

Dojo Five LLC

EMBEDOPS PLATFORM TERMS OF USE

These Terms of Use (the “Terms”) govern the use of the EmbedOps online software platform and services (the “Software”). The Software is owned, developed, operated, and maintained by Dojo Five LLC, a Minnesota limited liability company with its principal office in St. Paul, Minnesota, U.S.A. (“Dojo Five”) and its licensors. The Software is intended for use by Dojo Five’s customers (“Customers”) for the development and maintenance of embedded software applications and systems.

Capitalized terms that are defined in these Terms, such as “Software” or “Customer,” have the specific definitions given to them whenever they are used in these Terms. The term “Software” includes all Software components or deliverables provided by Dojo Five pursuant to a Customer Order (as defined herein) as the context requires, including all user manuals and documentation in any form.

The use of the Software is also subject to the current Dojo Five Privacy Policy, accessible via the Dojo Five corporate website.

All use of the Software by employees, contractors, agents, consultants, or other parties authorized by Customer (the “Users”) is subject to these Terms.

If Customer uses the Software to store, maintain, disseminate, send, host, transfer, or otherwise process the personally identifiable information (“Personal Information”) of any person, then Customer is responsible for ensuring that such use of the Personal Information does not violate any applicable privacy laws, rules, or regulations. Customer expressly agrees not to violate the privacy rights of any person by collecting, processing, transmitting, storing, or otherwise accessing the Personal Information of any person without such person’s express consent. All use of Personal Information is at Customer’s own risk, including any damages or losses resulting from a violation of the privacy rights of a User or any third party.

PLEASE READ THESE TERMS CAREFULLY. THESE TERMS FORM A LEGALLY BINDING AGREEMENT BETWEEN CUSTOMER AND DOJO FIVE REGARDING THE USE OF THE SOFTWARE. BY ACCESSING OR USING THE SOFTWARE, CUSTOMER ACCEPTS AND AGREES TO ABIDE BY THESE TERMS. CUSTOMERS AND USERS WHO DO NOT AGREE WITH THESE TERMS ARE NOT AUTHORIZED TO USE THE SOFTWARE.

Dojo Five provides subscription licenses (“Subscriptions”) to the Software directly to Customers. Dojo Five also provides Software support and maintenance subject to these Terms.

1. Customer Orders

Dojo Five provides the Software to Customers on the specific terms stated in one or more customer orders (the “Customer Order”). Customer Orders include a functional description of the Software, the term of the Subscription for the Software (the “Term”), the fees payable for the Software (the “Fees”), and any setup or configuration services to be provided by Dojo Five. The Customer Order also states any data or other deliverables to be provided to Dojo Five by the Customer in connection for use with the Software. References to the “Terms” made herein shall include the Customer Order as required by the context.

Subscriptions are subject to renewal and cancellation as provided by these Terms. References to “Customer” or “Customers” in these Terms shall include Users as required by the context.

Customer Orders must be signed by authorized representatives of both Dojo Five and Customer. Any changes or additions to a Customer Order must also be approved by authorized representatives of the parties. Dojo Five and Customer may enter multiple Customer Orders subject to these Terms.

Customer is required to affirmatively accept these Terms in each Customer Order.

These Terms will continue in force and effect for the full term of the applicable Subscription. Dojo Five reserves the right to change these Terms at any time in its sole business discretion. Revised Terms will be effective upon Dojo Five’s notice of the changes to Customer and Customer’s acceptance, or upon renewal or extension of a Subscription after the effective date of the changes to the Terms.

2. Customer Accounts

All Customers must have an account to use the Software (a “Customer Account”). Customers establish a Customer Account by completing the online registration process. In some instances, Dojo Five may set up a Customer Account for the Customer. Customers are responsible for assuring that their Users abide by these Terms.

All Users must have an individual user account to access and use the Software. Each User must have a username, password, and such other login or account credentials as Dojo Five may reasonably require to maintain and operate the Software. The login and account credentials will include Personal Information. We may use Personal Information to send announcements, administrative messages, and other information related to the use of the Software. Users may be able to opt out of some of these communications.

Username and password are provided solely for the access and use of the Software. Customers and Users are responsible for keeping their login and account credentials safe and secure. Customers and Users are solely responsible for all use of the Software and activities that occur through their accounts.

