



## **FOXTROT SYSTEMS, INC. MASTER SUBSCRIPTION AGREEMENT**

THIS AGREEMENT GOVERNS YOUR ACQUISITION AND USE OF OUR SERVICES. THIS IS AN AGREEMENT BETWEEN YOU AND FOXTROT SYSTEMS, INC.

BY CLICKING A BOX INDICATING YOUR ACCEPTANCE OR BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, OR, FOR FREE SERVICES, BY USING SUCH SERVICES, YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS “YOU” OR “YOUR” SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES.

IF YOU REGISTER FOR A FREE TRIAL OF OUR SERVICES OR FOR FREE SERVICES, THE APPLICABLE PROVISIONS OF THIS AGREEMENT WILL ALSO GOVERN THAT FREE TRIAL OR THOSE FREE SERVICES.

This Agreement was last updated March 5, 2018. It is effective between You and Us as of the date of Your acceptance of this Agreement. The terms of this Agreement may be updated by us from time to time. The terms of this Agreement may not be amended, altered or changed by a purchase order or other instrument submitted by You, whether formally rejected by Us or not. You can review the most current version of this Agreement at any time at: <https://www.foxtrotsystems.com/MSA/>.

### **1. DEFINITIONS.**

In addition to the terms defined above and elsewhere in this Agreement, the following terms shall have the meanings set forth below:

“**Affiliate**” means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control,” for purposes of this definition, means ownership or control of more than 50% of the voting interests of the subject entity.

“**App**” means a mobile or web software application.

“**Agreement**” means this Master Subscription Agreement and any Order Form.

“**Content**” means information obtained by Foxtrot from publicly available sources or third-party content providers and made available to You through the Service.

“**Foxtrot**” means Foxtrot Systems, Inc.

“**Free Services**” means Services that Foxtrot makes available to You free of charge. Free Services exclude Services offered as a free trial and Purchased Services.

“**Malicious Code**” means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.

**“Mobile User”** means an individual who is authorized by You to use the Service via a mobile device, whether via Foxtrot’s Mobile App, an SDK mobile integration, or any other method and has been supplied a unique user identification and password by You. Mobile Users may include but are not limited to Your employees, consultants, contractors and agents or Your Affiliates.

**“Order Form”** means an ordering document or online order specifying the Services to be provided hereunder that is entered into between You and Foxtrot or any of Foxtrot’s Affiliates, including any addenda and supplements thereto.

**“Purchased Services”** means Services that You or Your Affiliates purchase under an Order Form and exclude Free Services and those services provided pursuant to a free trial.

**“Service”** means the online, web-based application provided by Foxtrot via app.foxtrot.io or Foxtrot’s mobile app and/or other designated websites or device apps.

**“User”** means an individual who is authorized by You to use the Service and has been supplied a unique user identification by You. It includes Mobile Users, Web Users and any user accessing the Service via any other method. Users may include but are not limited to Your employees, consultants, contractors and agents or Your Affiliates.

**“We”, “Us” or “Our”** means Foxtrot Systems, Inc.

**“Web User”** means an individual who is authorized by You to use the Service via Foxtrot’s Web Application and has been supplied a unique user identification by You. Users may include but are not limited to Your employees, consultants, contractors and agents or Your Affiliates.

**“Your Data”** means all electronic data or information submitted by You to the Service.

## **2. FREE TRIAL AND FREE SERVICES.**

### **2.1 Free Trial.**

If you register on Our website for a free trial or are provided a free trial, without registration, in another manner by Foxtrot, We will make our Service available to You on a trial basis free of charge until the earlier of (i) the end of the free trial period for which You registered to use the applicable Service or (ii) the start date of any Purchased Service subscription ordered by You for such Service or (iii) termination by Us in our sole discretion. Additional trial terms and conditions may appear on the trial registration web page. Any such additional terms and conditions are incorporated into this Agreement by reference.

ANY DATA YOU ENTER INTO THE SERVICE, AND ANY CUSTOMIZATIONS MADE TO THE SERVICE BY OR FOR YOU, DURING YOUR FREE TRIAL MAY BE PERMANENTLY LOST UNLESS YOU PURCHASE A SUBSCRIPTION TO THE SAME SERVICE COVERED BY THE TRIAL OR EXPORT SUCH DATA BEFORE THE END OF THE TRIAL PERIOD.

