

Revised 10/15/15

**Clarity Intelligence Partner LLC (Clarity)
End User License and Data Rights Agreement (“EULADRA”)**

Important: Please read this EULADRA carefully and print it or go to <http://www.clarityintelplatform.com/policies.pdf> to obtain a downloadable copy of the current version of this EULADRA to maintain a copy for Your records.

Parties

This EULADRA, the documentation (as defined below), and the other items incorporated by reference herein and therein (collectively, the “agreement”) is between the Clarity entity that accepts the order form for the applicable analytic business metric services (“Clarity,” “we,” or “us”) and the Managed Service Provider (MSP) or legal entity downloading, copying, and installing Clarity’s Access Software on one or more of your Subscriber Companies, and ordering, receiving or using the Clarity-produced analytic business metric services, or that clicks the “**accept**” button or check box displayed as part of the procurement, copy, installation, upgrade or update process (“You,” or “Your”). You may enter the agreement for several of Your Subscriber Companies. If You are entering into the agreement in order to provide Clarity-supplied analytic business metric services to a Subscriber Company or other legal entity, You represent that You have the authority to bind such Subscriber Company or entity, in which case the terms “You” or “Your” shall refer to such Subscriber Company or entity. Specifically, You acknowledge You have the legal authority to install the Clarity’s Access Software to access Subscriber Company’s business data and You have read and agree that the access and business data will be used in accordance with Clarity’s **Privacy Statement**, as amended from time to time.

Acceptance

Clarity is willing to license the Clarity Application and/or provide the Clarity-produced analytic business metric services to You only upon the condition that You accept all the terms contained in the agreement. By using, copying, installing, ordering, receiving or otherwise using Clarity-produced analytic business metric services, or by clicking the “**accept**” button or check box displayed as part of the procurement, installation, upgrade or update process, You accept and agree to be bound by the agreement. You represent that You have read and understand all of the provisions of the agreement. Clarity offers software and services only subject to the agreement and therefore You must accept the agreement and all of its terms including the Privacy Statement before You can download, copy, install, upgrade, update, order, receive or otherwise use the Application or Clarity-supplied analytic business metric services. If You do not agree to all of the terms of the agreement, then Clarity is unwilling to offer, license, sell or provide the Application or Clarity-produced analytic business metric services to You, and You may not download, copy, install, order, receive or use them.

1. **DEFINITIONS.** For purposes of this Agreement, the following terms shall have the following meanings whenever capitalized:

1.1 **“Software”** shall mean the Clarity Intelligence Platform (in executable code form) including the data access software, content and any other digital information provided to You by Clarity, any and all Updates, Upgrades, and any and all intellectual property rights related thereto.

1.2 **“Documentation”** shall mean the user manual, in code or printed form, any technical release notes and other technical supporting documentation to accompany the Software licensed hereunder.

1.3 **“Update”** shall mean minor version releases that implement minor improvements or augmentations or that correct failures of the Software to materially conform to the Documentation or any other applicable specifications.

1.4 **“Upgrade”** shall mean new versions of the Software containing any changes.

1.5 **“Application”** shall mean the Clarity-produced analytic business metric services.

1.6 **“MSP” or “Managed Service Provider”** shall mean You.

1.7 **“Subscriber” or “Subscriber Company”** shall mean any 3rd party that You provide cloud based services to, with intentions to install the Application and provide Clarity-produced analytic business metric services to those 3rd parties.

1.8 **“Cloud”** shall mean internet based remote storage and or remote networking functionality offered to an MSP Subscriber.

1.9 **“Clarity Access Software” or “CAS”** shall mean a program loaded onto the Subscriber Company’s server to allow access to Subscriber Company’s business data.

1.10 **“Clarity Produced Analytic Metric Data” or “Clarity Produced Data”** shall mean the anonymized data sets produced by Clarity for use in the Software.

2. **GRANT OF RIGHTS AND RESTRICTIONS.**

2.1 **License.** In this EULADRA, Clarity is licensing its web-based application product on a non-exclusive basis for use only on a web server hosted and controlled by Clarity. Clarity is at all times the owner of the Software, the Application, the CAS, and the resultant analytic business metric data and, except as specifically licensed hereby and to third parties pursuant to non-exclusive license agreements, Clarity retains all rights to the Software, the Application, and Clarity-produced analytic business metric data to include all prior and derivative versions. Subject to the terms and conditions contained in this EULADRA, and further subject to any prior

licenses or third-party agreements of Clarity with respect thereto, Clarity hereby grants to You during the term hereof, and You hereby accept, a non-exclusive, non-transferable, non-assignable, non-sublicenseable right and license to access and use the Software and/or the Application during the term of this EULADRA, solely for its cloud based services to provide to a Subscriber; provided that the use of the Software and Application shall be limited to the number of Identified Users (Subscribers) for which a license fee is paid (“Identified Users”). Any and all rights not expressly granted by Clarity to You are reserved by Clarity, and all implied licenses are disclaimed. You shall not exceed the scope of the license granted hereunder.