3. Access and Use

Subject to these Terms, Dojo Five hereby grants Customer a non-exclusive, non-sublicensable, and non-transferable right to access and use the Software for Customer’s internal business purposes for the applicable Subscription Term.

Customer may grant access to the Software to Users in its discretion subject to the usage restrictions stated herein and compliance with the remainder of these Terms. Customer is responsible and liable for all use of the Software by its Users, directly or indirectly. Any act or omission by a User that would constitute a breach of these Terms if taken by Customer will be deemed a breach of these Terms by Customer. Customer shall make all Users aware of the provisions of these Terms as applicable to their use of the Software, and shall cause Users to comply with such provisions.

“Off-Boarding Software” has the meaning and includes all components or deliverables stated in the Customer Order, if applicable. If Dojo Five provides a Customer with Off-Boarding Software upon

expiration or other termination of Customer's Subscription, Customer shall have a nonexclusive, irrevocable, fully-paid, worldwide, perpetual, and fully transferable right and license to use, execute, copy, reproduce, and modify the Off-Boarding Software for Customer's internal business purposes, including the right to create derivative versions of the Off-Boarding Software as necessary to maintain its ordinary and intended functionality. Customer shall have no right to sublicense or otherwise distribute the Off-Boarding Software without Dojo Five's consent.

Any open source or free software code ("Open Source Software") incorporated into or provided with the Software is provided subject to the express terms of the license under which Dojo Five received the Open Source Software. Customer shall be bound by the same Open Source Software license terms. For the full term of the Subscription, Dojo Five shall maintain a current record of all Open Source Software used or provided with the current version of the Software and the name of the license governing such code. Dojo Five will provide Customer with access to this record upon request.

Customer and Users shall not do any of the following: (a) attempt to rent, license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make the Software available to any third party; (b) copy or create any derivative works or improvements based on the Software, either directly or through any third party; (c) attempt to produce a source listing, decompile, disassemble, or otherwise reverse engineer the Software; (d) interfere with or disrupt the performance of the Software for any reason, or attempt to gain unauthorized access to any data using the Software; (e) transmit, transfer, or otherwise provide any virus, worm, malware, or other malicious computer code using the Software; (f) use the Software in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Rights (as defined below in Section 9), privacy rights, or other legal rights of any third party; (g) use the Software to transmit any text, files, materials, photographs, video, or other content that is unlawful, threatening, harassing, profane, tortuous, defamatory, vulgar, obscene, libelous, deceptive, fraudulent, displays sexual acts, is hateful, or that is invasive of another's privacy or publicity rights or (h) remove or obscure any notices or markings, including without limitation, copyright, trademark, or confidentiality notices, or ownership notices on any part of the Software, including any screen displayed by such Software.

Dojo Five reserves all ownership and Intellectual Property Rights worldwide in and to the Software that are not expressly granted to Customer or any third party pursuant to these Terms. Nothing in these Terms grants Customer or any third party any Intellectual Property Rights or other right, title, or interest in or to the Software by implication, waiver, or estoppel.

4. Fees and Payment Terms

Customer shall pay Dojo Five the Fees stated in the applicable Customer Order without offset or deduction. Unless the Customer Order states otherwise, all Fees are non-refundable. Customer shall make all payments in U.S. dollars on or before the due date set forth in the Customer Order. If Customer fails to make any payment when due, in addition to all other remedies that may be available: (a) Dojo Five may charge interest on the past due amount at the rate of 1.5% per month or the highest rate permitted by law, whichever is lower; and (b) Customer shall reimburse Dojo Five for all reasonable costs incurred in collecting any late payments or interest, including attorneys' fees, court costs, and collection agency fees.

The Fees and any other amounts payable by Customer exclude sales, use, excise, and other taxes Dojo Five is required to collect. Customer is responsible for all such taxes, and any other charges of any kind imposed by any federal, state, or local governmental or regulatory authority based on the amounts

payable by Customer hereunder. Customer has no responsibility for any taxes imposed on Dojo Five's income.