NOTWITHSTANDING SECTIONS 6.6 Indemnity. AND 8. 8. WARRANTIES AND DISCLAIMERS., DURING THE FREE TRIAL THE SERVICE IS PROVIDED “AS-IS” WITHOUT ANY WARRANTY AND FOXTROT SHALL HAVE NO INDEMNIFICATION OBLIGATIONS UNDER SECTION 6.6 WITH RESPECT TO THE SERVICE FOR THE FREE TRIAL PERIOD. WITHOUT LIMITING THE FOREGOING, FOR FREE TRIALS, FOXTROT DOES NOT REPRESENT OR WARRANT TO YOU THAT: (A) YOUR USE OF THE SERVICE DURING THE FREE TRIAL PERIOD WILL MEET YOUR REQUIREMENTS, AND (B) YOUR USE OF THE SERVICE DURING THE FREE TRIAL PERIOD WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR.

## **2.2 Free Services.**

Foxtrot may make Free Services available to You. Use of Free Services is subject to the terms and conditions of this Agreement. Free Services are provided to You without charge up to certain limits as described in the Order Form. Usage over these limits requires Your purchase of additional resources or services. You acknowledge that Foxtrot, in its sole discretion and for any or no reason, may terminate your access to the Free Services or any part thereof. You acknowledge that any termination of your access to the Free Services may be without prior notice, and you agree that Foxtrot will not be liable to You or any third party for such termination. You are solely responsible for exporting Your Data from the Free Services prior to termination of Your access to the Free Services for any reason, provided that if We terminate Your account, except as required by law, We will provide you a reasonable opportunity to retrieve Your Data.

NOTWITHSTANDING SECTIONS 6.6 Indemnity. AND 8. 8. WARRANTIES AND DISCLAIMERS., THE FREE SERVICES ARE PROVIDED “AS-IS” WITHOUT ANY WARRANTY AND FOXTROT SHALL HAVE NO OBLIGATIONS WITH RESPECT TO THE FREE SERVICES. WITHOUT LIMITING THE FOREGOING, FOXTROT DOES NOT REPRESENT OR WARRANT TO YOU THAT: (A) YOUR USE OF THE FREE SERVICES WILL MEET YOUR REQUIREMENTS, AND (B) YOUR USE OF THE FREE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR.

## **3. SERVICE.**

### **3.1 Provision of Service.**

Foxtrot shall make the Service available to You pursuant to this Agreement during the subscription term specified in the applicable Order Form. Except as set forth in an Order Form, your purchase of subscriptions is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written public comments made by Foxtrot with respect to future functionality or features.

### **3.2 Your Affiliates.**

Your Affiliates may purchase and use subscriptions subject to the terms of this Agreement by executing Order Forms hereunder.

## **4. USE OF THE SERVICE.**

### **4.1 Subscriptions.**

Unless otherwise provided in the applicable Order Form, (i) Purchased Services and access to Content are purchased as subscriptions, (ii) subscriptions for Purchased Services may be added during a subscription term at the same pricing as the underlying subscription pricing or as otherwise stated on the Order Form, and (iii) any added subscriptions will terminate on the same date as the underlying subscriptions.

### **4.2 Usage Limits.**

Services and Content are subject to usage limits, including, for example, the quantities specified in Order Forms. Unless otherwise specified, (i) a quantity in an Order Form refers to Mobile Users, and the Service or Content may not be accessed by more than that number of Mobile Users in a single calendar day, (ii) a Web User’s password may not be shared with any other individual, and (iii) except as set forth in an Order Form, a User identification may only be reassigned to a new individual replacing one who will no longer use the Service or Content. If You exceed a contractual usage limit, You authorize Us to invoice you and you agree to pay for the excess usage in accordance with Section 5.1 Fees..

Foxtrot shall: (i) without limiting its confidentiality obligations under Section 7. , not use, modify or disclose Your Data to anyone other than to You; (ii) provide basic support to You, at no additional charge; and (iii) use commercially reasonable efforts to make the Service available 24 hours a day, 7 days a week,

except for: (a) planned downtime (of which Foxtrot shall give reasonable notice via the Service and which Foxtrot shall schedule to the extent reasonably practicable during the weekend or non-peak hours); (b) emergency maintenance pursuant to third party vendor updates, including for purposes of maintaining Security of the Service; and (c) any unavailability caused by circumstances beyond Foxtrot's reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems, computer, telecommunications, Internet service provider or hosting facility failures or delays involving hardware, software or power systems not within Foxtrot's possession or reasonable control, denial of service attacks, and other force majeure events.

