

## Order

Effective Date: [ ] Order # [ ]

<b>Worldscape Technology, Inc.</b> [Contact Name] [Address] [email]	Signature: Name: _____ Title: Date Signed:
<b>CUSTOMER:</b> [CUSTOMER NAME] [Contact Name] [Address] [email]	Signature: Name: _____ Title: Date Signed:

This Order, when signed by the above-named customer (“**Customer**” or “**you**”) and Worldscape Technology, Inc. (“**Worldscape**,” “**we**” or “**us**”), constitutes a binding agreement and includes and incorporates by reference any other Order accepted by Worldscape, the Worldscape Platform Terms, and all attachments, addenda, and amendments thereto (collectively and together with this Order, the “**Agreement**”). The definitions of certain terms used in this Agreement are set forth in the Worldscape Platform Terms. **CUSTOMER ACKNOWLEDGES THAT IT HAS RECEIVED, READ, UNDERSTANDS AND AGREES TO BE BOUND BY ALL OF THE PROVISIONS CONTAINED IN ALL OF THE DOCUMENTS INCLUDED IN THE AGREEMENT.**

<b>ATTACHMENTS</b>	Appendix 1: Worldscape Platform Terms Appendix 2: Service Level & Support Addendum Appendix 3: Master Services Agreement & SOW Appendix 4: Federal Acquisition Regulation (“ <b>FAR</b> ”) Clause Addendum
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<b>ACCESS LEVEL</b>	[CUSTOMER/DEVELOPER/PARTNER]
<b>SUBSCRIPTION TERM</b>	[1 Year/3 Years]

<b>PREVIEW PRICING</b>	
Payment due within fifteen (15) days upon receipt of invoice. Invoices will be sent monthly based on prior month usage at prices set forth below.	
<b>PRODUCTS License Fees</b>	<b>FEES</b>
[Worldscape Platform Access]	[\$X/CPU's]
[Worldscape Developer Access]	[\$X/CPU's]
[Worldscape Partner Access]	[\$X/CPU's]

<b>PRICING</b>		
[Payment due within fifteen (15) days upon receipt of invoice. Invoice will be sent promptly following the Effective Date.]		
<b>SKUs - PRODUCTS</b>	<b>SEATS/CAPACITY</b>	<b>ANNUAL FEE</b>
[Worldscape Platform Access]		
[Worldscape Developer Access]		
[Worldscape Partner Access]		
[Worldscape Premium Support]		

## Appendix 1

### WORLDSCAPE PLATFORM TERMS

These Worldscope Platform Terms ("**Platform Terms**") are between Worldscope Technology, Inc. ("**Worldscope**," "**we**" or "**us**"), and you ("**Customer**" or "**you**"), dated as of the date you indicate acceptance in the Order ("**Effective Date**"). The Platform Terms incorporate by reference any ordering document or Order between Worldscope and Customer referencing this Agreement and accepted by Worldscope ("**Order**") and all attachments, addenda, and amendments thereto (together, the "**Agreement**"). Worldscope and Customer are sometimes referred to collectively as the "**Parties**" and individually as a "**Party**."

Worldscope and Customer agree as follows:

#### Section 1. Definitions

"**Affiliate**" means each legal entity that is directly or indirectly controlled by Customer on or after the Effective Date, for so long as such entity remains directly or indirectly controlled by Customer (where "controlled" means the ownership of, or the power to vote, directly or indirectly, a majority of any class of voting securities of a corporation or limited liability company, or the ownership of any general partnership interest in any general or limited partnership).

"**Confidential Information**" means any information that is proprietary or confidential to the Discloser or that the Discloser is obligated to keep confidential (e.g., pursuant to a contractual or other obligation owing to a third party). Confidential Information may be of a technical, business or other nature (including, but not limited to, information which relates to the Discloser's technology, research, development, products, services, pricing of products and services, employees, contractors, marketing plans, finances, contracts, legal affairs, or business affairs).

"**Customer Data**" means any data or information provided by Customer to Worldscope or otherwise pushed or used by Customer in connection with its use of the Worldscope Suite.

"**Customer System**" means Customer's systems, servers, website(s), and other equipment and software used in the conduct of its business.

"**Discloser**" means a Party that discloses any of its Confidential Information to the other Party.

"**Documentation**" means the online documentation relating to the Worldscope Suite furnished or made available by Worldscope to Customer.

"**Feedback**" means information and feedback (including, without limitation, questions, comments, suggestions, or the like) regarding the performance, features, functionality and overall Customer experience using the Worldscope Suite.