5. Software Availability, Support, and Maintenance

Dojo Five will provide email and text support for the Software from 9:00 a.m. to 5:00 p.m. U.S. Central Time, Monday through Friday, excluding U.S. federal holidays. Support will include assistance with general usage and functionality issues, and software error reporting and fixes. Dojo Five will make commercially reasonable efforts to correct or fix reported software errors promptly after being notified of a problem.

Dojo Five will maintain and upgrade the functionality of the Software as it determines in its sole business discretion. Dojo Five may add or remove functionality or features and may suspend or stop some functionality. If functionality is to be discontinued, Dojo Five will give Customers reasonable advance notice when possible.

Dojo Five will bear all cost of hosting, maintaining, and operating the Software, including Internet bandwidth, server computers, and network equipment. Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access, or otherwise use the Software via the Internet, including, without limitation, servers and other electronic devices, operating systems, web server software, network access, and the like (the "Equipment"). In addition to the Fees payable pursuant to a Customer Order, Customer will be responsible for all Equipment, network, and other costs necessary for Customer and Users to access and use the Software.

Dojo Five is not obligated to provide Customer with any training, consulting, professional services, or other services related to the use of the Software unless the parties specifically agree otherwise in a separate written agreement.

6. Customer Data

Customer is responsible for all information, software code, electronic files, and other data, in any form or medium, that Users manage, use, develop, store, maintain, or otherwise process using the Software (the "Customer Data"). Customer is responsible for ensuring that the processing of the Customer Data does not violate the Intellectual Property Rights or other rights of any third party. Customer has sole responsibility for the accuracy, quality, integrity, and legality of the Customer Data. Customer grants Dojo Five a royalty-free, worldwide, non-exclusive right and license to make, use, copy, store, maintain, transmit, and otherwise process the Customer Data as necessary to provide the Software functionality to Customer and perform its other obligations under these Terms.

Dojo Five shall make commercially reasonable efforts to secure, protect, and maintain the integrity of the Customer Data stored and maintained for use with the Software. Customer and Users are responsible for maintaining the confidentiality of all usernames and passwords required to access and use the Software. If the confidentiality of such information is compromised, Customer shall promptly notify Dojo Five. Customer is responsible for all use of the Software occurring through Customer's User accounts.

All Customer Data shall comply with the following standards, and with all applicable federal, state, local, and international laws and regulations. Each Customer represents, warrants, and agrees as follows:

(a) Customer owns or has secured all Intellectual Property Rights necessary for Customer's use of the Customer Data with the Software as intended;

(b) Customer's use of Customer Data with the Software, and the Customer Data itself, does not and will not infringe any patent, trademark, trade secret, copyright, other Intellectual Property Rights, or other legal rights of any other person;

(c) The Customer Data does not and will not contain any content or material that is unlawful, threatening, harassing, profane, obscene, indecent, abusive, tortuous, defamatory, libelous, deceptive, fraudulent, or that violates a person's privacy, or publicity rights;

(d) The Customer Data does not and will not promote sexually explicit or pornographic material, violence, or discrimination based on race, sex, religion, nationality, disability, sexual orientation, or age;

(e) The Customer Data will not promote or assist in any illegal or unlawful acts; and

(f) The Customer Data does not and will not contain a software virus, worm, malware, or other malicious software code.

Customer is responsible for ensuring that Customer and the User's use of the Customer Data with the Software does not violate any applicable privacy laws, rules, or regulations. Customer expressly agrees not to violate the privacy rights of any person by collecting, processing, transmitting, storing, or otherwise accessing the personally identifiable information of any person without such person's express consent. All use of the Customer Data is at Customer's own risk, including any damages or losses Customer sustains resulting from a violation of the privacy rights of a User or any third party.

Dojo Five shall secure, protect, and maintain the integrity of the Customer Data stored and maintained for use with the Software. Customer and Users are responsible for maintaining the confidentiality of all usernames and passwords required to access and use the Software. If the confidentiality of such information is compromised, Customer shall promptly notify Dojo Five. Customer is responsible for all use of the Software occurring through Customer's User accounts.

7. Confidentiality

Dojo Five and Customer may exchange or have access to certain confidential or proprietary technical, product, financial, and business information of each other ("Confidential Information"). Confidential Information is limited to information which is clearly marked "confidential" or "proprietary" in any readable form, or which a person exercising reasonable business judgment would have understood to be confidential or proprietary under the circumstances of the disclosure.

