



THIS MAIN SERVICES AGREEMENT (“**AGREEMENT**”) IS ENTERED BETWEEN QUALIFIED.COM, INC., A DELAWARE CORPORATION, AND THE ENTITY IDENTIFIED IN THE APPLICABLE ORDER FORM FOR THE SERVICES (“**CUSTOMER**”). THIS AGREEMENT WILL BE EFFECTIVE UPON THE PARTIES’ MUTUAL EXECUTION OF THE ORDER FORM REFERENCING IT. QUALIFIED AND CUSTOMER AGREE AS FOLLOWS:

1. Definitions

“**Applicable Law**” means all applicable local, state, federal and international laws, regulations and conventions, including those related to data privacy and data transfer, international communications, and the exportation of technical or personal data.

“**Customer Content**” means content, data, and information, including text, graphics, videos, or other material, submitted, uploaded, imported, or otherwise provided to or through the Services by Customer, Users, or by a third party on behalf of or for the benefit of Customer, including End Users.

“**Customer Websites**” means Customer’s websites, applications, or other offerings owned and operated by or for the benefit of Customer through which Customer uses the Services.

“**Documentation**” means Qualified’s then-current generally available documentation, specifications, and user manuals for the Services which can be located at qualified.com/university or such other URL as Qualified may provide from time to time, as well as any documentation included in or attached to any Order Form or such other Services-related documents provided by Qualified to Customer.

“**End User**” means an individual who accesses or uses the Services on Customer Websites.

“**Order Form**” means the document describing the Services and fees to be paid by Customer and which incorporates this Agreement. In the event of a conflict of terms between this Agreement and any Order Form, the Order Form will control.

“**Services**” means any of the services provided by Qualified, including those identified in any applicable Order Form or accessed through the Qualified website or app.

“**Subscription Term**” means the term for the Services set forth in an applicable Order Form.

“**User**” means an individual employee, consultant, contractor, or agent of Customer who has been authorized by Customer to use the Services on behalf of Customer.

2. Qualified’s Obligations

2.1 Provision of the Services. Qualified will make the Services available to Customer pursuant to this Agreement, the applicable Order Form(s), and the Documentation.

2.2 Qualified Warranties. Qualified warrants the Services will perform substantially in accordance with the Documentation and will be provided in a professional and workmanlike manner. If Qualified breaches the warranties in this Section 2.2, it shall use commercially reasonable efforts to remedy the non-conformance; provided that if Qualified is unable to remedy the non-conformance, then Customer’s sole remedy, and Qualified’s sole liability, will be the termination of this Agreement for cause according to Section 6.3 and a refund according to Section 6.5.

2.3 Security. Qualified shall maintain industry standard administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Content, including protections against unauthorized disclosure or access to Customer Content.

2.4 Data Processing. The Qualified Data Processing Addendum located at qualified.com/legal/data-processing (“DPA”) constitutes part of this Agreement. Qualified shall process personally identifiable information in accordance with the DPA. Qualified may update the DPA with prior notice to Customer; provided Qualified’s obligations in the DPA shall not be materially diminished except as required by Applicable Law.

2.5 Data Destruction. Upon expiration or termination of this Agreement, Qualified shall delete or destroy Customer Content from its systems as soon as reasonably practicable, but in any event within 180 days unless further retention is required by Applicable Law.

3. Conditions of Access & Use

3.1 Access. During the Subscription Term, Customer may access and use the Services solely for its own benefit in accordance with this Agreement, the Documentation, and any applicable Order Form(s).

3.2 Restrictions on Use. Customer and its Users shall not:

- (a) sell, license, transfer, or otherwise make the Services available to a third party, except as expressly set forth in this Agreement;
- (b) violate Qualified’s intellectual property rights in the Services, including copying any part, feature, function, graphics or user interface;
- (c) use the Services in violation of Applicable Law;
- (d) use the Services to store or transmit content that is infringing, libelous, fraudulent, offensive, threatening, obscene, vulgar, lewd, invasive of another’s privacy or otherwise unlawful or objectionable;
- (e) attempt to gain unauthorized access to the Services or its related systems or networks, or probe, scan or test the vulnerability of the Services;
- (f) access or use the Services for competitive purposes or in order to build a competitive product or service;
- (g) modify or create derivative works based on the Services or any underlying software or results provided through the Services; or
- (h) decompile, disassemble, decipher, reverse-engineer or reverse assemble any portion of the Services, or otherwise attempt to derive any source code or underlying ideas or algorithms of the software or any other part of the Services (except to the extent such restriction is expressly prohibited by applicable statutory law).