"**Intellectual Property Rights**" means any patent, copyright, trademark, service mark, trade name, trade secret, know-how, moral right or other intellectual property right under the laws of any jurisdiction, whether registered, unregistered, statutory, common law or otherwise (including any rights to sue, recover damages or obtain relief for any past infringement, and any rights under any application, assignment, license, legal opinion or search).

"**Permitted Users**" means Customer's employees and independent contractors and consultants who are not competitors of Worldscope ("**Contractors**"), and employees and Contractors of Customer's Affiliates.

"**Recipient**" means a Party that receives any Confidential Information of the other Party.

"**Worldscope Data**" means data and related analytics, reporting and other information made available to Customer through the Worldscope Platform.

"**Worldscope Platform**" means the hosted platform, that provides authorized permitted users with access to Worldscope Data and associated tools for development, analysis, and interaction.

**“Worldscape Suite”** means the Worldscape Platform (including the Worldscape Data and associated tools for analysis and interaction), Documentation, and any analytics, associated support, improvements, updates or upgrades thereto.

**“Order”** means a written order that is agreed upon by both parties describing the performance of specific Services under this Agreement.

**“Third-Party Data”** means data utilized or incorporated into the Worldscape Suite, that is sourced from non-Customer, third parties, including proprietary data sources, public data sources, and non-public data and any representation or derivative thereof.

**“Third-Party Service”** means software, information, Third-Party Data, or other services acquired or licensed by Worldscape from a third party that is included in Worldscape Suite or otherwise made available to Customer.

## **Section 2. Worldscape Suite**

**2.1. Rights to Use the Worldscape Suite.** Worldscape hereby grants to Customer a limited, nonexclusive, nontransferable, nonsublicensable, revocable right during the Term to access and use the Worldscape Suite solely for Customer’s internal business purposes and pursuant to the generally published documentation and any restrictions designated on the applicable Order.

**2.2. Permitted Users.** Customer will remain responsible for compliance by each of its Permitted Users with all of the terms and conditions of this Agreement, and any use of the Worldscape Suite by Permitted Users must be for the sole benefit of Customer. Without limiting the generality of the foregoing, Customer is responsible for all acts and omissions of Permitted Users, and any act or omission by a Permitted User will be a breach of this Agreement if that act or omission would constitute a breach of this Agreement if such act or omission were taken by Customer.

**2.3. Restrictions; Limitations.** Customer may not use the Worldscape Suite in any manner or for any purpose other than as expressly permitted by this Agreement. Without limiting the foregoing, Customer shall not, directly or indirectly, and will not attempt to: (a) modify, disassemble, decompile, reverse engineer, or otherwise make any derivative use of any element of the Worldscape Suite, except as expressly authorized by this Agreement; (b) use or access any element of the Worldscape Suite to build a competitive product, service, or any other analytical tool; (c) use any data mining, robots or similar data gathering or extraction methods, except as provided by the Worldscape Suite; (d) download any portion of the Worldscape Suite or any information contained on the Worldscape Suite (including Worldscape Data), except as expressly authorized by this Agreement; (e) perform, conduct, or disclose any performance testing or benchmarking of the Worldscape Suite; (f) remove or alter any proprietary notices from the Worldscape Suite; (g) sell, license, rent, lease, assign, distribute, display, host, disclose, outsource or otherwise commercially exploit the Worldscape Suite or any portion thereof (including Worldscape Data), except as expressly authorized in this Agreement; (h) use the Worldscape Data with any technology other than the Worldscape Suite other than for its intended use; or (i) interfere with or disrupt the integrity or performance of the Worldscape Suite. During and after the Term, Customer will not assert, nor authorize, assist or encourage any third party to assert, against Worldscape, any patent infringement or other intellectual property infringement claim regarding any element of the Worldscape Suite that Customer has used. The rights granted under this Section 2 are conditioned on Customer’s continued compliance with this Agreement and will immediately and automatically terminate if Customer does not comply with any material term or condition of this Agreement.

**2.4. Third Party Services.** Certain Worldscape Suite functionality makes available access to Third Party Services. Worldscape is not responsible for any Third Party Services, including the accuracy, validity, timeliness, completeness, reliability, availability, or quality of Third Party Services, or any intellectual property rights therein. Such Third Party Services are and shall remain valuable Intellectual Property of such third parties and no proprietary rights are being transferred to Customer hereunder. Misuses or misappropriation of such Third Party Services may cause harm to Worldscape’s licensors and may give rise to claims for damages and injunctive relief. Nothing in this Agreement shall be deemed to be a representation or warranty by Worldscape with respect to any Third Party Services.