Dojo Five and Customer will each hold all Confidential Information of the disclosing party (the "Discloser") in strict confidence and will only use it to perform their respective obligations and exercise their rights under these Terms. The party receiving Confidential Information (the "Receiver") may only disclose it to its employees, agents, consultants, and professional advisors who have a good faith need to know such information for the purposes of these Terms, provided the person receiving the information has a confidentiality obligation to the Receiver which is at least as protective of the

Discloser's rights under these Terms. The Receiver shall protect and safeguard Confidential Information against unauthorized disclosure by procedures no less stringent than those it uses for protecting its own confidential or proprietary information of a similar nature, and in any event by use of no less than a reasonable degree of care.

These Terms impose no obligation with respect to information which the Receiver can establish by legally sufficient evidence: (a) is now or hereafter becomes generally known or available to the public through no act or omission by the Receiver; (b) was known by the Receiver prior to receipt from the Discloser and without restriction as to its use or disclosure; (c) is rightfully acquired by the Receiver from a third party who has the right to disclose it and who discloses it without restriction as to its use or disclosure; or (d) is independently developed by the Receiver without access to or use of the Discloser's Confidential Information.

Dojo Five and Customer each retain all Intellectual Property Rights in and to their respective Confidential Information.

The confidentiality provisions of these Terms shall survive the termination of Customer's Subscription for a period of three (3) years, except that Confidential Information qualifying as a trade secret under applicable law shall be protected pursuant to these Terms for as long as it retains such status.

8. Performance Data.

Dojo Five may monitor the functionality and usage of the Software to compile anonymous, aggregated performance information concerning the Software ("Performance Data"). Dojo Five will have an unrestricted right to store, analyze, evaluate, and use the Performance Data to improve the features, performance, and functionality of the Software, and for other product development and research purposes. The Performance Data shall not include confidential information of Customer, Customer Data, or any information that could be used to identify Customer or any Personal Information. Performance Data that has been anonymized according to industry best practices is not considered "Customer Data" for purposes of these Terms.

9. Intellectual Property Rights

As used in these Terms, "Intellectual Property Rights" means all worldwide rights in intangible property existing by statute, common law, or contract whether or not registered or perfected, including all (a) patent or other rights in inventions; (b) rights in works of authorship including copyrights and mask work rights; (c) trade secret rights; and (d) any other analogous or similar proprietary rights now existing, or hereafter filed, issued, or acquired.

As between Customer and Dojo Five, Dojo Five and its licensors owns all right, title, and interest in and to the Software and all deliverables stated in any Customer Order, including all Intellectual Property Rights. Customer shall only have the access and usage rights to the Software as expressly provided by these Terms. Dojo Five may use any technology, ideas, concepts, know-how, methods, and techniques related to the Software that Dojo Five learns from Customers or Users unless Dojo Five specifically agrees otherwise. Nothing in these Terms shall be construed to prevent Dojo Five from developing, marketing, selling, or licensing products or services that may include the same or similar functionality to the Software.

Customers do not have any Intellectual Property Rights in any content displayed by the Software or stored in it other than the Customer's own Customer Data.

10. Feedback and Submissions

If Customer or any Users submit comments, ideas, or feedback to Dojo Five regarding the features, functionality, or use of the Software (the "Feedback"), Dojo Five may use such Feedback without any restriction or attribution or compensation to Customer. Customer hereby assigns to Dojo Five on Customer's behalf, and on behalf of its Users, all right, title, and interest in any ideas, know-how, concepts, techniques, or other Intellectual Property Rights contained in the Feedback, for any purpose whatsoever. Dojo Five's use of the Feedback shall not require any attribution or compensation to any person. Dojo Five does not waive any rights to use similar or related ideas or Feedback previously known to Dojo Five, developed by Dojo Five, or obtained from sources other than Customers.

11. Trademarks and Publicity

"Dojo Five" is a trademark of Dojo Five. Customer may not use this trademark without the prior written permission of Dojo Five. All other names, logos, product and service names, designs and slogans used on or appearing in the Software are the trademarks of their respective owners.