#### **4.3 Your Responsibilities.**

You are responsible for all activities that occur in Your accounts and for compliance with this Agreement. You shall: (i) make available to Foxtrot Your Data and other information, subject to the terms and conditions of this Agreement, which are reasonably required in order for Foxtrot to perform the Service as requested by You hereunder; (ii) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of Your Data; (iii) use commercially reasonable efforts to prevent unauthorized access to, or use of, the Service, and notify Foxtrot promptly of any such unauthorized access or use; and (iv) comply with all applicable local, state, federal and foreign laws in using the Service.

#### **4.4 Use Guidelines.**

You shall use the Service solely for its internal business purposes as contemplated by this Agreement and shall not: (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Service available to any third party, other than to Users or as otherwise contemplated by this Agreement; (ii) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material that violates third party privacy rights; (iii) send or store Malicious Code; (iv) interfere with or disrupt the integrity or performance of the Service or the data contained therein; or (vi) attempt to gain unauthorized access to the Service or its related systems or networks.

#### **4.5 Third Party Websites and Hosted Services.**

The Service may contain links to third-party websites. The linked sites are not under Foxtrot's control, and Foxtrot is not responsible for the contents of any linked site. We provide these links as a convenience only, and a link does not imply endorsement of, sponsorship of, or affiliation with the linked site by Foxtrot. You should make whatever investigation You feel necessary or appropriate before proceeding with any transaction with any of these third parties. You acknowledge that the Service is hosted by a third-party hosting provider and uses third party server hardware, disk storage, firewall protection, server operating systems, management programs, web server programs for delivery of the Service. Foxtrot may change its hosting provider at any time. Your use of the Service is subject to any restrictions imposed by the hosting provider. Notwithstanding any other provision of this Agreement, Foxtrot shall not be liable for any problems, failures, defects or errors with the Service to the extent caused by the hosting provider. You acknowledge that the fees payable for the Service reflect the fact that Foxtrot is not responsible for the acts and omissions of the hosting provider, and that Foxtrot could not afford to provide the Service at the prices offered if it were responsible for the acts or omissions of the hosting provider.

### **5. FEES AND PAYMENT.**

#### **5.1 Fees.**

You shall pay all subscription fees specified in all Order Forms. Except as otherwise expressly agreed by You and Foxtrot, all fees are quoted and payable in United States dollars. Except as otherwise expressly agreed separately or in an Order Form, fees are based on services purchased and not actual usage, fees are non-refundable, and the number of subscriptions purchased cannot be decreased during the relevant

subscription term stated on the Order Form. Additional Users may be added during a subscription term at the then-current applicable subscription fee, pro-rated beginning in the initial month in which subscription Users are added, through the remaining then-current subscription term, such that the subscription term runs co-terminus for all subscriptions.

## **5.2 Invoicing and Payment terms.**

You will provide Us with valid and updated credit card information, or with a valid purchase order or alternative document reasonably acceptable to Us. If You provide credit card information to Us, You authorize Us to charge such credit card for all Purchased Services listed in the Order Form for the initial subscription term and any renewal subscription term(s) under Section 10.2 Term of Purchased Subscriptions. Such charges shall be made in advance, either annually or in accordance with any different billing frequency stated in the applicable Order Form. If the Order Form specifies that payment will be by a method other than credit card, We will invoice You in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, invoiced charges are due thirty (30) days from the invoice date. You are responsible for providing complete and accurate billing and contact information to Us and notifying Us of any changes to such information. If We do not receive or are unable to process payment when it is due, We may at our option terminate this Agreement or cease to provide Services under Section 5.4 .

## **5.3 Overdue Payments.**

Any payment not received from You by the due date may accrue (except with respect to charges then under reasonable and good faith dispute), at Foxtrot's discretion, late charges at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid.

## **5.4 Suspension of Service.**

If Your account is 30 days or more overdue (except with respect to charges then under reasonable and good faith dispute), in addition to any of its other rights or remedies, Foxtrot reserves the right to suspend the Service provided to You, until such amounts are paid in full.

## **5.5 Taxes.**

Our fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "Taxes"). You are responsible for paying all Taxes associated with Your purchases hereunder. If We have the legal obligation to pay or collect Taxes for which You are responsible under this Section 5.5 Taxes., We will invoice You and You will pay that amount unless You provide Us with a valid exemption certificate authorized by the appropriate taxing authority.