**2.5. Changes to the Worldscape Suite.** Worldscape may, and reserves the right to, change the Worldscape Suite from time to time, including changing or removing features or functionality. Worldscape will notify Customer of any discontinuation of the Worldscape Suite.

**2.6. Suspension of Worldscape Suite.** Worldscape may, in its sole discretion, immediately suspend Customer's access to or use of the Worldscape Suite for a period of time reasonably determined by Worldscape: (a) if Customer violates a material restriction or obligation of Customer in this Agreement (including any restrictions described by Worldscape related to the Worldscape Suite, and any other policies and procedures related to Customer's access and use of the Worldscape Suite); (b) Customer is in breach of its payment obligations herein; (c) Worldscape determines in good faith that Worldscape's provision of the Worldscape Suite to Customer or Customer's use of the Worldscape Suite may be prohibited by or violate applicable law or may otherwise threaten to violate applicable law or national interest; or (d) if in Worldscape's reasonable judgment, the Worldscape Suite or any component thereof is about to suffer a significant threat to security or functionality. Worldscape may provide advance notice to Customer of any such suspension in Worldscape's reasonable discretion based on the nature of the circumstances giving rise to the suspension. Any suspension by Worldscape under this Section 2.4 will not excuse Customer from its obligation to make payment(s) under this Agreement. Any suspension under this Section shall remain in effect until the applicable breach, if curable, is cured.

### **Section 3. Data**

**3.1. Customer Data.** As between the parties, Customer shall retain all right, title and interest (including any and all intellectual property rights) in and to the Customer Data as provided to Worldscape. Subject to the terms of this Agreement, Customer hereby grants to Worldscape a non-exclusive, worldwide, royalty-free right to use, copy, store, transmit, distribute, perform and display, modify and create derivative works of the Customer Data solely to the extent necessary to provide Worldscape Suite to Customer. Except as provided in this Section 3.1, Worldscape obtains no rights under this Agreement from Customer to the Customer Data, including any related Intellectual Property Rights.

**3.2. Usage Data.** Worldscape may aggregate Customer's metadata and usage data so that the results are non-personally identifiable with respect to Customer ("**Usage Data**"). The Usage Data will be deemed Worldscape Technology, and Customer acknowledges that Worldscape may use the Usage Data (i) for its own internal, statistical analysis, (ii) to develop and improve the Worldscape Suite, and (iii) to create and distribute materials regarding the Worldscape Suite. Without Customer's prior written condition, Worldscape shall not publicly identify Customer as the source of any Usage Data.

**3.3. Security.** Worldscape has established, and will maintain during the Term, commercially reasonable administrative, physical and technical safeguards for the protection of Customer Data, including use of Third-Party Service providers to provide secure hosting services. Customer acknowledges that Customer Data is hosted and processed on a distributed network owned and maintained by Third-Party Service providers that are responsible for securing the network.

### **Section 4. Ownership**

**4.1. The Worldscape Suite.** Customer acknowledges that it is obtaining only a limited right to access the Worldscape Suite on a hosted basis and no ownership rights are being conveyed to Customer. As between Customer and Worldscape, Worldscape retains all right, title and interest (including all Intellectual Property Rights) in and to Worldscape Suite, the documentation, any other Worldscape deliverables and any and all related and underlying software (including interfaces), Worldscape Data, databases (including data models, structures, Usage Data and any other non-Customer specific data and statistical data), technology, reports and documentation and all copies, modifications and derivative works thereof (including any changes which incorporate any Feedback) (collectively, "**Worldscape Technology**"). Customer acknowledges that Worldscape Suite is offered as a hosted Suite, and Customer has no right to obtain a copy of the Worldscape Suite software or code.

**4.2. Customer System and Data.** Worldscape acknowledges that Customer Data and the Customer System and all Intellectual Property Rights therein, are the sole and exclusive property of Customer and its licensors.

**4.3. Feedback.** Customer may voluntarily provide Worldscape with Feedback and may make itself available to Worldscape on a reasonable basis for this purpose. Customer will not provide any such Feedback to any third party without Worldscape's prior written consent in each instance. Any Feedback that Customer provides to Worldscape may or may not be treated confidentially by Worldscape, and will become the sole property of Worldscape. Worldscape will own, and Customer assigns, all exclusive rights, including, without limitation, all Intellectual Property Rights, in and to Feedback and Worldscape will be entitled to the unrestricted use and dissemination of Feedback for any purpose, commercial or otherwise, without acknowledgment or compensation to

Customer.