Dojo Five and Customer shall obtain each other's consent before (a) issuing a formal press release announcing any business relationship, or (b) publicizing the business relationship on Dojo Five's or Customer's corporate website or in any other manner.

12. Term and Termination.

Customer's Subscription to the Software is for the Term stated in the applicable Customer Order. The subscription will automatically renew for a one (1) year Term unless either party notifies the other of its election to terminate the Subscription at least 30 days prior to the expiration of the current Term.

In addition to any other express termination right set forth in these Terms or a Customer Order:

(a) either party may terminate the Subscription, effective on written notice to the other party, if the other party materially breaches these Terms, and such breach remains uncured for 30 days after the non-breaching party provides the breaching party with notice of such breach; or (b) either party may terminate the Subscription, effective immediately upon written notice to the other party, if the other party: (i) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (ii) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (iii) makes or seeks to make a general assignment for the benefit of its creditors; or (iv) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

Upon expiration or earlier termination of the Subscription, Customer's rights to access and use the Software shall terminate. The parties shall cease using and delete, destroy, or return all copies of any Confidential Information of the other party and shall certify that it has done so in writing if requested by the other party. No expiration or termination of the Subscription will affect Customer's obligation to pay all Fees that were due before such expiration or termination, or entitle Customer to any refund.

Upon a request by Customer made within 90 days after the termination or expiration of the Subscription, Dojo Five will provide Customer with access to or an archive copy of all Customer Data stored or controlled by Dojo Five. Dojo Five shall have no obligation to maintain or provide Customer Data to Customer more than 90 days after the termination or expiration of the Subscription.

All terms and conditions of these Terms that are intended by their nature to survive the termination or expiration of Customer's Subscription, shall survive such termination or expiration.

13. Warranties and Disclaimers

Dojo Five and Customer are duly organized, validly existing and in good standing under the laws of the respective jurisdictions in which they were formed. Each party has full power and authority to agree to these Terms. The Customer Order and agreement to these Terms have been duly authorized by each party and is each such party's legal, valid, and binding obligation. Each party's obligations shall be performed in compliance with any obligations to third parties and all applicable law, rules, or regulations of any governmental entity or agency.

Dojo Five warrants that the Software (a) will perform in substantial compliance with the functional description stated in the Customer Order for the Term; and (b) will be provided in compliance with all applicable laws, rules, and regulations.

The warranties set forth in this Section 13 do not apply and become null and void if Customer breaches any material provision of these Terms, or if Customer or any User: (a) uses the Software on or in connection with any hardware or software not specified for use by Dojo Five in writing; (b) modifies or damages the Software; or (c) misuses the Software, including any use of the Software other than as specified or expressly authorized by Dojo Five in writing.

If the Software fails to comply with the warranty in this Section 13, and such failure is not excluded from warranty coverage pursuant to the preceding paragraph, Dojo Five shall either: (a) repair or replace the Software, provided that Customer provides Dojo Five with all information Dojo Five reasonably requests to resolve the failure, including sufficient information to enable Dojo Five to recreate such failure; or (b) refund the Fees paid for the Software for the period during which the failure occurred, subject to Customer's ceasing further use of the Software. The remedies set forth in this this section are Customer's sole remedies and Dojo Five's sole liability for breaches of the limited warranty stated in this Section 13.

EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 13, THE SOFTWARE IS PROVIDED "AS IS" AND DOJO FIVE HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. DOJO FIVE SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. DOJO FIVE MAKES NO WARRANTY THAT THE SOFTWARE WILL OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.

14. Indemnification

Dojo Five shall indemnify, defend, and hold harmless Customer, its officers, directors, employees, agents, successors, and permitted assigns (each, a "Customer Indemnitee") from and against any and all

losses, damages, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable legal fees and costs (collectively, "Losses") incurred by a Customer Indemnitee arising out of or relating to any claim, legal action, demand, arbitration, audit, litigation, citation, or investigation of any nature, civil, criminal, administrative, regulatory, or other, whether at law, in equity or otherwise (collectively, an "Action") brought by a third party (other than an affiliate of the Customer Indemnitee) alleging that Customer's use of the Software pursuant to these Terms infringes the copyright, U.S. Patent, trade secret, or trademark rights of such third party.