2.2 **Restrictions.** You shall not assign, modify, create derivative works of, sublicense, market, copy, co-brand, private label, grant third parties the right to use, frame or link to the Software or the Application, or any portion thereof, sell, lease, loan, rent, distribute, convey, publish, publicly display or otherwise transfer, or pledge as security or otherwise encumber, the rights and license granted hereunder with respect to the Software, the Application, the Clarity-produced analytic business metric data or any portion thereof. You shall not reverse engineer, decompile, reverse compile, translate, adapt or disassemble or in any way attempt to reconstruct or discover any source code or algorithms of the Software or Application, or any portion thereof, by any means whatsoever. You shall not cause, assist or permit any third party to do any of the foregoing.

2.3 **Third-Party Agreements.** You shall undertake all measures necessary to ensure that Your use of the Software and Application complies in all respects with any contractual or other legally binding obligations of Clarity to any third party of which You is aware. You shall not enter into any contractual relationship or other legally binding obligation with any third party which shall have the purpose or effect of encumbering the use by Clarity of the Software or Application or directly or indirectly compete with Clarity’s Software, the Application or the Clarity-produced analytic business metric data or services.

3. **FEES, PAYMENTS AND ACCOUNTING MATTERS.**

3.1 **Payments.** You shall pay all fees and other charges as invoiced by Clarity within fifteen (15) days after the date of the invoice. Such invoices may include, as applicable, packaging, delivery and insurance charges incurred by Clarity or its suppliers in connection with delivering the Software and Application to You. You shall, within fifteen (15) days after the date of invoice, reimburse Clarity for all reasonable out-of-pocket expenses incurred by Clarity or its suppliers in the course of providing any services hereunder. All fees shall exclude, and You shall pay, any sales, use, property, license, value added, withholding, excise or similar federal, state, local or foreign tax related to the parties’ performance of Your obligations or exercise of Your rights under this EULADRA and any related duties, tariffs, imposts and similar charges, except for taxes based on Clarity’s net income. In addition to any other rights of Clarity hereunder, Clarity may charge You interest on the outstanding balance of any overdue fees, charges or expenses at a rate equal to one and one-half percent (1.5%) per month or the highest rate permitted by applicable law, whichever is lower. You shall reimburse Clarity for all reasonable

costs and expenses incurred (including reasonable attorneys' fees) in collecting any overdue amounts. Your right to use the Application is subject to timely payment of all fees hereunder.

3.2 Verification and Audit. At Clarity's written request, You shall furnish Clarity with a certification signed by You, together with any detail or documentation supporting such certification as reasonably requested by Clarity, verifying that the Software and Application, and Clarity-produced analytic business metric data is being used in accordance with the terms and conditions of this EULADRA. You agree that Clarity and/or its representatives shall have the right to, from time to time and upon reasonable prior notice, inspect and audit all relevant equipment and records to ensure that You is in compliance with the terms and conditions of this EULADRA, including, but not limited to, any restrictions on use and payment terms. You shall identify and cooperate with Clarity (or its representatives) to provide Clarity (or its representatives) with reasonable access to all relevant equipment and records. In the event an audit reveals that Your use of the Software or Application during the period being audited has exceeded the number of licensed Identified Users or Location(s), then Clarity shall have the right to invoice You for all such excess use based on Clarity's price list in effect at the time the audit is completed and You shall promptly pay such invoice plus interest from the date the payment was first due until the date on which full payment is made, at a per annum rate equal to the prime rate of interest published in the Wall Street Journal (Eastern Edition), or any successor thereto, on such due date (the "Prime Rate"), plus three percent (3%). All inspections and audits shall be conducted at Clarity's expense unless the inspection and audit discloses an excess use of five percent (5%), or more, in which case, You shall bear the cost of the inspection and audit, including, without limitation, reasonable accountants' and attorneys' fees. In addition, Clarity shall recalculate any fees or other charges hereunder based upon the number of Identified Users and Location(s) and shall invoice You accordingly.

4. PROFESSIONAL SERVICES.

No professional services will be provided by the Clarity to the You. In the event You desires to procure any professional services from Clarity, You should contact Clarity and any such professional services will be controlled by a separate written agreement.