## **Section 5. Customer Responsibilities.**

**5.1. Customer Systems.** Customer will, at its own cost and expense, procure and provide all equipment, operating systems, networking systems, servers (including cloud hosting, if applicable), and software needed for Customer to use and access the Services. Customer shall also be responsible for maintaining the security of the Customer Systems, files, and for all uses of the Customer Systems. If required, Customer shall provide Worldscape access to Customer Systems as necessary for configuration and support.

### **5.2. Customer Data.**

**5.2.1. Compliance.** Customer shall ensure that Customer's use of the Worldscape Suite and all Customer Data is at all times compliant with Customer's privacy policies and all applicable local, state, federal and international law, regulations and conventions, including without limitation those related to data privacy, international communications and the exportation of technical or personal data. Customer will provide all legally required notices to ensure that Customer and Worldscape may collect, use, and disclose Customer Data in accordance with the terms of this Agreement without violating any applicable laws, including by providing notice of a privacy policy that accurately describes how Customer collects, uses and discloses information (including Customer Data).

**5.2.2. Content.** Customer is solely responsible for the accuracy, content and legality of all Customer Data. Customer represents and warrants to Worldscape that Customer has sufficient rights in the Customer Data to authorize Worldscape to process, distribute and display the Customer Data as contemplated by this Agreement, and that the Customer Data and its use hereunder will not violate or infringe the rights of any third party.

**5.2.3. EU Data.** To the extent any Customer Data includes personal data received from the European Union ("**EU Data**"), Customer will be deemed a data controller of such EU Data and Worldscape will be deemed a data processor of such EU Data. Worldscape will only use Customer Data for as authorized under this Agreement.

## **Section 6. Confidentiality**

Each Party reserves any and all right, title and interest (including, without limitation, any Intellectual Property Rights) that it may have in or to any Confidential Information that it may disclose to the other Party under this Agreement. The Recipient will protect Confidential Information of the Discloser against any unauthorized use or disclosure to the same extent that the Recipient protects its own Confidential Information of a similar nature against unauthorized use or disclosure, but in no event will use less than a reasonable standard of care to protect such Confidential Information; provided that the Confidential Information of the Discloser is conspicuously marked or otherwise identified as confidential or proprietary upon receipt by the Recipient. The Recipient will use any Confidential Information of the Discloser solely for the purposes for which it is provided by the Discloser. This Section 10 will not be interpreted or construed to prohibit any use or disclosure of information: (a) that was known to Recipient prior to receiving the same from the Discloser in connection with this Agreement; (b) that is independently developed by the Recipient; (c) that is acquired by the Recipient from another source without restriction as to use or disclosure; (d) that is necessary or appropriate in connection with the Recipient's performance of its obligations or exercise of its rights under this Agreement; (e) that is required by applicable law (e.g., pursuant to applicable securities laws or legal process), provided that the Recipient uses reasonable efforts to give the Discloser reasonable advance notice thereof (e.g., so as to afford the Discloser an opportunity to intervene and seek an order or other appropriate relief for the protection of its Confidential Information from any unauthorized use or disclosure); or (f) that is made with the written consent of the Discloser. In the event of any breach or threatened breach by the Recipient of its obligations under this paragraph, the Discloser will be entitled to injunctive and other equitable relief to enforce such obligations.

## **Section 7. Subscription Term, Payments and Taxes**

**7.1. Subscription Term.** Each Subscription Term shall begin on the Effective Date specified in the applicable Order and continues for the period of time indicated in the Order. Unless otherwise specified in an Order, each Order will automatically renew for

successive one-year periods (each a “**Renewal Term**”) and be subject to a Fee increase of up to 7%, unless either party provides written notice to the other party of its intent not to renew at least ninety (90) days prior to the end of the then-current Subscription or Renewal Term. If Customer’s subscription is not renewed, Customer’s access to the Worldscape Suite will terminate at the end of the then-current Subscription or Renewal Term.

**7.2. Payment.** Customer’s fees for the Worldscape Suite (“**Fees**”) are specified in the applicable Order. Except as expressly set forth in Section 6 (Limited Warranty), all Fees are non-refundable. Customer agrees to pay all Fees and other charges due under this Agreement in full without any deduction, set off, counterclaim, or withholding of any kind. Worldscape will invoice Customer as indicated in the Order. Unless otherwise set forth in an Order, Customer will pay invoices within fifteen (15) days of Customer’s receipt of the corresponding invoice.

**7.3. Taxes.** All prices are shown in U.S. dollars and applicable taxes and other charges, if any, are additional. Customer is responsible for any sales, duty or other governmental taxes or fees due with respect to Customer’s purchase of access to the Worldscape Suite. Worldscape will collect applicable sales tax if it determines that Worldscape has a duty to collect sales tax. Applicable taxes will be shown on the invoice.

