



## OPEN LMS MASTER AGREEMENT FOR ALL PRODUCTS AND SERVICES

The terms of this Master Agreement (“Agreement”) and any accompanying LTG order form (“Order Form”) form the entire agreement between the customer entity (“Customer” or “you”) and the LTG entity (“LTG, or “we”) that are each a party to such Order Form, in relation to the products and/or services set out in any Order Form (“Products and Services”). **LTG and Customer agree as follows.**

### 1 Definitions.

“**Affiliate**” means an entity that directly or indirectly controls, is controlled by, or is under common control with, a party to this Agreement. For purposes of the foregoing, “control” means the ownership of (i) greater than fifty percent (50%) of the voting power to elect directors of the company, or (ii) greater than fifty percent (50%) of the ownership interest in the company.

“**Customer Data**” means all permitted electronic data stored by Customer in the SaaS Services. Customer Data does not include Prohibited Information.

“**Documentation**” means LTG’s standard installation materials, training materials, specifications and online help documents normally made available by LTG in connection with the SaaS Services or Software, as modified from time to time by LTG.

“**Hosting Services**” has the meaning given to it in Section 2 below.

“**Order Form**” means each ordering document executed by the parties from time to time for the purchase of Products and Services. All Order Forms are incorporated by reference into this Agreement.

“**Professional Services**” has the meaning given to it in Section 2 below.

“**Prohibited Information**” means credit or debit card numbers, passwords, protected health information as defined in HIPAA (45 C.F.R. § 160.103), and information relating to a customer or consumer of a financial institution under GLBA (15 U.S.C. §§ 6801–6809).

“**SaaS Services**” has the meaning given to it in Section 2 below.

“**Software**” has the meaning given to it in Section 2 below.

“**Support Services**” has the meaning given to in Section 2 below.

### 2 Master Services Agreement Scope.

This Agreement governs (a) your rights to access and use software (“**Software**”); (b) your rights to access and use software made available under a software-as-a-service delivery model for a term (“**SaaS Services**”); (c) your rights to support and/or maintenance services which you purchase or are otherwise entitled to receive (“**Support**”); (d) any professional services (“**Professional Services**”) or (e) any managed hosting services, cloud hosting services or other hosting services (“**Hosting Services**”).

### 3 Provision of Products and Services.

LTG (and/or its relevant Affiliate) will provide Customer (and/or its relevant Affiliates) with access to the Products and Services as specified in an Order Form, all subject to this Agreement. Each Order Form, when executed by an authorized representative of the parties (or by an authorized representative of the appropriate Affiliate(s)), shall constitute a separate agreement between the parties executing such Order Form, and each such Order Form, except for any provisions herein which are specifically excluded or modified in the relevant Order Form, shall be subject to all of the terms and conditions of this Agreement. For purposes of any Order Form executed by an Affiliate of LTG, the term “LTG” as used throughout this Agreement shall mean the Affiliate that has executed such Order Form. Similarly, for the purposes of any Order Form executed by an Affiliate of Customer, the term “Customer” as used throughout this Agreement shall mean the Affiliate that has executed such Order Form.