3.3 Suspension for Ongoing Harm. Qualified may suspend Customer’s access and use of the Services if Qualified determines that Customer is engaging (or has engaged) in any of the prohibited activities set forth in this Agreement; provided that Qualified will provide prior notice if possible given the nature of the harm.

3.4 Customer Content. Customer shall be responsible for Customer Content that it or its Users post on or through the Services, including its legality and appropriateness. Customer represents and warrants that Customer has all necessary intellectual property rights in Customer Content and Customer Content was collected in compliance with Applicable Law. Under no circumstances will Qualified be liable in any way for any Customer Content that is transmitted or viewed while using the Services, or for User or End User misconduct while using any video features offered by Qualified.

3.5 User Accounts. Customer shall be responsible for its Users’ compliance with this Agreement and shall be responsible for activities that occur under User accounts. Customer shall be responsible for maintaining the confidentiality of any password and username given or selected in connection with the Services. Customer shall not share User passwords and usernames or allow others to use them to access the Services. Customer shall notify Qualified as soon as possible if Customer becomes aware of any unauthorized use of its password or username or any other breach of security.

3.6 Responsibility for End Users. Customer shall be responsible for the activities of End Users. Customer shall provide a privacy policy and other disclosures to End Users as required by Applicable Law with respect to the access of the Services on Customer Websites.

3.7 Affiliate Use. Customer's Affiliates may use the Services subject to this Agreement. Customer warrants it has the authority to bind those Affiliates and Customer shall be liable for the compliance of any such Affiliate with the terms of this Agreement, as if such Affiliates were parties to this Agreement. **"Affiliate"** of a party means an entity which, directly or indirectly is controlled by, controls or is under common control with that party where "control" of the party or other entity is the possession of the power to direct or cause the direction of the management and policies of the party or other entity, whether by voting, contract or otherwise.

3.8 Deployment of Code. Subject to the terms of this Agreement, Qualified grants to Customer a limited, non-transferable (except as provided in Section 13 (Assignment)), non-sublicensable, non-exclusive license during any applicable Subscription Term to copy JavaScript code provided to Customer by Qualified (**"Qualified Code"**) in the form provided by Qualified on Customer Websites solely to facilitate Customer's use of the Services in accordance with the Documentation and this Agreement. Customer must implement Qualified Code on the Customer Websites in order to enable features of the Services. Customer shall implement Qualified Code according to the Documentation. Customer acknowledges that any changes made to the Customer Websites after initial implementation of Qualified Code may cause the Services to cease working or function improperly and that Qualified will have no responsibility for the impact of any such Customer changes.

3.9 Feedback. Customer hereby grants to Qualified a royalty-free, worldwide, transferable, sublicensable, fully paid up, irrevocable, and perpetual license to use and/or incorporate into Qualified's products and services and exploit in any manner or media any suggestions, enhancement requests, recommendations or other feedback provided by Customer or Users relating to Qualified's products and services. Qualified shall not identify Customer as the source of any such feedback without Customer's prior written consent.

3.10 Third Party Applications. Qualified's Services may integrate with third party products and services not provided by Qualified ("Third Party Applications") as set forth in the Documentation. If Customer enables Qualified's Services for use with Third Party Applications, Customer agrees that Qualified may access, use, and transfer Customer Content stored by Third Party Applications for the interoperation of such Third Party Applications with Qualified's Services. Customer's use or procurement of such Third Party Applications is solely subject to an agreement between Customer and the third party provider and such terms will not apply to Qualified's Services. Qualified shall not be responsible or liable for any aspect of Third Party Applications.

3.11 Usage Data & Product Improvements. Subject to the confidentiality obligations in this Agreement, Qualified may: (a) collect and use data related to Customer's usage of the Services, excluding Customer Content; and (b) use aggregated Customer Content to improve the Services, provided Customer cannot be identified as the source of such Customer Content.

4. Fees & Payment

4.1 Fees. Customer shall pay all fees for the Services as set forth on an applicable Order Form. All payment obligations are non-cancelable and fees paid are non-refundable except as expressly set forth in this Agreement. Qualified reserves the right to modify its fees, effective as of the beginning of the next applicable Subscription Term with thirty (30) days prior notice to Customer, which may be provided by email.