## **Section 8. Term and Termination**

**8.1. Term.** The term of this Agreement will commence on the Effective Date and will continue unless and until terminated as set forth in this Section 8 (the “**Term**”).

**8.2. Termination for Material Breach.** Either party may terminate an Order or this Agreement upon written notice to the other party in the event the other party commits a material breach of this Agreement and does not remedy such breach within thirty (30) days after receipt of notice from the non-defaulting party or such other period as the Parties may agree.

**8.3. Termination for Convenience.** If there are no Orders currently in effect, either Party may terminate the Term by providing at least thirty (30) days’ prior written notice of such termination. If there are any Orders currently in effect, either Party may terminate the then-current Order or the Term by providing written notice at least thirty (30) days’ prior to the last day of the applicable Order, with termination to take effect at the conclusion of the last day of the applicable Order, or, with respect to termination of the Term, at the conclusion of the last day of the Order with the latest expiration date.

**8.4. Effect of Termination.** In the event of any termination or expiration of an Order or the Agreement: (i) if an Order is terminated or expires, but not the Agreement, all of Customer’s rights under this Agreement with respect to the applicable Order will immediately terminate, the rights granted to Customer in this Agreement with respect to the applicable Order will terminate and Customer will immediately cease any access or use of the Worldscape Suite with respect to the applicable Order; (ii) if the Agreement is terminated, all Orders shall be terminated and all of Customer’s rights under this Agreement will immediately terminate, the license granted to Customer in this Agreement will terminate and Customer will immediately cease any access or use of the Worldscape Suite; (iii) except as set forth in (iv), Customer will remain responsible for the remaining balance of the charges and Fees in Customer’s Order(s) and Customer must pay within thirty (30) days all such amounts, as well as all sums remaining unpaid under the Agreement; and (iv) if Customer terminates the Agreement or an Order for material breach by Worldscape under Section 8.2 then Worldscape shall refund to Customer within thirty (30) days of termination any unused pre-paid fees on a pro rata basis.

**8.5. Survival.** SectionSection 1, 2.3, 2.6, 3.2, SectionSection 4, and Section Section 5 through Section Section 13 of this Agreement, together with any other provisions that by their nature are intended to survive, will continue to apply in accordance with their terms.

## **Section 9. Indemnification**

**9.1. By Customer.** Subject to Section 9.3, Customer will defend, indemnify, and hold harmless Worldscape from and against all claims, damages, losses, liabilities, costs, and expenses (including reasonable attorneys’ fees) arising out of or relating to any third-party claim (“**Claims**”) concerning: (a) Customer’s breach of the Agreement or other use of the Worldscape Suite other than as

permitted under this Agreement; (b) any Customer Data, other data, content, materials, or services (including third party services) which Customer provides, uploads, or inputs into the Worldscape Suite or otherwise affects, interferes with, disrupts, degrades, or impairs the performance, functionality, security, or availability of the Worldscape Suite or Worldscape's systems or networks; or (c) Customer's gross negligence, willful misconduct or fraud. Worldscape may also assume control of the defense and settlement of any claim subject to this Section 9.1 at any time. Customer's indemnity obligations under this Section 9.1 do not apply to any Claim resulting from Worldscape's gross negligence, willful misconduct, or fraud.

**9.2. By Worldscape.** Subject to Section 9.3, Worldscape will defend, indemnify, and hold harmless Customer from and against all Claims that alleges that: (a) the Worldscape Suite infringes, misappropriates, or violates any United States patent, United States trademark or United States copyright or trade secret; (b) Worldscape has suffered a security breach as a result of its failure to meet its security obligations under this Agreement and such breach resulted in a loss of sensitive, confidential, or personally identifiable Customer Data; or (c) Worldscape's gross negligence, willful misconduct or fraud. Should the Worldscape Suite become, or in Worldscape's opinion be likely to become, the subject of a claim of infringement or misappropriation, Worldscape will, at its election and expense, (1) obtain for Customer the right to continue using the Worldscape Suite, pursuant to the terms and conditions of this Agreement, or (2) replace or modify the Worldscape Suite to become non-infringing or non-misappropriating but functionally equivalent. If neither (1) nor (2) is commercially feasible, Worldscape may terminate this Agreement. Worldscape's indemnity obligations under this Section 9.2 do not apply to any Claim resulting from: (x) use of the Worldscape Suite not in accordance with this Agreement; (y) modifications, damage, misuse or other action of or at the direction of Customer; or (z) Customer's gross negligence, willful misconduct, or fraud.