## 4 Licenses.

- a) **License Grant.** For SaaS Services and Hosting Services, we grant you a non-exclusive, non-transferable, non-sublicensable license to access and use the SaaS Services, and/or, as applicable, the Hosting Services, made available by LTG to you on a remote-access, subscription basis via the Internet solely in support of your operations, for the term set out in the Order Form. For Software, we grant you a non-exclusive, non-transferable, non-sublicensable, license to use the Software as specified in the Order Form, for the term set out in the Order Form.
- b) **Limitations on Use.** Customer will use the SaaS Services and Software for its internal business purposes and to process information about or for the use of its own employees and contractors, and those of its Affiliates, and will not, directly or indirectly, use the SaaS Services or Software to process information about or for any other person. In using the SaaS Services and Software, Customer will: (i) not permit unauthorized use of the SaaS Services or Software, (ii) not infringe or violate the intellectual property rights, privacy, or any other rights of any third party or any applicable law, (iii) not submit publicly-visible information that is defamatory, obscene, threatening, abusive or hateful, as determined by LTG in its sole discretion, (iv) ensure that each user uses a unique user ID and password. Unless otherwise expressly permitted in an Order Form, in no event may Customer use the SaaS Services or Software to process information or records of any third party other than an Affiliate, or allow resale, timesharing, rental or use of the SaaS Services or Software in a service bureau or as a provider of outsourced services, or allow a competitor of LTG to use or have access to the SaaS Services or Software.
- c) **Ownership.** LTG retains all rights in the SaaS Services and (subject to the license granted to Customer) Software, and in all work product from related Professional Services, which Customer may use only in connection with the SaaS Services or Software. LTG may use and incorporate into the SaaS Services and Software any changes suggested by Customer personnel, without payment.
- d) **Moodle.** Moodle Open Source Software (“Moodle”) is licensed under a GNU General Public License “GPL” open source license (see <https://www.gnu.org/licenses/gpl-3.0.en.html>), Your use and distribution of Moodle is governed by the terms of the GPL license and LTG makes no representations of warranties regarding its use other than as provided in this Agreement and the Order Form.
- e) **Active Users.** Your Authorized Users may not exceed the “Active User” limit specified in the Order Form. In this context, an “Active User” means an Authorized User who has an account in the platform and is also enrolled in a visible course regardless of whether the course is currently in use by Customer. Suspended Users (a User account that is deactivated so that the User can no longer access the system until the account is activated again by the site administrator) or Users with all enrollments suspended shall not be included in the Active User count. If Customer wishes to exceed the scope of use stated in this clause, Customer shall obtain LTG’s written approval in advance and such extended use shall be subject to the payment by Customer of an additional fee as determined by LTG, acting reasonably.

## 5 Fees and Payment Terms.

- a) **Fees.** Customer shall pay the fees as specified in each Order Form. We expressly reserve the right to change the fees payable under any Order Form with respect to any renewal of Products or Services by providing you with not less than 30 days’ advance notice in writing of such change prior to the expiration of the then-current term or your right to decline to renew, whichever is earlier.
- b) **Invoicing & Payment.** All payments are due within thirty (30) days of the date of the invoice and are non-cancellable and non-refundable except as provided in this Agreement. If Customer does not pay any amount (not disputed in good faith) when due, LTG may charge interest on the unpaid amount at the rate of 1.5% per month (or if less, the maximum rate allowed by law). LTG may, twenty (20) days after written notice of such non-payment, suspend the SaaS Services and Professional Services until such payment is received, but Customer will remain obligated to make all payments due under this Agreement. Customer agrees to pay LTG’s



expenses, including reasonable attorneys and collection fees, incurred in collecting amounts not subject to a good faith dispute.