## **6. RESERVATION OF RIGHTS.**

### **6.1 Reservation of Rights.**

Foxtrot reserves all rights, title and interest in and to the Service, including all related intellectual property rights. No rights are granted to You hereunder other than as may be expressly set forth herein. No rights will be granted to you hereunder by implication.

### **6.2 Your IP Rights.**

We shall not misrepresent or do or cause anything to be done that may be an infringement of or which may in any way reduce the goodwill of or damage Your IP rights. Foxtrot shall not, in particular, change the approved artworks. Foxtrot shall not acquire any goodwill or any other right related to Your IP rights, even if used for an extended period of time.

### **6.3 The Service; Restrictions.**

You shall not (i) modify, copy or create derivative works based on the Service; (ii) frame or mirror any content forming part of the Service, other than on Your own intranets or otherwise for its own internal business purposes; (iii) reverse engineer the Service; or (iv) access the Service in order to (A) build a competitive product or service, or (B) copy any ideas, features, functions or graphics of the Service.

### **6.4 Application Data.**

As between Foxtrot and You, You retain all rights, title and interest in and to all Your Data captured by the Service. Foxtrot reserves the right to collect, analyze and utilize Non-Identifiable Data (as such term is defined below) from the Service for purposes including research, benchmarking, and developing enhancements to the Services. The term "Non-Identifiable Data" shall mean data that has been compiled, extracted, modified, anonymized or aggregated in such a manner that the individual source of the data cannot reasonably be identified.

### **6.5 Suggestions.**

Foxtrot shall have a royalty-free, worldwide, transferable, sublicensable, irrevocable, perpetual license to use or incorporate into the Service any suggestions, enhancement requests, recommendations or other feedback provided by You or Your Users relating to the operation of the Service.

### **6.6 Indemnity.**

Foxtrot shall indemnify, defend and hold harmless You, and each of Your Affiliates, agents, employees, representatives, and contractors, from and against any and all claims, demands, causes of action, liabilities, losses, damages, costs, and expenses, including reasonable attorney's fees and litigation expenses, arising out of, relating to or resulting from any claim by a third-party alleging that Your use of the Service in accordance with the terms and conditions of this Agreement infringes or violates a patent, trademark, copyright, trade secret or other intellectual property right of such third-party, except to the extent such claim alleges any infringement by any of Your Data or Your intellectual property. If the Service becomes or, in Foxtrot's reasonable opinion, is likely to become subject to such a claim of infringement, Foxtrot may, at its option (i) procure for You the right to continue using the Service, (ii) replace or modify the Service to make it non-infringing without any reduction in features, functions or performance capability or (iii) if (i) or (ii) is not feasible, terminate this Agreement and/or the applicable Order Form and refund to You a pro-rated portion of the fees paid during the then-current subscription period for the Service.

### **6.7 Exclusions.**

We will have no liability arising from: (i) modification of the Service by any party other than Foxtrot, but solely to the extent the alleged infringement is caused by such modification; (ii) the combination of the Service with third-party hardware or software, but solely to the extent the alleged infringement is caused by such combination; (iii) to any unauthorized use of the Application or (iv) any third-party code provided separately with the Service.

## **7. CONFIDENTIALITY.**

### **7.1 Confidential Information**

Each party may have access to information that is confidential to the other party ("**Confidential Information**"). Confidential Information shall include, without limitation and irrespective of whether identified as confidential or not at the time of disclosure, information relating to the business of the disclosing party, including marketing, products, identity of suppliers, partners or franchisees and product or supply pricing information, any unannounced product(s) or service(s) of the disclosing party, contract information, software programs, systems, formulas, methods, know-how, processes, designs, new products, developmental work, marketing requirements, marketing plans, and all information clearly identified in

writing at the time of disclosure as confidential. Confidential Information includes the terms and conditions of this Agreement (including pricing and other terms reflected in all Order Forms hereunder) and all information received from third parties that either party is obligated to treat as confidential. A party's Confidential Information shall not include information that (i) is or becomes a part of the public domain through no act or omission of the other party; (ii) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (iii) is lawfully disclosed to the other party by a third party without restriction on disclosure; or (iv) is independently developed by the other party without use of or reference to the other party's Confidential Information. This Section will not be construed to prohibit disclosure of Confidential Information to the extent that such disclosure is necessary to enforce the disclosing party's rights under this Agreement or required by law or valid order of a court or other governmental authority; provided, however, that the responding party shall first have given written notice of the required disclosure to the other party as soon as practicable in order to afford that other party an opportunity to obtain a protective order.