**9.3. Procedures.** The obligations above are conditioned upon the indemnified party (i) providing the indemnifying party prompt written notice of the claim, (ii) authorizing the indemnifying party to control the defense and settlement of the claim, (iii) providing such assistance in connection with the defense and settlement of the claim as the indemnifying party may reasonably request, and (iv) complies with any settlement or court order made in connection with the claim. The indemnifying party shall not settle a claim without obtaining the indemnified party's prior written consent.

## **Section 10. Representations, Warranties, and Disclaimer**

**10.1. Mutual Representations and Warranties.** Each party individually represents, warrants, and covenants that: (i) it is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its formation; (ii) it does not have any contractual or other limitations that would result in a breach of contract or other limitation to the party's grant of rights, permissions, or licenses herein or performance of its obligations in this Agreement; (iii) it has the legal power to enter into this Agreement; and (iv) it will at all times comply with all applicable laws, codes, rules, and regulations.

**10.2. DISCLAIMER.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE WORLDSCAPE SUITE, INCLUDING ALL PORTIONS THEREOF, IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, AND CUSTOMER HEREBY WAIVES, RELEASES, AND DISCLAIMS, ALL OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE REGARDING THE WORLDSCAPE SUITE, AND ALL PORTIONS THEREOF, OR ANY SERVICE RELATED THERETO INCLUDING ANY WARRANTY THAT THE WORLDSCAPE SUITE, INCLUDING ANY PORTIONS THEREOF, OR ANY SERVICE RELATED THERETO WILL BE UNINTERRUPTED, ERROR FREE OR FREE OF HARMFUL COMPONENTS, OR THAT ANY MATERIALS, OR CUSTOMER DATA PROVIDED BY CUSTOMER OR A THIRD PARTY WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED, AND WORLDSCAPE AND ITS SUPPLIERS DISCLAIM ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR QUIET ENJOYMENT, AND ANY WARRANTIES ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE.

## **Section 11. Limitations of Liability; Insurance**

**11.1. Limitation of Liability.** EXCEPT WITH RESPECT TO EACH PARTY'S CONFIDENTIALITY OBLIGATIONS SET FORTH IN SECTION 6 HEREIN, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL (A) WORLDSCAPE OR ITS SUPPLIERS BE LIABLE FOR ANY DIRECT, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, OR ANY OTHER DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOSS OF USE, LOSS OF PROFITS OR LOSS OF CUSTOMER DATA, WHETHER IN AN ACTION IN CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE) OR OTHERWISE, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OF

OR INABILITY TO USE THE WORLDSCAPE SUITE, INCLUDING THE DATA, INFORMATION, CONTENT AND MATERIALS CONTAINED THEREIN, OR THE PERFORMANCE OF SERVICES, AND (B) THE AGGREGATE LIABILITY OF WORLDSCAPE OR ITS SUPPLIERS, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE, WHETHER ACTIVE, PASSIVE OR IMPUTED), PRODUCT LIABILITY, STRICT LIABILITY OR OTHER THEORY, ARISING OUT OF OR RELATING TO THIS AGREEMENT EXCEED THE AMOUNT THEN ACTUALLY PAID BY CUSTOMER TO WORLDSCAPE UNDER THE APPLICABLE ORDER DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE THE INITIAL CLAIM AROSE.

**11.2. Insurance.** Each Party will obtain and maintain such insurance policies as may be required by applicable law and at minimum as follows: (i) Commercial General Liability written on an occurrence form, including personal and advertising injury with limits of \$1,000,000 per occurrence and \$2,000,000 general aggregate; (ii) Directors and Officers Liability of \$1,000,000 per occurrence and in the aggregate; (iii) Workers Compensation Insurance or similar local scheme: Statutory Limits requirements of the state(s) or country in which service is to be performed; and (iv) Cyber Liability Errors and Omissions with limits of \$1,000,000 per occurrence and in the aggregate.

## **Section 12. Dispute Resolution Procedures.**

**12.1. Escalation.** The Parties shall use good faith efforts to resolve disputes, within twenty (20) business days of notice of such dispute. If the dispute or issue remains unresolved after ten (10) business days, either party may escalate the matter to the senior executives of each party, who have the ultimate authority and accountability for this Agreement. The senior executives shall meet or confer within ten (10) business days after the escalation, and try to negotiate a final and binding resolution. The senior executives shall document the outcome of their negotiation in writing and notify the other party of any agreed actions or remedies.

