington Avenue, Floor 19, Boston, MA 02199 with a copy sent to [contracts@bitsight.com](mailto:contracts@bitsight.com) and any such notices to Customer shall be to the Customer email or other address set forth in the Order or to the email address of any then-current Customer administrative users. Either Party may change such address by giving the other Party notice in accordance with this Section.

**7.2 Ownership Rights.** Except for the rights granted hereunder, all right, title and interest, including, but not limited to, all worldwide patent, copyright, trademark, trade secret and any other rights in and to the Bitsight Services, the Bitsight Data, the Bitsight Technology, Bitsight's Confidential Information and Bitsight's trademarks and service marks (including its logos) are retained by Bitsight and its licensors. Bitsight may derive aggregated and/or anonymized data from any use of or content provided within the Bitsight Services or Third-Party Services and Bitsight retains all right, title and interest in and to any such aggregated and/or anonymized data; for the avoidance of doubt, such data will not include Customer's Confidential Information or identify Customer. Customer will not do, or cause to be done, any acts or things contesting or in any way impairing or tending to impair any portion of the right, title and interest of Bitsight or its licensors in and to such intellectual property rights.

**7.3 Publicity.** Unless the Customer is using the Bitsight Services in connection with an EVA program or other free access program, Customer agrees that Bitsight may include its name and logo on its website and in external customer lists and presentations that may be published as part of Bitsight's marketing and promotional efforts. Bitsight will remove Customer's name and/or logo from its marketing website and other marketing materials upon request at any time to [contracts@bitsight.com](mailto:contracts@bitsight.com).

**7.4 Annotations and Feedback.** Customer may from time to time elect to provide suggestions, annotations (such as annotations that explain aspects of its rating, or information that corrects or updates its rated IP addresses or domains), corrections, information, comments (including for enhancements, functionality or clarification) or other feedback (together, "**Customer Feedback**") to Bitsight or other third parties working with Bitsight. The Parties agree that such Customer Feedback will be given voluntarily, does not constitute Customer Content, and Customer acknowledges and agrees that Bitsight will own all right, title and interest in and to the Customer Feedback, all developments based upon such Customer Feedback and all intellectual property rights in and to the foregoing. Customer hereby assigns and, only to the extent that a present assignment cannot be made, does agree to assign to Bitsight all right, title and interest it may have in and to the Customer Feedback and all intellectual property rights thereto and will cooperate with Bitsight as reasonably necessary in order to give full effect to such assignment.

**7.5 Applicable Law.** This Agreement and any related claims or causes of action will be governed by, construed and enforced in accordance with the internal laws of the Commonwealth of Massachusetts, (excluding its conflicts of laws principles). The United Nations Convention on Contracts for the International Sale of Goods does not apply to transactions under this Agreement. Any disputes arising from or relating to this Agreement will be resolved exclusively in the state or federal courts sitting in Suffolk County in the Commonwealth of Massachusetts.

**7.6 Assignment.** Except as otherwise permitted in this Agreement, neither Party may assign any of its rights or delegate any of its obligations hereunder without the prior written consent of the other Party (which consent will not be unreasonably withheld), except that a Party may, without the written consent of the other Party hereto, assign its rights together with its obligations under this Agreement to the surviving entity in a merger or consolidation or to a purchaser of all or substantially all the assets of its business. Upon request, Customer shall provide and/or execute appropriate documentation to evidence the transfer of the relevant Bitsight account(s). Any assignment or delegation in contravention of this provision will be null and void. All the terms and provisions of this Agreement will be binding upon and inure to the benefit of and be enforceable by the Parties and their respective successors and permitted assigns.

**7.7 Non-Waiver.** The failure by either Party at any time to require performance by the other Party or to claim a breach of any provision of this Agreement will not be construed as affecting any subsequent right to do so.

**7.8 Relationship of the Parties.** Bitsight is an independent contractor. The provisions of this Agreement will not be construed to establish any form of partnership, agency or other joint venture of any kind between Customer and Bitsight, nor to constitute either Party as the agent, employee or legal representative of the other.

**7.9 Force Majeure.** If the performance by a Party of any of its obligations under this Agreement (other than payment obligations) will be interfered with by reason of any circumstances beyond the reasonable control of that Party, including without limitation, fire, explosion, acts of God, epidemic, pandemic, outbreak of infectious disease, war, revolution, terrorism, civil commotion, unavailability of supplies, or sources of energy or telecommunications, power failure, breakdown of machinery, labor strikes, slowdowns, picketing or boycotts, or governmental/administrative restrictions on the importation or exportation of products, then that Party will be excused from such performance while such circumstances exist and such additional period as may be reasonably necessary to allow that Party to resume its performance.