5. ACCESS TO THE SERVICES.

5.1 Opt In. You are entering the EULADRA for one or more of Your Subscriber Companies to provide You, for each Subscriber Company benefit, access to the Clarity-supplied analytic business metric services. You represent that You have the authority to bind each Subscriber Company as provided for herein. Specifically, You acknowledge You have the legal authority to install the CAS to access Subscriber Company's business data and for the resultant processes. Each time You access the Clarity-supplied analytic business metric services, You will be required to acknowledge and consent to Clarity's Privacy Statement and the use of the business data, as may be amended by Clarity from time to time.

5.2 **Access Information.** You shall furnish to Clarity the name and address, the login information, password and all necessary computer access parameters, the industry number by North American Industry Classification System (NAICS) of each Subscriber Company, and any other information as periodically identified and amended from time to time by Clarity within three (3) calendar days after You have installed the CAS on the computer network used by the Subscriber Company in order to initiate Your access to the Clarity-supplied analytic business metric services for that Subscriber Company.

5.3 **Third Party Expenses.** Clarity does not provide the equipment required to access the Software or Application. You, and subsequently, Subscriber Company are responsible for all fees charged by third parties related to You and Subscriber Company's access and use of the Application (e.g., charges by Internet service providers).

5.4 **Mandatory Suspension or Discontinuation Of Subscriber Company Services.** Clarity reserves the right to suspend or discontinue access to the Software, the Application and the Clarity-supplied analytic business metric services to any individual Subscriber Company for any and all reasons the Clarity deems necessary. If Clarity determines an individual Subscriber Company should be suspended or discontinued access to the Application, Clarity will notify You and You will suspend or discontinue Subscriber Company's access to the Application as soon as possible, but no later than three (3) calendar days from notification to You. Clarity will not be liable to You or Subscriber Company or any third party for any modification, suspension, or discontinuation of all or any portion of the Application.

6. **INTELLECTUAL PROPERTY.**

You acknowledge that Clarity retains exclusive ownership of all right, title and interest in and to the Software, the Application and Clarity-supplied analytic business metric data including, but not limited to, copyrights, trademarks, service marks, patents and other proprietary rights, and no such rights are conveyed to You by virtue of this EULADRA. You acknowledge that the Software and Application, whether in source code, object code, generic code or other code form and the Clarity-supplied analytic business metric data are Clarity's "Confidential Information" (as defined herein). You agree that You shall not use or permit any third party to use the Software, the Application, the Clarity-supplied analytic business metric data or the ideas or concepts combined therein, in connection with, or as a basis for, the development of any other products, services or technologies.

7. **NON-COMPETE.**

You acknowledge that the Software, the Application and Clarity-supplied analytic business metric data and services presented in this EULADRA is highly valuable intellectual property of Clarity. You acknowledge that the Software, the Application and Clarity-supplied analytic business metric data and services being made available to You to offer to their Subscriber Companies is highly valuable. You further acknowledge that Clarity offers the Software and Application licenses to You for a reasonable licensing fee because of the value of

the anonymized data to Clarity. You hereby agree to not compete with Clarity, in an attempt to sell any anonymized or non-anonymized versions of their Subscriber Companies data, or to attempt to compete with Clarity by contracting to sell any other company's data in a similar or related field of data sales. Furthermore, You acknowledge that the business of selling anonymized data cannot be contained to a geographic area, as it is a world-wide endeavor by Clarity, and therefore, You agree to not attempt to compete with Clarity anywhere for the duration of this EULADRA, and an additional two years from the expiration of this EULADRA. You agree that two years is reasonable amount of time, given the trade secrets, insight, know how, and technical knowledge divulged to You during the licensing of the Software and Application.

7. **NO WARRANTIES.**

TO THE MAXIMUM EXTENT PERMITTED BY LAW, CLARITY EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS, EXPRESS, IMPLIED AND STATUTORY, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. THE SOFTWARE AND APPLICATION IS PROVIDED "AS IS." ANY USE OF THE SOFTWARE OR APPLICATION BY YOU IS AT YOUR OWN RISK. CLARITY DOES NOT WARRANT THAT THE SOFTWARE, THE APPLICATION OR THE ANALYTIC BUSINESS METRIC DATA SHALL MEET YOUR REQUIREMENTS OR THAT THE OPERATION OF THE SOFTWARE, THE APPLICATION OR THE ANALYTIC BUSINESS METRIC DATA SHALL BE UNINTERRUPTED OR ERROR-FREE OR THAT ANY ERRORS SHALL BE CORRECTED OR THAT THE SOFTWARE, APPLICATION OR ANALYTIC BUSINESS METRIC DATA SHALL BE COMPATIBLE WITH ANY PARTICULAR PLATFORM. IF THIS EXCLUSION IS DETERMINED BY A COURT OF COMPETENT JURISDICTION TO BE UNENFORCEABLE, THEN ALL EXPRESS AND IMPLIED WARRANTIES, AND CONDITIONS SHALL BE LIMITED IN DURATION TO A PERIOD OF THIRTY (30) DAYS AFTER THE EFFECTIVE DATE, AND NO WARRANTIES OR CONDITIONS SHALL APPLY AFTER THAT PERIOD.