## **7.2 Protection.**

The parties agree (i) not to make each other's Confidential Information available in any form to any third party; and (ii) not to use each other's Confidential Information for any purpose other than in the performance of this Agreement. Each party agrees to take commercially reasonable steps to ensure that Confidential Information is not disclosed or distributed by its employees or agents in breach of this Agreement. Each party agrees to protect the confidentiality of the Confidential Information of the other party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind (but in no event using less than reasonable care).

## **7.3 Compelled Disclosure.**

If the receiving party is compelled by law to disclose Confidential Information of the disclosing party, it shall provide the disclosing party with prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at disclosing party's cost, if the disclosing party wishes to contest the disclosure.

## **7.4 Remedies.**

If the receiving party discloses or uses (or threatens to disclose or use) any Confidential Information of the disclosing party in breach of confidentiality protections hereunder, the disclosing party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being specifically acknowledged by the parties that any other available remedies are inadequate.

## **8. WARRANTIES AND DISCLAIMERS.**

### **8.1 Warranties.**

(a) Each party represents and warrants that it has the legal power to enter into this Agreement. Foxtrot represents and warrants that (i) it will provide the Service in a manner consistent with general industry standards reasonably applicable to the provision thereof; and (ii) the functionality of the Service will not be materially decreased during a subscription term.

(b) During the first three (3) months the Service is being provided by Foxtrot to You under any Order Form, and at all times while You are paying Foxtrot for services under such Order Form, Foxtrot represents, warrants and covenants to You that (i) the Service provided in connection with such Order Form will conform in all material respects to any written user documentation for the Service provided by Foxtrot to You (as the same may be revised from time to time by Foxtrot, "User Documentation"). If the warranty in this Section is breached, then Foxtrot shall use commercially reasonable efforts to promptly remedy the problem that caused the breach. THE REMEDIES SET FORTH IN THIS SECTION SHALL BE YOUR

SOLE AND EXCLUSIVE REMEDY IN THE EVENT OF A BREACH OF THE WARRANTY SET FORTH IN THIS SECTION.

### **8.2 Disclaimer.**

EXCEPT AS EXPRESSLY PROVIDED HEREIN, FOXTROT MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

### **8.3 Additional Disclaimer.**

FOXTROT DOES NOT AND CANNOT CONTROL THE PERFORMANCE OF THE SERVICES IN AS MUCH AS THE SERVICE IS IMPACTED BY NETWORK ISSUES, DATA BANDWIDTH AND OTHER LIKE MATTERS OUTSIDE OF FOXTROT'S CONTROL (E.G. PROBLEMS FACED BY THE THIRD-PARTY HOSTING PROVIDER). IT IS POSSIBLE THAT ACTIONS BY THIRD PARTIES OUTSIDE OF FOXTROT'S CONTROL MAY IMPAIR OR DISRUPT THE SERVICES. ALTHOUGH FOXTROT WILL TAKE COMMERCIALY REASONABLE ACTIONS TO REMEDY AND MINIMIZE ANY SUCH EVENTS, FOXTROT CANNOT GUARANTEE THAT SUCH EVENTS SHALL NOT OCCUR. ACCORDINGLY, FOXTROT DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO SUCH EVENTS.

## **9. LIMITATION OF LIABILITY.**

### **9.1 Limitation of Liability.**

IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EACH PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT, EXCEED THE TOTAL AMOUNT PAID OR PAYABLE BY YOU AND YOUR AFFILIATES HEREUNDER FOR THE SERVICES GIVING RISE TO THE LIABILITY IN THE TWELVE MONTHS PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY.

### **9.2 Exclusion of Consequential and Related Damages.**

IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS, DATA, GOODWILL OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY ESSENTIAL REMEDY

## **10. TERM AND TERMINATION.**

### **10.1 Term of Agreement.**

This Agreement will continue in effect until all subscriptions granted in accordance with this Agreement have expired or been terminated or as provided below.

### **10.2 Term of Purchased Subscriptions.**

The term of each subscription shall be as specified in the applicable Order Form. Except as otherwise specified in an Order Form, subscriptions will automatically renew for additional periods equal to the expiring subscription term or one year (whichever is shorter), unless either party gives the other notice of non-renewal at least 30 days before the end of the relevant subscription term. The per-unit pricing during any renewal term will increase by up to 7% above the applicable pricing in the prior term, unless Foxtrot



provides You notice of different pricing at least 60 days prior to the applicable renewal term. Except as expressly provided in the applicable Order Form, renewal of promotional or one-time priced subscriptions will be at Foxtrot's applicable list price in effect at the time of the applicable renewal. Unless otherwise agreed to expressly by the parties, any renewal in which subscription volume for any Services has decreased from the prior term will result in re-pricing at renewal without regard to the prior term's per unit pricing.