Dojo Five's indemnification obligations under this section do not apply to any Action or Losses arising out of or relating to: (a) any modification of the Software made by Customer or anyone other than Dojo Five, or made without Dojo Five's express written approval; (b) any misuse, abuse, or misapplication of the Software on behalf of Customer, a User, or a third party; and (c) any violation of privacy laws or regulations by Customer or any unauthorized access to or use of a third-party's Personal Information under the control of Customer.

Customer shall indemnify, defend, and hold harmless Dojo Five, its officers, directors, employees, agents, successors, and permitted assigns (each, a "Dojo Five Indemnitee") from and against any and all Losses incurred by a Dojo Five Indemnitee in connection with any Action brought by a third party (other than an affiliate of a Dojo Five Indemnitee) based on any allegation of or relating to: (a) any technology, products, network or computer equipment, systems or procedures, or services used by Customer other than the Software; (b) Dojo Five's use of the Customer Data pursuant to these Terms; (c) any facts that, if true, would constitute a breach by Customer of any of Customer's representations and warranties in these Terms; negligence or willful misconduct by Customer, any User, or any third party on behalf of Customer or any User in connection with the use of the Software pursuant to these Terms and (d) the unauthorized use, loss, release, or disclosure of the personally identifiable information of any person caused by Customer's display of such information via the Software.

The parties shall indemnify each other pursuant to this Section 14 provided that: (a) the indemnitee notifies the indemnifying party promptly in writing of the Action; (b) the indemnifying party has control of the defense and all related settlement negotiations with respect to the Action, provided that, (i) the indemnitee has the right to participate in the defense of any such Action through counsel of its own choosing, and that (ii) all settlements made by the indemnifying party include a full release of all claims against and obligations of the indemnitee related to the Action; and (c) the indemnitee cooperates fully to the extent necessary, and executes all documents necessary for the defense of any such Action.

THIS SECTION STATES CUSTOMER'S SOLE REMEDIES AND DOJO FIVE'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SOFTWARE OR ANY OTHER SUBJECT MATTER OF THESE TERMS INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

15. Liability Limitations

TO THE FULLEST EXTENT ALLOWED BY LAW, DOJO FIVE AND ITS AFFILIATES, LICENSORS, EMPLOYEES, OFFICERS, DIRECTORS, AGENTS, ADVISORS, AND TECHNOLOGY CONTRACTORS WILL NOT BE LIABLE TO ANY CUSTOMER, USER, OR THIRD PARTY FOR ANY INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF ANY USE OF THE SOFTWARE, INCLUDING LOSS OF BUSINESS, REVENUE, PROFITS, USE, DATA OR OTHER ECONOMIC ADVANTAGE, IN

EACH CASE WHETHER DOJO FIVE WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES, OR WHETHER THE DAMAGES OR LOSSES WERE FORESEEABLE.

NEITHER DOJO FIVE NOR ANY CUSTOMER WILL BE LIABLE TO THE OTHER FOR ANY INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT, INCLUDING LOSS OF BUSINESS, REVENUE, PROFITS, USE, DATA OR OTHER ECONOMIC ADVANTAGE, HOWEVER THE DAMAGES ARISE, WHETHER BASED ON CONTRACT, TORT, STATUTE, OR OTHER LEGAL RIGHT, EVEN IF A PARTY HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

THE AGGREGATE LIABILITY OF DOJO FIVE TO ANY CUSTOMER OR USER FOR CLAIMS RELATING TO THE USE OF THE SOFTWARE OR THESE TERMS, WHETHER BASED ON CONTRACT, TORT, OR OTHER LEGAL RIGHT OR REMEDY, WILL BE LIMITED TO THE TOTAL FEES PAID OR OWING BY CUSTOMER FOR THE MOST RECENT ONE (1) YEAR OF THE CUSTOMER'S SUBSCRIPTION TERM.

16. Copyright Infringement Issues

If any Customer or a third party is a copyright owner and believe their copyrighted material has been used on or displayed by the Software in a manner that constitutes copyright infringement, the violation should be reported to Dojo Five by sending written and email notices to the attention of the Dojo Five Copyright Officer using the addresses provided at the end of these Terms.