8. **CONFIDENTIAL INFORMATION.**

8.1 **Protection Of Confidential Information.** You acknowledge that during the term of this EULADRA, You may receive certain Confidential Information of either Clarity or Subscriber Company. Except as expressly set forth herein, You agree that You shall keep confidential and shall not use or disclose (or permit any third party to use or disclose) to any third party any or all Confidential Information of Clarity or Subscriber Company at any time. You shall use Your best efforts to protect the secrecy of and avoid the disclosures and unauthorized use of the Confidential Information. In preserving the confidence of the Confidential Information, You shall use the same standard of care that You would use to secure and safeguard Your own Confidential Information, but in no event less than reasonable care. You shall, at Your own expense: (a) immediately notify Clarity of any unauthorized possession, use or knowledge, or attempt thereof, of the Confidential Information by any third party; (b) promptly furnish to

Clarity full details of the unauthorized possession, use or knowledge, or attempt thereof, and use reasonable efforts to assist Clarity in investigating or preventing the recurrence of any unauthorized possession, use or knowledge or attempt thereof, of the Confidential Information; and (c) promptly use all reasonable efforts to prevent a recurrence of any unauthorized possession, use or knowledge of the Confidential Information. "Confidential Information" shall mean (i) any and all proprietary information, formulae, patterns, business data, compilations, technology, software (in source, binary, object code or any other form), firmware, code, hardware, documentation, developments, inventions, lists, trade secrets, technical data, data compilations, processes, programs, devices, designs, drawings, methods, techniques, know-how, ideas, research, plans (marketing, business, strategic or otherwise), customer information and other business arrangements, pricing and other data, whether in written, digital, oral or other form, and any and all intellectual property rights related thereto (collectively, "Information") that (A) derives independent economic value, actual or potential, from not being generally known to the public or to any other third party who can obtain economic value from its disclosure or use, and (B) is the subject of efforts by Clarity that are reasonable under the circumstances to maintain its secrecy; (ii) any Information (A) unique to Clarity that has a significant business purpose and is not known or generally available from sources outside of Clarity or typical of industry practice, or (B) the disclosure of which would have a material adverse effect on any of the businesses of Clarity; (iii) any Information, which is designated in writing to be confidential or proprietary, or if given orally, is designated at the time of disclosure as being disclosed as confidential or proprietary, or which could reasonably be considered of a proprietary or confidential nature; or (iv) any Information which is required by law or by Clarity's internal policies to be kept confidential. Clarity's failure to mark any Confidential Information as confidential, proprietary or otherwise shall not affect its status as Confidential Information hereunder. It is expressly understood by You that the existence of this EULADRA and entire contents hereof are confidential. Notwithstanding the foregoing, Confidential Information does not include Information that (x) is shown by written record to be in the public domain at the time of disclosure or becomes available thereafter to the public without restriction and not as a result of any act or omission of You; or (y) is approved for disclosure by Clarity's written authorization. This Section 8 shall survive any termination of this EULADRA for a period of five (5) years with respect to non-technical information and in perpetuity with respect to technical information, including the Software, the Application, and any source or object code provided hereunder.

8.2 **Permission to Access and Use Subscriber Company Data.** You agree and understands that this EULADRA and the Privacy Statement grants Clarity unrestricted access and complete control to any business data that the Software or Application accesses or manipulates, for any purpose Clarity deems necessary, and that You will grant Clarity unrestricted access to the databases that store this data. Clarity agrees to not intentionally make copies of, view, interpret, access or by any other means control any data contained in Your databases that are not intended to be conveyed by this EULADRA. You and Clarity agree that Clarity, upon extracting data from Your or Subscriber Company's databases, shall make all data sets anonymous, meaning all data will neither contain nor bear any information identifying You or Subscriber Company, will neither contain nor bear any information identifying any personal

identifiable information for any employee employed by You or Subscriber Company. Once data sets are made anonymous, Clarity will provide You access to the analytic business metric data.