4.2 Late Payment and Suspension. In the event full payment of an invoice is not received according to the payment terms in an applicable Order Form, Qualified will provide Customer with notice of non-payment. Unless the full amount has been paid within thirty (30) days after such notice, Qualified may suspend Customer's access

to the Services. Qualified will not suspend Customer's access to the Services if Customer is disputing the applicable charges reasonably and in good faith and are cooperating diligently to resolve the dispute. Any late payments will be subject to a service charge equal to 1.5% per month of the amount due or the maximum amount allowed by law, whichever is less.

4.3 Taxes. Customer is responsible for paying all taxes, and all taxes are excluded from any fees set forth in the applicable Order Form. If Customer is required by Applicable Law to withhold any taxes from Customer's payment, the fees payable by Customer will be increased as necessary so that after making any required withholdings, Qualified receives and retains (free from any liability for payment of taxes) an amount equal to the amount it would have received had no such withholdings been made.

5. Intellectual Property

5.1 Qualified Intellectual Property. Qualified retains all rights, title, interest, and any related intellectual property rights in the Services, Qualified's name, logo, or other marks (the "**Qualified Marks**"), including all modifications, enhancements, derivative works, and upgrades. Customer shall not use or register any mark, business name, domain name, or social media account name or handle which incorporates in whole or in part the Qualified Marks. In addition, information provided by Qualified as part of provision of the Services is the property of Qualified or used with permission. Customer shall not distribute, modify, transmit, reuse, download, repost, copy, or use such information, whether in whole or in part, for commercial purposes or for personal gain, without express advance written permission from Qualified.

5.2 Customer Intellectual Property. Customer retains all rights, title, interest, and any related intellectual property rights in Customer Content and Customer Websites. Customer hereby grants Qualified a non-exclusive, worldwide, royalty-free right to use, copy, store, transmit, and display the Customer Content and Customer Websites as necessary to provide the Services and as otherwise expressly permitted by this Agreement.

6. Term & Termination

6.1 Term. This Agreement will be in effect until all applicable Order Forms between the parties have expired or have been terminated.

6.2 Renewal. At the expiration of the initial Subscription Term, the Subscription Term will automatically renew for additional terms of the same duration unless either party provides the other party with written notice of non-renewal at least thirty (30) days prior to the expiration of the then-current Subscription Term.

6.3 Termination. A party may terminate this Agreement for cause (a) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (b) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation, or assignment for the benefit of creditors.

6.4 Effect of Termination or Expiration. Upon any expiration or termination of this Agreement, Customer will immediately cease use of and access to the Services and remove any Qualified Code from Customer Websites. Customer acknowledges that following the termination or expiration of this Agreement, it will have no further access to any Customer Content input into any Service.

6.5 Payment or Refund of Fees in the Event of Termination. Upon any termination or expiration of the Subscription Term, Qualified will invoice Customer for any outstanding fees for Customer's use of the Services during the Subscription Term and Customer shall promptly pay such fees. In the event Customer terminates the Agreement due to Qualified's material breach pursuant to Section 6.3, Qualified will refund any prepaid fees for the period after such termination.

6.6 Survival. The following sections will survive termination or expiration of this Agreement: Definitions, Conditions of Access & Use, Fees & Payment, Intellectual Property, Term & Termination, Confidentiality, Indemnification, Disclaimer, Limitation of Liability, Dispute Resolution, and Notice.

7. Confidentiality

7.1 Confidential Information. Confidential information means all information disclosed by a party (the “**Disclosing Party**”) or made available to the other party (the “**Receiving Party**”) that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of the disclosure (“**Confidential Information**”). Confidential Information of Customer includes Customer Content; Confidential Information of Qualified includes pricing of the Services, all non-public information regarding the Services including functionality and improvements, non-public documentation made available by Qualified, and the terms of this Agreement as negotiated.

7.2 Exceptions. Confidential Information does not include information that:

- (a) becomes generally available to the public through no fault of the Receiving Party;
- (b) is lawfully provided to the Receiving Party by a third party free of any confidentiality obligations;
- (c) was already known to the Receiving Party at the time of disclosure; or
- (d) is independently developed by the Receiving Party.