- c. **Excess Usage of SaaS Services and Software.** The SaaS Services and Software have usage limitations based on the number of users, employees or other metrics as set forth on the Order Form (“Quantity”). Customer shall maintain accurate records regarding Customer’s actual use based on the number of its users, employees or other applicable metric (“Actual Use”) and shall make such information promptly available to LTG upon request. Customer agrees to certify the Actual Use in writing upon LTG’s written request, not more than two (2) times each year. LTG may also monitor Customer’s Actual Use of the SaaS Services. Unless otherwise set forth in an Order Form, when Customer’s Actual Use exceeds the applicable Quantity, Customer shall, upon receipt of LTG’s invoice, pay additional fees on a proportionate basis for the excess use in minimum blocks of 10% of the applicable Quantity, for prior excess use and for the remainder of the term.
- d. **Taxes.** All fees are exclusive of all taxes, including federal, state and local use, sales, property, value-added, ad valorem and similar taxes related to this transaction, however designated (except taxes based on LTG’s net income). Customer agrees to pay any and all such taxes that it is obligated by law to pay. Customer will pay LTG’s invoices for such taxes whenever LTG is required to collect such taxes from Customer.
- 6 Confidentiality.** “Confidential Information” means all information and materials obtained by a party (the “Recipient”) from the other party (the “Disclosing Party”), whether in tangible form, written or oral, that is identified as confidential or would reasonably be understood to be confidential given the nature of the information and circumstances of disclosure, including without limitation Customer Data, the SaaS Services, the Software, and the terms and pricing set out in this Agreement, Order Forms and SOWs. Confidential Information does not include information that (a) is already known to the Recipient prior to its disclosure by the Disclosing Party; (b) is or becomes generally known through no wrongful act of the Recipient; (c) is independently developed by the Recipient without use of or reference to the Disclosing Party’s Confidential Information; (d) is received from a third party without restriction and without a breach of an obligation of confidentiality; or (e) is Prohibited Information. The Recipient shall not use or disclose any Confidential Information without the Disclosing Party’s prior written permission, except as necessary for the provision or use of the SaaS Services and/or the Professional Services or as otherwise allowed herein. The Recipient shall protect the confidentiality of the Disclosing Party’s Confidential Information in the same manner that it protects the confidentiality of its own confidential information of a similar nature, but using not less than a reasonable degree of care. The Recipient may disclose Confidential Information to the extent that it is required to be disclosed pursuant to a statutory or regulatory provision or court order, provided that the Recipient provides prior notice of such disclosure to the Disclosing Party, unless such notice is prohibited by law, rule, regulation or court order. As long as an Order Form is active under this Agreement and for two (2) years thereafter, and at all times while Customer Data is in LTG’s possession, the confidentiality provisions of this Section shall remain in effect.
- 7 Customer Data.** Customer retains all rights to its Customer Data, and LTG may use the Customer Data only to provide the SaaS Services and as permitted by this Agreement, and not for any other purpose. Customer is the owner and data controller for its Customer Data. Customer is responsible for the accuracy and integrity of its Customer Data, for obtaining all legally-required consents for, and complying with all data protection laws applicable to, the use of Customer Data in the SaaS Services, for examining and confirming results before using them, and for adopting procedures for identifying and preventing errors in the Customer Data. Each party will use diligence in the protection of Customer Data and in preventing any unauthorized person or entity from gaining access thereto.
- 8 Security.** Without limiting Customer’s responsibilities under this Agreement, LTG will maintain and enforce commercially reasonable physical and logical security methods and procedures as outlined in Exhibit A hereto to protect Customer Data on the SaaS Services and to secure and defend the SaaS Services against “hackers” and others who may seek to access the SaaS Services without authorization. LTG will test its systems for potential security vulnerabilities at least annually. LTG will use commercially reasonable efforts to remedy any breach of



security or unauthorized access. LTG reserves the right to suspend access to the LTG System in the event of a suspected or actual security breach. Notwithstanding any other provision, this section sets forth LTG's entire obligation to protect Customer Data on the SaaS Services. Customer will maintain and enforce commercially reasonable security methods and procedures to prevent misuse of the log-in information of its employees and other users. LTG shall not be liable for any damages incurred by Customer or any third party in connection with any unauthorized access resulting from the actions of Customer or its representatives.

**9 Prohibited Information.** Customer's use of the SaaS Services and Software does not require the entry or collection of Prohibited Information. Customer agrees not to use the SaaS Services or Software to collect or manage Prohibited Information. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, LTG DISCLAIMS ANY AND ALL LIABILITY THAT MAY ARISE FROM CUSTOMER'S USE OF THE SAAS SERVICES OR SOFTWARE TO COLLECT OR MANAGE PROHIBITED INFORMATION.

## 10 Warranties.

- a. **Authority.** Each party warrants and represents that it has all requisite legal authority to enter into this Agreement and that it shall comply with all laws applicable to its performance hereunder including all applicable laws pertaining to the collection and use of personal data.
- b. **Industry Standards and Documentation.** LTG warrants and represents that (i) it will perform the Professional Services in a professional manner in accordance with prevailing industry standards; and (ii) for a period of one year from its delivery, the SaaS Services and Software will materially conform to the specifications as set forth in the applicable Documentation. At no additional cost to Customer, and as Customer's sole and exclusive remedy for nonconformity of the SaaS Services, Software or Professional Services with this limited warranty, LTG will use commercially reasonable efforts to correct any such nonconformity, provided Customer promptly notifies LTG in writing outlining the specific details upon discovery. This limited warranty shall be void if the failure of the SaaS Services or Software to conform is caused by (i) the use or operation of the SaaS Services or Software with an application or in an environment other than as set forth in the Documentation, (ii) modifications to the SaaS Services or Software that were not made by LTG or LTG's authorized representatives.; or Customer is in material breach of this Agreement. If we are unable to remedy the non-conformity after a reasonable period of time, then your SOLE AND EXCLUSIVE REMEDY shall be to seek a refund of the fees paid for the un-remedied services.
- c. LTG will not knowingly introduce any time bomb, virus or other harmful or malicious code designed to disrupt the use of the SaaS Services or Software.
- d. **DISCLAIMER.** EXCEPT AS EXPRESSLY SET FORTH HEREIN, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. EXCEPT AS STATED IN THIS SECTION, LTG DOES NOT REPRESENT THAT CUSTOMER'S USE OF THE SAAS SERVICES OR SOFTWARE WILL BE SECURE, UNINTERRUPTED OR ERROR FREE. NO STATEMENT OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM LTG IN ANY MEANS OR FASHION SHALL CREATE ANY WARRANTY NOT EXPRESSLY AND EXPLICITLY SET FORTH IN THIS AGREEMENT.