**12.2. Arbitration.** Except for (a) any dispute, cause of action, claim, or controversy relating to Customer's or Worldscope's Intellectual Property Rights, or (b) any claim for injunctive relief, if the Parties cannot resolve any such dispute within said twenty (20) business day period, the matter shall be submitted to arbitration, which shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The place of arbitration shall be Seattle, Washington. The arbitration shall be governed by the laws of the State of Washington.

## **Section 13. Miscellaneous**

**13.1. Independent Contractors.** Each Party is an independent contractor and not a partner or agent of the other. This Agreement will not be interpreted or construed as creating or evidencing any partnership or agency between the Parties or as imposing any partnership or agency obligations or liability upon either Party. Further, neither Party is authorized to, and will not, enter into or incur any agreement, contract, commitment, obligation or liability in the name of or otherwise on behalf of the other Party.

**13.2. No Third-Party Beneficiaries.** This Agreement does not create any third-party beneficiary rights in any individual or entity that is not a Party to this Agreement.

**13.3. Assignment.** Customer may not assign this Agreement or any right, interest or benefit under this Agreement without prior written consent of Worldscope. Worldscope may assign this Agreement in connection with a merger, reorganization, acquisition or other transfer of all or substantially all of such party's assets or voting securities, and to any direct or indirect parent, subsidiary or Affiliate. Any attempted assignment in violation of the foregoing will be void. Subject to the foregoing, this Agreement will be fully binding upon, inure to the benefit of and be enforceable by any permitted assignee.

**13.4. Force Majeure.** Neither Party will be liable for, nor be considered to be in breach of or default under this Agreement on account of, any delay or failure to perform as required by this Agreement as a result of any cause or condition beyond such Party's reasonable control (including, without limitation, any act or failure to act by the other Party). This paragraph will not apply to any payment obligation of either Party.

**13.5. Export Control.** The Worldscope Suite and related technology and software ("**Controlled Items**") may be subject to United States and other applicable export control laws. You agree to comply with these laws and obtain necessary licenses before exporting



or disclosing any Controlled Items. In its use of the Controlled Items, Customer agrees to comply with all export and import laws and regulations of the United States and other applicable jurisdictions. Without limiting the foregoing, (i) Customer represents and warrants that it is not listed on any U.S. government list of prohibited or restricted parties or located in (or a national of) a country that is subject to a U.S. government embargo or that has been designated by the U.S. government as a “terrorist supporting” country, (ii) Customer shall not (and shall not permit any of its Permitted Users or others) to access or use the Controlled Items in violation of any U.S. export embargo, prohibition or restriction, and (iii) Customer shall not use Controlled Items for prohibited end-uses, such as nuclear or biological weapons activities. Customer acknowledges that the United States government may revoke any export license, affecting your access to the Controlled Items.

**13.6. Nonwaiver.** The failure of either Party to insist upon or enforce performance by the other Party of any provision of this Agreement, or to exercise any right or remedy under this Agreement or otherwise by law, will not be construed as a waiver or relinquishment of such Party’s right to assert or rely upon the provision, right, or remedy in that or any other instance; rather the provision, right or remedy will be and remain in full force and effect.

**13.7. Severability.** If any provision of this Agreement is deemed unlawful, void or for any reason unenforceable, then that provision will be deemed severable from this Agreement and will not affect the validity and enforceability of any remaining provisions.

**13.8. Applicable Law.** This Agreement will be interpreted, construed and enforced in all respects in accordance with the laws of the State of Washington, without reference to its choice of law principles to the contrary. The 1980 UN Convention on Contracts for the International Sale of Goods or its successor will not apply to this Agreement. Subject to Section 12, Customer hereby consents to the exclusive jurisdiction and venue of the state and federal courts located in King County, State of Washington, with respect to any claim arising under or by reason of this Agreement.