7.3 Protection of Confidential Information. The Receiving Party shall use at least the same degree of care in protecting the Disclosing Party’s Confidential Information that it uses to protect its own proprietary and confidential information, but in no event less than a reasonable standard of care. The Receiving Party shall not use or disclose any Confidential Information of the Disclosing Party, except as expressly set forth in this Agreement.

7.4 Authorized Representatives. The Receiving Party will limit access to the Confidential Information to those employees, agents, or contractors (“**Authorized Representatives**”) of such party who have a need to know and who are bound to confidentiality obligations no less restrictive than those set forth in this Agreement. The Receiving party shall be liable for a breach by its Authorized Representatives as if they were a party to this Agreement.

7.5 Legally Compelled Disclosures. The Receiving Party may disclose Confidential Information to the extent that such disclosure is required by law or by the order of a court or similar judicial or administrative body, provided that the Receiving Party promptly notifies the Disclosing Party in writing of such required disclosure (unless prohibited by law) and cooperates with the Disclosing Party if the Disclosing Party seeks an appropriate protective order.

7.6 Publicity. Qualified may use Customer’s name and logo in its marketing materials, websites, and public customer lists.

8. Indemnification

8.1 Indemnification by Qualified. Qualified will indemnify, defend, and hold Customer harmless against any claim made or brought by a third party against Customer (and its officers, directors, employees, and agents), and any resulting damages or costs (including reasonable attorneys’ fees) awarded by a court or included as part of a final settlement (each a “**Claim**”) alleging that Customer’s use of the Services infringes or misappropriates such third party’s intellectual property rights.

The foregoing obligations do not apply with respect to any Claim based on or arising from:

- (a) Customer’s breach of this Agreement;
- (b) Customer’s use of the Services combined with products, services, processes, content, or materials not authorized or supplied by Qualified; or

- (c) Customer's failure to use suitable modified or replacement Services provided by Qualified to avoid infringement.

If Customer's use of the Services is, or in Qualified's reasonable opinion is likely to become, enjoined or materially diminished as a result of an infringement proceeding, then Qualified may, at its option and at no cost to Customer:

- (a) obtain the continuing right of Customer to use the Services;
- (b) replace or modify the Services in a functionally equivalent manner so that they no longer infringe; or
- (c) terminate the Agreement with respect to the Services subject to the infringement claim in which case Qualified shall refund any pre-paid fees for the remaining portion of the Subscription Term.

This Section 8.1 states Qualified's sole and exclusive liability, and Customer's sole and exclusive remedy, for the actual or alleged infringement of any third-party intellectual property rights.

8.2. Indemnification by Customer. Customer will indemnify, defend, and hold Qualified harmless against any Claim brought against Qualified (and its officers, directors, employees, and agents) by a third party:

- (a) alleging Customer Content or Customer Websites violate its intellectual property rights;
- (b) arising from Customer's breach of Section 3.2 (Restrictions on Use); or
- (c) arising from Customer's breach of Section 3.6 (Responsibility for End Users).

8.3. Indemnification Procedures. In the event of an indemnification obligation under this Section 8, the indemnified party shall provide the indemnifying party:

- (a) prompt notice in writing of any such Claim;
- (b) sole control of the defense or settlement of such a Claim (provided that the indemnifying party may not settle or defend a Claim unless it unconditionally releases the indemnified party of all liability to any third party); and
- (c) all information and reasonable assistance at the indemnifying party's cost.

9. Disclaimer

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE SERVICES ARE PROVIDED "AS IS" AND NEITHER PARTY MAKES ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. QUALIFIED MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE SUITABILITY OR COMPLETENESS OF THE SERVICES, INCLUDING WHETHER THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE; THE RESULTS CUSTOMER MAY OBTAIN BY USING THE SERVICES; THAT THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS; OR THE PRESERVATION OR MAINTENANCE OF THE CUSTOMER CONTENT WITHOUT LOSS OR CORRUPTION.

10. Limitation of Liability

10.1 EXCLUSION OF CONSEQUENTIAL AND RELATED DAMAGES. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES INCLUDING INTERRUPTION OF BUSINESS, LOSS OF PROFITS, REVENUE, DATA, OR BUSINESS OPPORTUNITIES. THE FOREGOING DISCLAIMER WILL APPLY EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF A PARTY'S REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE.

10.2 LIABILITY CAP. EACH PARTY'S TOTAL AGGREGATE LIABILITY WILL BE LIMITED TO THE SUM OF FEES PAID BY CUSTOMER TO QUALIFIED IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE APPLICABLE CLAIM. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, BUT WILL NOT LIMIT CUSTOMER'S PAYMENT OBLIGATIONS UNDER SECTION 4 (FEES & PAYMENT).