9. **TERM AND TERMINATION.**

9.1 **Term.** This EULADRA shall become effective on the Effective Date and shall remain in full force and effect for a period of one (1) year from the Effective Date unless earlier terminated as set forth in this EULADRA. Thereafter, the EULADRA shall automatically renew for successive one (1) year terms, unless either party provides to the other party written notice of its intention to terminate at least thirty (30) days prior to the expiration of the then-current term whoever the licensing fee shall only be upwardly adjusted during the term in the event additional Subscriber Companies are provided access by You to their analytic business metric data.

9.2 **Cancellation for Breach.** Except as otherwise set forth in Sections 9.3 and 12.9 herein, this EULADRA may be cancelled at any time by either party if the other party breaches any provision of this EULADRA. The party desiring to cancel shall give the breaching party written notice stating the nature and character of the breach and allow the breaching party thirty (30) calendar days from the date of the notice to correct the breach (other than for a failure to timely make any payment hereunder). If the breach has not been corrected within the thirty (30) day notice period, this EULADRA shall then be automatically terminated.

9.3 **Termination for Convenience.** Notwithstanding anything to the contrary herein, Clarity may terminate this EULADRA, or any agreement referenced or attached hereto for any or no reason by providing You or an individual Subscriber Company written notice thereof at least sixty (60) days prior to the effective date of such termination.

9.4 **Other Cancellation Events.** Clarity may cancel this EULADRA upon the occurrence of one or more of the following events, in which case Clarity shall have no further obligations or liabilities under this EULADRA after the effective date of such cancellation. Such cancellation shall be effected by Clarity giving notice to You, and shall be effective as of the date selected by Clarity in its sole discretion and set forth in such notice; provided, however, that nothing herein shall preclude or otherwise limit the applicability or exercise of any other rights and remedies which Clarity may have at law or in equity:

9.4.1 The failure of You to make any payment required under this EULADRA within five (5) days after such payment is due.

9.4.2 (a) The commencement by You of any voluntary or involuntary case or proceeding under federal, state or other bankruptcy or insolvency laws or any similar laws seeking liquidation or reorganization, or the appointment of a receiver, liquidator, assignee, custodian, trustee or similar official for You or Your property (except in the case of any involuntary action against You, You shall have sixty (60) days to have such case dismissed), (b) the making by You of an assignment for the benefit of Your creditors, (c) the failure by You

generally to pay Your debts as they mature, or (d) the commencement of any proceedings to liquidate and dissolve You.

9.4.3 A sale or other disposition of substantially all of Your assets, or any issuance or transfer of an equity interest (or any beneficial interest in any equity interest) in You, or any merger, consolidation or other transaction, or any other event or occurrence, in each case (other than a sale or disposition of Your assets) after which the equity holders of You as of the Effective Date own less than fifty-one percent (51%) of the aggregate direct and indirect beneficial ownership interest in You, or the equity holders of You as of the Effective Date own less than fifty-one percent (51%) of the aggregate voting securities of You.

9.5 **Termination Obligations.** Upon termination, cancellation or expiration of this EULADRA, any and all unpaid fees owed by You hereunder immediately shall be due and payable, all rights and licenses granted under this EULADRA immediately shall cease to exist and You immediately shall cease using the Software and Application and shall destroy or otherwise remove any representations or references to the Software and Application from Your system. Upon termination, cancellation or expiration of this EULADRA, You shall, at Clarity's option, erase, return to Clarity or destroy all copies of the Software and Application on tangible media in Your possession or control and certify, in writing, to Clarity that You have fully complied with the requirements set forth herein.

9.6 **Survival.** Sections 3, 6, 7, 8, 9, 10, 11 and 12 and any other provision that by its nature survives shall survive termination, cancellation or expiration of this EULADRA.