### **10.3 Termination**

Without prejudice to any other rights or remedies available under law or at equity, either party has the right, at any time, to terminate this Agreement by written notice following a breach by the other party of this Agreement, provided such breach is not cured within thirty (30) days following written notice from the non-defaulting party to remedy such breach.

### **10.4 Outstanding Fees.**

Termination will not relieve You of the obligation to pay any fees accrued or payable to Foxtrot prior to the effective date of termination.

### **10.5 Surviving Provisions.**

The following provisions shall survive any termination or expiration of this Agreement: Sections 6. through 11. .

## **11. GENERAL PROVISIONS.**

### **11.1 Relationship of the Parties.**

The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

### **11.2 No Third-Party Beneficiaries.**

There are no third-party beneficiaries to this Agreement.

### **11.3 Notices.**

All notices required to be given hereunder to either party must be in writing and deemed given upon receipt if sent by overnight courier.

All notices sent to You hereunder must be sent to such person or position as may be designated as the primary contact in the applicable Order Form. All notices sent to Foxtrot must be sent to Foxtrot's authorized representative signing this Agreement.

### **11.4 Waiver and Cumulative Remedies.**

No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

### **11.5 Severability.**

If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

### **11.6 Assignment.**

Neither party may, directly or indirectly, in whole or in part, neither by operation of law or otherwise, assign or transfer this Agreement or delegate any of its obligations under this Agreement without the other party's written consent (not to be unreasonably withheld). Any attempted assignment, transfer or delegation without such prior written consent will be void and unenforceable. Notwithstanding the foregoing, either party may assign this Agreement in its entirety (including all Order Forms), without consent of the other party, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the other party. Subject to the foregoing in this Section, this Agreement shall be binding on the parties and their respective successors in interest and assigns. Notwithstanding any other Section in this Agreement to the contrary, any internal corporate reorganization of the either party shall not require the other party's consent so long as the successor entity becomes a wholly owned direct or indirect subsidiary of any newly created legal entity of such party related to its internal corporate reorganization; provided, for the avoidance of doubt, that such internal corporate reorganization shall not constitute a fraudulent conveyance or such similar concept.

### **11.7 Compliance with Law.**

Each party will, at its own expense, comply with any applicable law, statute, administrative order, or regulation. Without limiting the generality of the foregoing, each party (including all of its directors, executive officers, agents, and employees) agrees to, in connection with the transactions contemplated by this Agreement or in connection with any other business transaction involving them, fully comply with: (1) the U.S. Foreign Corrupt Practices Act (FCPA), and (2) the provisions of any other applicable anti-corruption laws, including but not limited to the U.K. Bribery Act of 2010. Should either party learn of or have reason to suspect that a transaction of the sort prohibited above has occurred, the knowledgeable or concerned party will immediately advise the other in writing of such knowledge or suspicion.

### **11.8 Export Control.**

You acknowledge that any technical information provided under this Agreement is subject to U.S. export laws and regulations, and You agree that it will not export or transfer such technical information in violation of such laws and regulations. Each party shall comply fully with all relevant regulations of the U.S. Department of Commerce and with the U.S. Export Administration Act to assure that the Products, Software Services, Service Website, Server Software, Remote Software, data, Map Data, Collected Data, alerts and reports are not exported in violation of U.S. law.

### **11.9 Governing Law.**

Any disputes arising under or related to this Agreement will be subject to the exclusive jurisdiction of the state and federal courts located in San Francisco County, California. This Agreement will be governed by, and interpreted in accordance with, the law of California, United States of America without regard to its conflict of laws provisions. The UN Convention on Contracts for the International Sale of Goods will not govern this Agreement.

### **11.10 Entire Agreement.**

This Agreement, including without limitation all Order Forms, constitutes the entire agreement between the parties, and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. No terms or conditions stated in Your purchase order will be incorporated into or form any part of this Agreement, and all such terms or conditions are hereby rejected by Us.

**11.11 Counterparts.**

This Agreement may be executed by facsimile and in counterparts, which taken together shall form one legal instrument.

**11.12 Attachments or Electronic Links.**

All attachments or electronic links to the Agreement to which reference is made in the Agreement are hereby incorporated, in full, into the Agreement as an integral part of the Agreement.