**7.10 Severability; Cumulative Remedies.** Any provision of this Agreement that is unenforceable will not cause any other remaining provision to be ineffective or invalid. Except as expressly set forth herein, the rights and remedies of the Parties will not be exclusive and are in addition to any other rights or remedies of the Parties existing in law or in equity.

**7.11 Modification of Agreement.** Except as set forth herein, no addition to or modification of this Agreement will be binding on either of the Parties unless reduced to writing and executed by an authorized representative of each of the Parties.

**7.12 Entire Agreement.** This Agreement comprises the entire understanding of the Parties with respect to its subject matter and supersedes all previous negotiations, proposals, understandings or agreements of any nature whatsoever between the Parties concerning its subject matter. Each Party acknowledges that, in entering into this Agreement, it does not rely upon, and shall have no remedy in respect of, any statement or representation of any person other than as expressly set out in this Agreement. Any requirements, documents or terms and conditions that may be contained in any vendor portal, acknowledgement, purchase order, form, platform, clickwrap, or shrinkwrap that Customer provides are specifically null and void.

**7.13 Third-Party Beneficiaries.** To the extent Bitsight provides any Third-Party Services to Customer, such third party service provider(s) are expressly made third-party beneficiaries of this Agreement. Other than in respect of such third party service provider(s), nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, any rights, remedies, obligations or liabilities whatsoever upon any person other than the Parties and their permitted successors or assigns.



**7.14 Expenses.** In the event a dispute between the Parties with respect to this Agreement must be resolved by litigation or other proceedings, the prevailing Party will be entitled to receive reimbursement for all associated reasonable costs and expenses (including, without limitation, attorneys' fees) from the other Party, including without limitation on appeal and in insolvency and any other legal proceeding.

**7.15 International Use and Privacy.** Personal data (i.e., names and email addresses used for account creation) is not required to use the Bitsight Services. If Customer chooses to provide personal data, it acknowledges that such personal data may be accessed by or transferred to Bitsight in the United States and to its affiliates, service providers, consultants, partners and resellers that assist Bitsight in providing the Bitsight Services elsewhere in the world as more fully described in the Bitsight Privacy Policy (located at <https://www.bitsight.com/privacy-policy> and incorporated herein by reference). If Customer is subject to the General Data Protection Law ("GDPR") or other Applicable Data Protection Laws (as defined in the DSA), Customer agrees and acknowledges that Bitsight will process personal data under this Agreement in accordance with the Bitsight Data Sharing Agreement located at <https://www.bitsight.com/dsa> and incorporated herein by reference (the "DSA"). If providing Bitsight with personal data will subject Bitsight to data localization laws (e.g., require it to change where it hosts its products and services based on the location of Customer's Users), Customer will ensure that all users use an email alias for account creation and will not provide Bitsight with any such personal data.

**7.16 Use of Bitsight Logo.** If Customer chooses to use the Bitsight logos in the form made available by Bitsight, either alone or with the Bitsight-provided industry sector rating (the "**Bitsight Logo Data**"), Customer (a) will use the Bitsight Logo Data that relates exclusively to the Customer and Customer's Bitsight-provided industry sector rating solely to notify third parties of its Bitsight rating (including by publicly displaying such data on its websites) and all goodwill arising from the use of the Bitsight Logo Data will inure to Bitsight's benefit and (b) will not: (i) alter the Bitsight Logo Data, including by removing any trademark notice or symbol; (ii) use the Bitsight Logo Data other than as expressly permitted or in any way that misrepresents the Bitsight Security Rating, is deceptive or misleading, or tarnishes or damages Bitsight or its trademarks (including the Bitsight Logo Data); or (iii) during the Term or thereafter, undertake any action that contests, challenges, infringes or impairs the validity, enforceability, scope of rights or title of Bitsight in any the Bitsight Logo Data or any mark that incorporates the Bitsight Logo Data. The right to use the Bitsight Logo Data is personal to Customer, non-exclusive, non-transferable, non-assignable, non-sublicensable, and revocable by Bitsight at any time, and for any reason and, upon such revocation, Customer must immediately cease all use of the Bitsight Logo Data.

**7.17 Online Community.** The Bitsight Services may include an online customer collaboration community made available by Bitsight (the "**Customer Community**"). If Customer chooses to engage in the Customer Community, Customer will act in compliance with laws and in a respectful manner and acknowledges that any information posted in the Customer Community will not be treated as Customer Confidential Information hereunder. Bitsight may discontinue the Customer Community at any time.

**7.18 Government Contracts.** To the extent Customer is an entity of the United States federal government and to the extent any software is licensed hereunder, such software is "commercial computer software," as that term is defined in Federal Acquisition Regulation ("**FAR**") 2.101. In accordance with FAR 27.405-3, FAR 52.227-19, and/or Defense Federal Acquisition Regulation Supplement ("**DFARS**") 227.7202-1, as applicable, any software or other products or services provided to the Government are provided in accordance with Bitsight's standard commercial license.