10. **LIMITATION OF LIABILITY; INDEMNIFICATION.**

10.1 **Limitation of Liability.** THE CUMULATIVE LIABILITY OF CLARITY FOR ALL CLAIMS ARISING FROM OR RELATING TO THIS EULADRA, THE SOFTWARE, THE APPLICATION OR THE ANALYTIC BUSINESS METRIC DATA, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, SHALL NOT EXCEED THE TOTAL AMOUNT OF ALL LICENSE FEES PAID TO CLARITY WITHIN THE TWELVE (12) MONTH PERIOD PRIOR TO THE DATE UPON WHICH ANY SUCH LIABILITY ARISES. YOU MAY NOT BRING AN ACTION OR SUIT AGAINST CLARITY AFTER THE FIRST ANNIVERSARY DATE UPON WHICH SUCH LIABILITY ARISES HEREUNDER. IN NO EVENT SHALL CLARITY OR ITS SUPPLIERS BE LIABLE TO YOU OR SUBSCRIBER COMPANY FOR ANY INCIDENTAL, DIRECT, INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, LOSSES, COSTS OR EXPENSES OF ANY KIND, HOWEVER CAUSED AND WHETHER BASED IN CONTRACT, TORT, INCLUDING, WITHOUT LIMITATION, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER THEORY OF LIABILITY, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, COSTS OF DELAY, COSTS OF PROCUREMENT OF SUBSTITUTE TECHNOLOGY, COST OF CAPITAL, LOSS OF GOODWILL, ANY FAILURE OF DELIVERY, BUSINESS INTERRUPTION, COSTS OF LOST OR DAMAGED DATA OR DOCUMENTATION

OR LIABILITIES TO THIRD PARTIES ARISING FROM ANY SOURCE, EVEN IF CLARITY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, LOSSES, COSTS OR EXPENSES. THE FOREGOING LIMITATION OF LIABILITY AND EXCLUSION OF CERTAIN DAMAGES SHALL APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS EULADRA HAVE BEEN BREACHED OR HAVE BEEN DETERMINED BY A COURT OF COMPETENT JURISDICTION TO BE INVALID, VOID OR UNENFORCEABLE.

10.2 Indemnification by You. You shall defend, indemnify and hold harmless Clarity, its stockholders, affiliates, attorneys, successors, assigns, officers, directors, employees, agents and representatives, from and against any and all actions, suits, proceedings, investigations, demands, claims, judgments, liabilities, obligations, liens, losses and damages and any related fees and expenses (including, without limitation, reasonable attorneys' fees) (a) arising out of or relating to Your authority to bind the Subscriber Company for the use by Clarity of the business data as provided in the Privacy Statement and Clarity's right and authority to use the Subscriber Company anonymized data as part of the Clarity's aggregated anonymized data sets for other comparisons with other participating Subscriber Companies and for other Clarity business purposes and services; (b) any suit or claim that any Clarity technology (other than the Software and Application) infringes or misappropriates any third party copyright, patent, trademark, trade secret or other intellectual property right; (c) any breach by You of any of the terms or conditions of this EULADRA; (d) any suit or claim caused by You or Subscriber Company's use of the Software, Application or Analytic business metric data; (e) any suit or claim caused by You or Subscriber Company's violation of any rights of a third party through use of the Software, Application or Analytic business metric data; or (f) any other suit or claim related to the use of the Software, Application or Analytic business metric data or use of the business data.

10.3 Indemnification by Clarity. Subject to Section 10.1 hereof and provided that there is no breach by You that remains uncured under this EULADRA as set forth in Sections 9.2 or 9.4.1, or under any other agreement with Clarity, Clarity shall defend, indemnify and hold harmless You, Your stockholders, affiliates, successors, assigns, officers, directors, employees, agents and representatives from and against any and all actions, suits, proceedings, investigations, demands, claims, judgments, liabilities, obligations, liens, losses and damages and any related fees and expenses (including, without limitation, reasonable attorneys' fees) arising out of or relating to any suit or claim made by a third party that the Software, Application or Analytic business metric data, or any portion thereof, infringes any U.S. patent, copyright or trade secret in existence as of the Effective Date and which has been raised by You to Clarity by written notice prior to termination, cancellation or expiration of this EULADRA. THIS PARAGRAPH STATES CLARITY'S ENTIRE OBLIGATION TO YOU WITH RESPECT TO ANY CLAIM OF INFRINGEMENT. Notwithstanding the foregoing, Clarity shall have no obligation under this Section 10.3 and shall not indemnify, defend or hold harmless You, Your stockholders, affiliates, successors, assigns, officers, directors, employees, agents and representatives from and against any actions, suits, proceedings, investigations, demands, claims, judgments, liabilities, obligations, liens, losses and damages and any related fees and expenses

(including, without limitation, reasonable attorneys' fees) arising out of or relating to (a) the use or integration of the Software, Application or Analytic business metric data in combination with products, software or other technologies not provided by Clarity, if the claim would not have arisen but for the particular combination; (b) modifications to the Software or Application that were not performed by Clarity or authorized by Clarity in writing; (c) compliance with specifications provided by You; (d) use of a superseded or altered release of the Software or Application, if such infringement would have been avoided by the use of the then-current release of the Software or Application, and if such then-current release has been made available to You; or (e) the use of the Software or Application other than as expressly permitted hereunder. Upon notice of any claim of infringement or upon reasonable belief of the likelihood of such a claim, Clarity shall have the right, at its option, to (w) obtain for You the right to continue using the Software and Application or (x) replace or modify the Software and Application so that it is no longer infringing; provided that the replaced or modified Software and Application is subsequently equivalent in function to the affected Software and Application; or, if the options set forth in (w) and (x) are not commercially reasonable in Clarity's opinion, (y) terminate this EULADRA and any and all rights and obligations arising hereunder.