## 11 Indemnities.

- a. **Indemnification by LTG.** If a third party brings a claim, suit, or proceeding against you, your affiliates, or your respective employees, contractors, agents or assigns (a "Customer Indemnitee") resulting from our gross negligence or willful misconduct, or alleging that any Products and Services infringe a US or European patent or a copyright under law of any jurisdiction in which you are using the applicable Products and Services, you must promptly notify us in writing and make no admission in relation to such claims. Provided that you have fulfilled all of the foregoing obligations, we shall at our own expense indemnify, defend and hold harmless such Customer Indemnitees, and in the above case of alleged infringement, at our own expense and option (a) procure for you the right to use the Products and Services; (b) modify or replace the Products and Services to



avoid infringement without materially decreasing the overall functionality of the Products and Services; or (c) refund the applicable fee paid for the applicable Products and Services for the current term and you shall cease using such Products and Services. We shall have the sole and exclusive authority to defend and/or settle any such claim or action and you will provide assistance as we may reasonably request, at our expense, provided that we will keep you informed of, and will consult with any independent legal advisors appointed by you at your own expense regarding the progress of such defense.

- b. **Indemnification by Customer.** Except to the extent prohibited by law, if a third party brings a claim, suit or proceeding against us, our affiliates, or our respective employees, contractors, agents or assigns (a “LTG Indemnitee”) resulting from (a) any use of the Products and Services beyond the scope of the license restrictions set out in this Agreement; (b) the Customer Property or any other content submitted via your account; (c) your violation of any law, gross negligence or willful misconduct; or (d) any modifications or customization of the Products and Services by any person other than us or a third party authorized by us, you shall at your own expense indemnify, defend and hold harmless such LTG Indemnitee. LTG shall have no liability (including indemnification obligations) to you for any claim to the extent arising out of (a)-(d) above.
- c. **Exclusive Remedy.** EXCEPT FOR ANY OTHER INDEMNIFICATION OBLIGATIONS SET OUT IN THIS AGREEMENT, THIS SECTION 11 STATES THE ENTIRE LIABILITY AND OBLIGATIONS OF EACH PARTY, AND THE EXCLUSIVE REMEDY OF EACH PARTY, WITH RESPECT TO CLAIMS BY ANY THIRD PARTY.

## 12 MUTUAL LIMITATION OF LIABILITIES.

- a. **Consequential Damages Limitation.** EXCEPT AS EXPRESSLY PROHIBITED BY LAW AND OTHER THAN WITH RESPECT TO A BREACH OF YOUR LICENSE OR CONTENT RESTRICTIONS, AND YOUR INDEMNITY OBLIGATIONS IN SECTION 11, IN NO EVENT WILL EITHER PARTY OR SUCH PARTY’S LICENSORS BE LIABLE FOR (A) ANY LOSS OF BUSINESS, CONTRACTS, PROFITS, ANTICIPATED SAVINGS, GOODWILL OR REVENUE; OR (B) ANY LOSS OR CORRUPTION OF DATA, OR (C) ANY INCIDENTAL, INDIRECT OR CONSEQUENTIAL LOSSES OR DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES).
- b. **Mutual Limitations of Liability.** EXCEPT AS EXPRESSLY PROHIBITED BY LAW AND OTHER THAN IN RELATION TO A BREACH OF YOUR LICENSE OR CONTENT RESTRICTIONS, YOUR INDEMNITY OBLIGATIONS IN SECTION 11, AND YOUR PAYMENT OBLIGATIONS, IN NO EVENT SHALL EITHER PARTY OR SUCH PARTY’S LICENSORS’ CUMULATIVE LIABILITY FOR ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF THE NATURE OF THE CLAIM, EXCEED THE AMOUNTS PAID BY CUSTOMER FOR THE PRODUCTS AND/OR SERVICES DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRIOR TO THE FIRST CLAIM ASSERTED UNDER THIS CLAUSE. THIS LIMITATION OF LIABILITY SHALL APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED, HAVE PROVEN INEFFECTIVE OR HAVE FAILED OF THEIR ESSENTIAL PURPOSE.