The following information should be included in the notice to Dojo Five: (a) a detailed description of the allegedly infringed copyrighted material, (b) a description of the location of such material on the Software, (c) the complaining party's contact information, including address, telephone number, and email address, if any, (d) a statement that the complaining party has a good faith belief that the allegedly infringing use is not authorized by the copyright owner, its agent or the law, (e) a statement, made under penalty of perjury, affirming that the information in the notice is accurate and that the complaining party is authorized to act on the copyright owner's behalf, and (f) an electronic or physical signature of the copyright owner or someone authorized on the owner's behalf to assert copyright infringement and to submit the statement.

17. General

Dojo Five and Customer are independent contractors. These Terms are not intended to create an agency, partnership, franchise, or joint venture relationship between or among any parties. The business relationship of the parties is non-exclusive.

Any notice permitted or required under these Terms shall be deemed given on the date of personal delivery or five (5) days after deposit in the United States mail, postage fully prepaid, return-receipt requested. Notices shall be addressed to Dojo Five at its principal office address and to Customers at their street or email address of record with Dojo Five. Personal delivery of a notice via a nationally-recognized courier will be valid upon delivery provided the courier obtains a signed receipt. Notice by email shall be valid provided the sender receives an acknowledgement of receipt by a return email or by another means providing a written record.

These Terms are governed by Minnesota law and applicable U.S. federal and international laws. All legal actions to enforce or interpret these terms shall be commenced exclusively in the state or federal courts

located in Ramsey County, Minnesota. TO THE FULLEST EXTENT ALLOWED BY LAW, CUSTOMERS HEREBY CONSENT TO THE EXCLUSIVE JURISDICTION AND VENUE OF THE MINNESOTA COURTS.

Neither Dojo Five nor Customer may assign or otherwise transfer their rights and obligations under a Customer Order or these Terms without the other party's prior written consent, except that Dojo Five may assign all of its rights and obligations as part of the sale of substantially all its assets to another entity, or as part of a merger, business sale, or reorganization which results in a change in management control. Dojo Five may withhold its consent to an assignment by Customer to an actual or potential competitor of Dojo Five in its sole discretion. Any prospective assignee must be able to fulfill all of the assignor's obligations under these Terms.

These Terms shall be binding upon, and inure to the benefit of, the parties and their permitted respective successors and assigns.

Any waiver or failure by Dojo Five to exercise its rights under these Terms will not create a continuing waiver of such rights. If any provision of these Terms is held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby, and will be interpreted, to the extent possible, to achieve the purposes as originally expressed in the invalid, illegal or unenforceable provision.

Neither party shall be in default or otherwise liable for any delay in or failure of its performance under these Terms where such delay or failure arises by reason of any Act of God, or any government or any governmental body, acts of the common enemy, the elements, strikes or labor disputes, or other similar or dissimilar cause beyond the control of such party.

The Software may be subject to U.S. export control laws, including the U.S. Export Administration Act and its associated regulations. Customer shall not, directly or indirectly, export, re-export, or release the Software to, or make the Software accessible from, any jurisdiction or country to which export, re-export, or release is prohibited by law, rule, or regulation. Customer shall comply with all applicable federal laws, regulations, and rules, and complete all required undertakings, prior to exporting, re-exporting, releasing, or otherwise making the Software available outside the U.S.

A breach or threatened breach by either party of these Terms may cause the other party irreparable harm for which money damages would not be an adequate remedy, and in such case the party claiming irreparable harm may seek equitable relief in a court having jurisdiction of the matter. Equitable remedies such as a restraining order, injunction, or specific performance are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise.

Customer Orders and any other agreements between or among the parties may be executed concurrently in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A signature by a party to a Customer Order or any document that is recorded or made and delivered solely in electronic form shall have the same effect and create the same binding legal obligation as a signature made and delivered in person.

These Terms and the applicable Customer Order state Dojo Five's entire agreement with Customer concerning Customer's access to and use of the Software. These Terms supersede all prior and contemporaneous oral or written terms, conditions, representations, warranties, and agreements regarding Customer's Subscription.

Contact Information

Questions, comments or concerns about these Terms of Use and related matters may be sent to Dojo Five at the following street or email address:

Dojo Five Media Systems, Inc.
413 Wacouta St., Suite 300
St. Paul, Minnesota 55101
hello@dojofive.com

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