10.4 Procedure for Indemnification. If any third party not a party to this EULADRA shall make any demand or claim, or file or threaten to file a lawsuit, which demand, claim or lawsuit may result in any liability, damage or loss to Clarity for which Clarity may be entitled to seek relief from You hereunder, Clarity shall promptly provide written notice to You of such demand, claim or lawsuit, and You shall then have the option, at the sole cost and expense of the You, to retain counsel for You to defend any such demand, claim, or lawsuit. Thereafter, Clarity shall be permitted to participate in such defense at Clarity's own expense. If You shall fail to respond within thirty (30) days after receipt of such notice, or shall notify Clarity that You do not intend to defend against such demand, claim or lawsuit, Clarity may conduct a defense against such demand, claim or lawsuit as Clarity, in its discretion, may deem proper. If Clarity elects to assume the defense of a third-party claim, You agree to cooperate in all reasonable respects with Clarity in connection with such defense, including retaining and delivering to the Clarity records and information which are reasonably relevant to such third-party claim. Nothing in this Section 10.4 shall prevent Clarity from taking such action as may be necessary prior to the end of the thirty (30) day period provided for above to prevent a default judgment from being entered. Notwithstanding anything herein to the contrary, (a) if there is a reasonable probability that a claim or demand may materially, adversely affect Clarity, other than as a result of monetary damages or monetary payments, Clarity shall have the right (but not the obligation), at its own cost and expense, to defend, compromise or settle such claim, and (b) You shall not, without Clarity's written consent, settle or compromise any claim or demand or consent to entry of any judgment in respect thereof unless such settlement, compromise or consent subjects Clarity to no liability and includes, as an unconditional term thereof, the giving by the claimant or the plaintiff to Clarity of a release from all liability in respect of such claim or demand.

10.5 Security of Data. Information sent or received over the Internet is generally insecure and Clarity cannot and does not make any representations or warranties concerning the security of any communication to or from Clarity's servers, websites, or Applications or make

any warranties regarding the interception by third parties of any information sent or received from Clarity's servers, websites, or Applications. You hereby agree to indemnify Clarity for any claims or law suits against Clarity for any data intercepted by third parties during the transfer of data between Clarity and You. Clarity will use commercially reasonable software development and security practices to protect the business data, business metrics, and analytical information and will comply with applicable laws and security standards. Clarity shall train its staff and put into place necessary protections to safeguard anonymized or aggregated data, business metrics and other analytical information.

11. **APPLICABLE LAW.**

This EULADRA and the rights and duties of the parties hereto shall be construed and determined in accordance with the internal laws of the State of Maryland, without regard to its conflict of laws principles and without Application of the Maryland Uniform Computer Information Transactions Act (Md. Code Ann., Comm. Law, §§ 22-101, et seq. (2015)). The parties agree that the exclusive jurisdiction for any action or proceeding with respect to this EULADRA or any action or proceeding brought to enforce any breach hereof or thereof against a party shall be in any federal or state court situated in the State of Maryland, in one or more actions or proceedings, and by execution and delivery of this EULADRA, the parties irrevocably consent to such exclusive jurisdiction in such courts and to the proper venue therein.

12. **GENERAL.**

12.1 **Compliance with Applicable Laws.** Your use of the Software and Application shall comply with all applicable laws and regulations. You shall not export or permit the export of any Software or Application to any country in contravention of any law of the United States or any other country, including the Export Administration Act and regulations relating thereto.

12.2 **U.S. Government Restricted Rights.** The Software, Application and analytic business metric services is commercial computer software under FAR. If the Software and/or Application is acquired under the terms of a proposal or agreement with the United States Government or any contractor therefor, it is furnished with "RESTRICTED RIGHTS" as defined in Federal Acquisition Regulation ("FAR") 52.227-19 as amended. Use, duplication or disclosure of the Software or Application by the U.S. Government and parties acting on its behalf is governed by and subject to the restrictions set forth in FAR 52.227-19, as amended.