**13.9. U.S. Government Customers and End Users.** It is the intent of Worldscape to be in compliance with all applicable laws and regulations. In entering into this Agreement, Worldscape does not seek any promises or favoritism with respect to any future engagements or procurements involving any U.S. government contract. Worldscape is entering into this Agreement with the understanding that, as a result of this Agreement, it will not be prohibited from any procurement opportunities or be subject to any reporting requirements. If any term of this Agreement is interpreted to be contrary to applicable federal procurement laws, then, such terms shall not apply with respect to the U.S. government. Without limiting the foregoing, if Customer is a government entity, (i) the Agreement shall not automatically renew as provided in Section 7.1, (ii) the indemnity obligations set forth in Section 9.1 shall not be applicable, (iii) notwithstanding Section 12, disputes under this Agreement shall be resolved in accordance with the Contracts Disputes Act, 41 U.S.C. §§ 7101-7109, (iv) the limitation of liability set forth in Section 11.1 is not intended to impair the U.S. government’s right to recover for fraud or crimes arising out of or related to this Agreement or any federal fraud statute, and (v) notwithstanding Section 13.9, the Agreement shall be governed by the federal laws of the United States. Further, notwithstanding any provision to the contrary, nothing in this Agreement, including Section 6 (above), or any separate Non-Disclosure Agreement shall be construed to prohibit or otherwise restrict the Parties, their affiliates, employees, representatives, or subcontractors from lawfully reporting waste, fraud, or abuse to a designated investigative or law enforcement representative of a federal department or agency authorized to receive such information relating to performance under any federal award or, if the Party is a publicly-traded company, from reporting such information as may be required under U.S. Securities and Exchange Commission rules and regulations. Further, Worldscape reserves all rights under the Freedom of Information Act, 5 U.S.C. § 552 and other comparable law to object to requests for disclosure of Worldscape’s Confidential Information. If Customer is a U.S. government agency, Customer agrees to give Worldscape adequate notice of a FOIA request seeking Worldscape’s Confidential Information before releasing Worldscape’s Confidential Information to a third party, in order to allow Worldscape sufficient time to seek injunctive relief or other relief against such disclosure. To the extent additional data security provisions are required by Customer that is a U.S. government entity, such provisions may be set forth in an addendum attached hereto. When the U.S. government is the Customer or an end user pursuant to a Customer’s prime contract with the U.S. government, the Federal Acquisition Regulation (“FAR”) Clause Addendum at Appendix [#] of the Order shall be incorporated into this Agreement. In the event of any inconsistency between the Agreement and Appendix [#], the terms of Appendix [#] shall take precedence.

**13.10. Entire Agreement.** This Agreement, together with any agreement, Order, or other policy or guideline referenced in this Agreement, constitutes the complete and exclusive statement of all mutual understandings between the Parties with respect to the

subject matter hereof, superseding all prior or contemporaneous proposals, communications and understandings, oral or written.

## Appendix 2

### Service Level and Support Agreement

#### Services

Pursuant to the Worldscape Suite Platform Terms, dated [DATE] between Worldscape and Customer, Worldscape will provide Customer with access to the Worldscape Suite (the “**Services**”). Unless otherwise specified, terms defined in the Worldscape Platform Terms have the same meanings when used in this Service Level Agreement with initial letters capitalized.

#### Service Availability Objective

Worldscape shall ensure that the Services are available and accessible no less than 99% of the total number of minutes in each month of the Subscription Term (“**Availability Objective**”).

For each month, the actual availability and accessibility of the Services (“**Availability**”) shall be a percentage calculated as follows:

$$Availability = \frac{(Potential\ Uptime - Downtime)}{Potential\ Uptime} \times 100$$

“**Potential Uptime**” is the number of minutes in the calendar month.

“**Downtime**” is the number of minutes that the Service was unavailable to Customer during the calendar month.

#### Scheduled Maintenance

Worldscape will endeavor to carry out maintenance work that may affect the availability of the Services (“**Scheduled Maintenance**”) between **12:00 am PT – 8:00 am PT**. Scheduled Maintenance will conform to the following limitations:

Description of Maintenance Related Limitations	Target
Minimum Notice Period prior to Scheduled Maintenance	5 Days
Maximum Number of Scheduled Maintenance action per month exceeding 15 minutes	7
Maximum Duration of any Scheduled Maintenance action in any month	8 Hours

#### Exclusions

The calculation of Downtime does not include Scheduled Maintenance or Worldscape's performance of any Customer specific or Customer requested maintenance or other services, coding, or configuration (including Professional Services covered by a Statement of Work, if any).

#### Credits

If Worldscape's does not meet the Availability Objective, Customer will be entitled to service credits equal to the value of one day of Service in the following month (“**Service Credits**”) as follows:

Availability Percentage	Service Credit
98.99 – 98.75	1
98.74 – 98.5	2
98.49 – 98.25	3
98.24 – 98	4
< 98.00%	5

In order to receive any of the Service Credits described above, Customer must notify Worldscape within thirty (30) days from the time Customer becomes eligible to receive a Service Credit. Failure to comply with this requirement will forfeit Customer's right to receive a Service Credit. The Service Credit will be applied to the bill in the month immediately following the month in which Customer has notified Worldscape that a Service Credit was earned, or will be reimbursed in such month if Services are pre-paid. Service Credits cannot be rolled over to subsequent months.

**Appendix 3**

**MSA & SOW 1**

[To be attached]

**Appendix 4**

**Federal Acquisition Regulation Clause Addendum**

[To be attached]