10.3 EXCEPTIONS. THE DISCLAIMERS AND LIMITATIONS IN SUBSECTIONS 10.1 AND 10.2 SHALL NOT APPLY TO:

- (a) A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 8 (INDEMNIFICATION);
- (b) CUSTOMER'S VIOLATION OF SECTION 3.2 (RESTRICTIONS ON USE); OR
- (c) A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

11. Dispute Resolution

11.1 Amicable Resolution of Disputes. Each party agrees that prior to initiating arbitration or bringing a claim or cause of action (except for equitable relief), it shall provide written notice to the other party of an applicable dispute. Within seven (7) days of such notice, the parties must hold at least one meeting (virtually or in person) between knowledgeable executives and attempt to negotiate the dispute in good faith.

11.2 Governing Law. The laws of the state of California, without giving effect to its principles of conflicts of law, govern all adversarial proceedings arising out of this Agreement.

11.3 Arbitration. As the exclusive means of initiating adversarial proceedings to resolve any dispute arising out of this Agreement, a party may demand that the dispute be resolved by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and each party hereby consents to any such dispute being so resolved. Judgment on any award rendered in any such arbitration may be entered in any court having jurisdiction.

11.4 Injunctive Relief. Notwithstanding the parties' decision to resolve all disputes through arbitration, either party may bring an action in state or federal court to protect its intellectual property rights or Confidential Information.

11.5 Venue. Locale for arbitration shall be in San Francisco, California. For any dispute not subject to arbitration, Customer and Qualified shall submit to the personal and exclusive jurisdiction of and venue in the federal and state courts located in San Francisco County, California.

12. Notice

Notice to Qualified will be sent to legal@qualified.com and will be deemed delivered as of the date the notice is actually received. Qualified will send Customer notices at the email address provided by Customer in its Qualified subscription account information. Qualified may give electronic notices by general notice via the Services or may give electronic notices specific to Customer by email to Customer's email address(es) on record in Qualified's account information for Customer. Customer must keep all of its account information current.

13. Assignment

Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other party's prior written consent (not to be unreasonably withheld or delayed); provided, however, that either party may transfer or assign this Agreement, without the other party's consent, to an Affiliate or in connection with a merger, acquisition, divestiture, spin off, corporate reorganization, change in control or similar such transaction or sale of all or substantially all of its stock or assets related to this Agreement, provided such party provides the other party of notice of such assignment promptly after the applicable assignment and transaction have been completed.

14. General Provisions

14.1 Relationship of the Parties. The parties understand and agree that no joint venture, partnership, employment, or agency relationship exists between the parties.

14.2 Future Functionality. Customer acknowledges and agrees that its purchase of the Services is not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Qualified regarding future functionality or features.

14.3 No Waiver. No delay in exercising any right or remedy or failure to object will be considered a waiver of such right or remedy, or of any other right or remedy. A waiver on one occasion shall not be a waiver of any right or remedy on any future occasion.

14.4 Severability. If any part of this Agreement or of an Order Form is determined to be invalid or unenforceable by applicable law, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of this Agreement will continue in effect.

14.5 Entire Agreement. This Agreement (together with any Order Forms, DPA and other agreements or policies referenced herein) constitutes the entire agreement between the parties regarding the Services and supersedes all other agreements as may exist between the parties regarding the Services, including with respect to confidentiality.

14.6 No Third-Party Beneficiaries. No person or entity not a party to the Agreement will be a third-party beneficiary.

14.7 Modifications. Qualified may modify this Agreement by posting a revised version at its current URL located at qualified.com/legal/msa or by otherwise notifying Customer according to Section 12. The modified terms will become effective upon Customer's next applicable Subscription Term or as set forth in the notice. Qualified last modified this Agreement as of the date set forth in the footer of this Agreement.

14.8 Authority. Each party represents and warrants that (a) it has full corporate power and authority, and has obtained all corporate approvals, permissions, and consents necessary, to enter into this Agreement and to perform its obligations hereunder; (b) this Agreement is legally binding upon it and enforceable in accordance with its terms; and (c) the entering into and performance of this Agreement do not conflict with any agreement, instrument, judgment, or understanding, oral or written, to which it is a party or by which it may be bound.