**13 CUSTOMER POLICIES AND PRACTICES.** IN NO EVENT SHALL LTG BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR THE INITIATION, PROCESSING OR RESULT OF ANY LEGAL OR ADMINISTRATIVE ACTION RELATED TO CUSTOMER’S HUMAN RESOURCES POLICIES OR PRACTICES, INCLUDING WITHOUT LIMITATION EMPLOYMENT DECISIONS, EEO POLICIES, HIRING PRACTICES, EMPLOYMENT DISCRIMINATION OR AFFIRMATIVE ACTION PLANNING.

**14 Term.** This Agreement will continue in effect for the Term of all Order Forms hereunder. Each Order Form will commence upon its effective date as set forth in the applicable Order Form and continue for the term set forth therein.

## 15 Termination.

- a. **Termination Rights.** A party may terminate any Order Form (i) for any material breach not cured within thirty (30) days following written notice of such breach, (ii) immediately upon written notice if the other party files for bankruptcy, becomes the subject of any bankruptcy proceeding or becomes insolvent, or (iii) immediately



upon written notice if the SaaS Services are unavailable due to a Force Majeure Event (defined below) for ten (10) or more consecutive business days, so long as such notice is given no later than five (5) business days after the conclusion of such Force Majeure Event.

- b. **Termination Effects.** Upon any termination, except termination by Customer under Section 15(a) above, Customer shall promptly pay all unpaid fees due through the end of the term of any applicable Order Form. Upon expiration or any termination, Customer shall remove Customer Data using the existing functionality in the SaaS Services. If Customer requires LTG's assistance, the parties will agree to the fees, format and timeline for delivery of such data. LTG will disable access to the applicable SaaS Services upon termination or expiration of the related Order Form. LTG will destroy all Customer Data within thirty (30) days after the expiration or termination of the related Order Form; provided, that LTG may retain backup copies of Customer Data for a limited period of time in accordance with LTG's then-current backup policy.

## 16 General.

- a. **Independent Contractors.** The parties are independent contractors and not agents or partners of, or joint venturers with, the other party for any purpose. Neither party shall have any right, power, or authority to act or create any obligation, express or implied, on behalf of the other party.
- b. **Notices.** All notices required under this Agreement shall be in writing and shall be delivered personally against receipt, or by registered or certified mail, or sent by nationally-recognized overnight courier service, and addressed to the party to be notified at their address set forth below. All notices and other communications required or permitted under this Agreement shall be deemed given when delivered personally, or one (1) day after being deposited with such overnight courier service, or five (5) days after being deposited by registered or certified mail, to the address set forth below the signature lines of this Agreement, or to such other address as each party may designate in writing.
- c. **Force Majeure.** Except for payment obligations hereunder, either party shall be excused from performance of non-monetary obligations under this Agreement for such period of time as such party is prevented from performing such obligations, in whole or in part, due to causes beyond its reasonable control, including but not limited to, delays caused by the other party, acts of God, war, terrorism, pandemic, criminal activity, civil disturbance, court order or other government action, third party performance or non-performance, strikes or work stoppages, provided that such party gives prompt written notice to the other party of such event. We reserve the right to reasonably charge for any and all excessive usage and/or usage beyond reasonable historical norms (yours or similarly situated clients not experiencing a Force Majeure Event or similar) and to the extent that this is in excess of our actual costs we will give you notice.
- d. **Amendment; Entire Agreement; Precedence.** No modification of, amendment or addition to this Agreement is valid or binding unless set forth in writing and executed by authorized representatives of LTG and Customer. This Agreement, including all Order Forms and documents attached hereto or incorporated herein by reference, constitutes the complete and exclusive statement of the parties' agreement as to the subject matter hereof and supersedes all proposals, requirements documents, discussions, presentations, responses to questions, or prior agreements, commitments or promises, oral, electronic or written, between the parties or provided by one party to another, relating to the subject matter hereof. Each of the parties acknowledges and agrees that in entering into this agreement it does not rely on and shall have no remedy or right of action with respect to any statement, undertaking, promise, assurance, warranty, understanding or any representation or misrepresentation (whether contractual or non-contractual and whether negligently or innocently made) relating to the subject matter of this agreement and other than as expressly set out in this agreement as a warranty, in writing or not and made by or to any person. Nothing in this clause shall, however, operate to limit or exclude any liability for fraud. Each Order Form is governed by the terms of this Agreement and in the event of a conflict or discrepancy between the terms of an Order Form and the terms of this Agreement, the Order Form shall govern. LTG objects to and rejects any additional or different terms proposed by Customer, including those contained in Customer's purchase order, acceptance, vendor portal or website. Neither LTG's



acceptance of Customer's purchase order nor its failure to object elsewhere to any provisions of any subsequent document, website, communication, or act of Customer shall be deemed acceptance thereof or a waiver of any of the terms hereof. The party's obligations hereunder are neither contingent on the delivery of any future functionality or features of the SaaS Services or Software nor dependent on any oral or written public comments made by LTG regarding future functionality or features of the SaaS Services or Software. No right or cause of action for any third party is created by this Agreement or any transaction under it.

- e. **Non-Waiver; Invalidity.** No waiver or modification of the provisions of this Agreement shall be effective unless in writing and signed by the party against whom it is to be enforced. . A waiver of any provision, breach or default by either party or a party's delay exercising its rights shall not constitute a waiver of any other provision, breach or default. If a court holds any provision of this Agreement to be illegal, invalid or unenforceable, the rest of the Agreement will remain in effect and the Agreement will be amended to give effect to the eliminated provision to the maximum extent possible.
- f. **Assignment; Subcontracting.** Neither party may assign this Agreement, in whole or in part, without the prior written consent of the other, which shall not be unreasonably withheld. However, either party may assign this Agreement to any Affiliate, or to a person or entity into which it has merged or which has otherwise succeeded to all or substantially all of its business or assets to which this Agreement pertains, by purchase of stock, assets, merger, reorganization or otherwise, and which has assumed in writing or by operation of law its obligations under this Agreement, provided that Customer shall not assign this Agreement to a direct competitor of LTG. Any assignment or attempted assignment in breach of this Section shall be void. This Agreement shall be binding upon and shall inure to the benefit of the parties' respective successors and assigns. LTG may subcontract any part of this Agreement or an underlying Order Form to any Affiliate or third party, provided that it shall remain responsible for the actions and omissions of the relevant Affiliate or third party in accordance with this Agreement.
- g. **Conflict Resolution.** The parties shall negotiate in good faith in order to seek to resolve any dispute or claim arising out of or in connection with this Agreement. If the parties do not reach settlement within 30 days, then, upon notice by either party to the other, such claim will be referred to arbitration for full and final settlement by a panel of three arbitrators appointed in accordance with the Rules of Arbitration of the International Chamber of Commerce (the "ICC Rules"). All Arbitration proceedings will be conducted pursuant to the ICC Rules and in the English language. The cost of the arbitration will be borne equally by the parties. The applicable governing law and place of the arbitration will be as follows: (a) if you acquired the applicable Product or Service in North America or South America, the governing law is Delaware unless you are located in the United States and you are legally required to be bound by the state in which you are domiciled, and in such case, the governing law shall be such state and the place of arbitration is Washington, D.C.; (b) if you acquired the applicable Product or Service in Europe, the Middle East, or Africa, the governing law is English law and the place of arbitration is London, England; (c) if you acquired the applicable Product or Service in Australia or New Zealand, the governing law is South Australia and the place of arbitration is Adelaide, South Australia; and (d) if you acquired the applicable Product or Service in a region not otherwise mentioned above, the governing law is Hong Kong and the place of arbitration is Hong Kong.
- h. **Survival.** Provisions of this Agreement that are intended to survive termination or expiration of this Agreement in order to achieve the fundamental purposes of this Agreement shall so survive.
- i. **Headings and Language.** The headings of sections included in this Agreement are inserted for convenience only and are not intended to affect the meaning or interpretation of this Agreement. The following applies only if either party is located in Quebec. Les parties aux présentes ont expressément exigé que la présente entente et tous leurs documents connexes soient rédigés en anglais. The parties to this Agreement and Order Form have requested that this Agreement and all related documentation be written in English. Customer specifically renounces any right to unilaterally resiliate or withdraw from the Agreement under article 2125- 2129 of the Civil Code of Quebec.



- j. **Contract for Services.** The parties intend this Agreement to be a contract for the provision of services and not a contract for the sale of goods. To the fullest extent permitted by law, the provisions of the Uniform Commercial Code (UCC), the Uniform Computer Information Transaction Act (UCITA), the United Nations Convention on Contracts for the International Sale of Goods, and any substantially similar legislation as may be enacted, shall not apply to this Agreement.
- k. **Audit.** Upon reasonable notice, we shall have the right to audit, at our expense, your use of the Products and Services not more than once per calendar year solely to ensure past and ongoing compliance with this Agreement.
- l. **Actions Permitted.** Except for actions for nonpayment or breach of a party's proprietary rights, no action, regardless of form, arising out of or relating to the Agreement may be brought by either party more than one year after the cause of action has accrued.





## EXHIBIT A

### **Technical and Organizational Security Measures**

LTG will only use Customer Data for the purposes of fulfilling its obligations under the Agreement. LTG will maintain and enforce physical and logical security procedures with respect to its access and maintenance of Customer Data contained on LTG servers.

LTG will use reasonable measures to secure and defend its location and equipment against “hackers” and others who may seek to modify or access the LTG servers or the information found therein without authorization. LTG will test its systems for potential security breaches at least annually.

LTG has a written information security program (“Information Security Program”) that includes administrative, technical, and physical safeguards that protect against any reasonably anticipated threats or hazards to the confidentiality of the Customer Data, and protect against unauthorized access, use, disclosure, alteration, or destruction of the Customer Data. In particular, the LTG’s Information Security Program shall include, but not be limited, to the following safeguards where appropriate or necessary to ensure the protection of Confidential Information and Personal Data:

Access Controls – policies, procedures, and physical and technical controls: (i) to limit physical access to its information systems and the facility or facilities in which they are housed to properly authorized persons and (ii) to authenticate and permit access only to authorized individuals.

Security Incident Procedures – policies and procedures to detect, respond to, and otherwise address security incidents, including procedures to monitor systems and to detect actual and attempted attacks on or intrusions into Customer Data or information systems relating thereto, and procedures to identify and respond to validated security incidents, mitigate harmful effects of security incidents, and document security incidents and their outcomes.

Contingency Planning – policies and procedures for responding to an emergency or other occurrence (for example, fire, vandalism, system failure, and natural disaster) that damages Customer Data or systems that contain Customer Data, including a data backup plan and a disaster recovery plan.

Device and Media Controls – policies and procedures that govern the receipt and removal of hardware and electronic media that contain Customer Data into and out of a LTG data center, and the movement of these items within a LTG data center, including policies and procedures to address the final disposition Customer Data.

Audit controls – hardware, software, and/or procedural mechanisms that record activity in information systems that contain or use Customer Data.

Data Integrity – policies and procedures to guard against the unauthorized disclosure, improper alteration, or unauthorized destruction of Customer Data.

Transmission Security – encryption of electronic information while in transit to guard against unauthorized access to Customer Data that is being transmitted over public communications network.



Secure Disposal – policies and procedures regarding the disposal of Customer Data, taking into account available technology that can be used to sanitize storage media such that stored data cannot be practicably read or reconstructed.

Testing – LTG shall regularly test the key controls, systems and procedures of its Information Security Program to verify that they are properly implemented and effective in addressing the threats and risks identified. Tests will be conducted or reviewed in accordance with recognized industry standards (e.g. ISO27001 or SSAE18 and their successor audit standards, or similar industry recognized security audit standards).

Adjust the Program – LTG shall monitor, evaluate, and adjust, as it deems necessary, the Information Security Program in light of any relevant changes in technology or industry security standards, the sensitivity of Customer Data, and internal or external threats to LTG or the Customer Data.

Security Training – LTG shall provide annual security awareness and data privacy training for its employees that will have access to Customer Data.

Confidentiality - LTG shall require that all LTG employees who are granted access to Customer Data undergo appropriate screening, where lawfully permitted, and enter into a confidentiality agreement prior to being granted such access.