12.3 **Assignment.** You may not assign this EULADRA, in whole or in part, without the prior written consent of the Clarity, which consent shall not be unreasonably withheld; provided that You acknowledge and agree that the Clarity's withholding of such consent in the event of a proposed assignment to a competitor of Clarity or any of its affiliates shall not be deemed unreasonable. Subject to the foregoing, this EULADRA shall be binding upon, and shall inure to the benefit of, the parties and their respective successors and assigns.

12.4 **Notices.** All notices, requests, demands, waivers and other communications

required or permitted hereunder must be in writing and shall be deemed to have been duly given: (a) when delivered by hand or confirmed facsimile transmission; (b) one (1) day after delivery by receipted overnight delivery; or (c) three (3) days after being mailed by certified or registered mail, return receipt requested, with postage prepaid to the party at the address set forth above, or to such address and/or facsimile number as either party shall furnish to the other party in writing pursuant to this Section 12.4.

12.5 Integrated Agreement. This EULADRA, including all exhibits referenced herein and the Privacy Statement as referenced herein and updated periodically (available at <http://www.xxxx.yyy/zzzzzz>), constitutes the complete integrated agreement between the parties concerning the subject matter hereof. All prior and contemporaneous agreements, understandings, negotiations or representations, whether oral or in writing, relating to the subject matter of this EULADRA are superseded and canceled in their entirety.

12.6 Amendments. No alteration, amendment, waiver, cancellation or any other change in any term or condition of this EULADRA shall be valid or binding on either party unless mutually assented to in writing by authorized representatives of both parties.

12.7 Waiver. No waiver of any of the provisions of this EULADRA shall be deemed or shall constitute a waiver of any other provision of this EULADRA, whether or not similar, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided in writing. The failure of either party to enforce at any time any of the provisions of this EULADRA, or the failure to require at any time performance by either party of any of the provisions of this EULADRA, shall in no way be construed to be a present or future waiver of such provisions, nor in any way affect the ability of a party to enforce each and every such provision thereafter.

12.8 Severability. If any provision of this EULADRA is adjudged by a court to be invalid, void or unenforceable, the parties agree that the remaining provisions of this EULADRA shall not be affected thereby, that the provision in question may be replaced by the lawful provision that most nearly embodies the original intention of the parties, and that this EULADRA shall in any event otherwise remain valid and enforceable.

12.9 Force Majeure. Neither party shall be deemed to be in breach of this EULADRA as a result of or liable to the other for any delays in the performance of its obligations hereunder (except for the payment of money due under this EULADRA) caused by fire, explosion, act of God, strikes, war, riot, government regulation or act or any other cause beyond the reasonable control of such party, provided that each party gives the other party written notice promptly and uses its best efforts to cure the delay. If the delay continues for a period in excess of six (6) months, either party shall be entitled to terminate this EULADRA on written notice.

12.10 Independent Contractors. Nothing in this EULADRA shall make Clarity and You partners, joint venturers or otherwise associated in or with the business of the other. You are and shall always remain an independent contractor. Neither party shall be liable for any debts, accounts, obligations, or other liabilities of the other party, its agents or employees. Neither party

is authorized to incur debts or other obligations of any kind on the part of or as agent for the other except as may be specifically authorized in writing. This EULADRA is not a franchise agreement and does not create a franchise relationship between the parties, and if any provision of this EULADRA is deemed to create a franchise between the parties, then this EULADRA shall automatically terminate.

12.11 **Authority.** Each party represents that the persons executing this EULADRA on its behalf has the requisite corporate authority to do so which is not subject to any further ratification or approval.

12.12 **Injunctive Relief.** All rights, remedies and powers of Clarity hereunder are irrevocable and cumulative, and not alternative or exclusive, and shall be in addition to all other rights, remedies and powers given hereby or any laws now existing or hereafter enacted. You acknowledge and agree that if You breach any obligations hereunder, Clarity may suffer immediate and irreparable harm for which monetary damages alone shall not be a sufficient remedy, and that, in addition to all other remedies that Clarity may have, Clarity shall be entitled to seek injunctive relief, specific performance or any other form of relief, including, but not limited to, equitable relief, to remedy a breach or threatened breach hereof by You and to enforce this EULADRA, and You hereby waive any and all defenses and objections You may have on grounds of jurisdiction and venue, including, but not limited to, lack of personal jurisdiction and improper venue, and waives any requirement for the securing or posting of any bond in connection with such remedy.

12.13 **Non-exclusivity.** You acknowledge that Your right and license to use the Software and Application under this EULADRA is non-exclusive, and that Clarity reserves the right to license, sell, or distribute any of its products to any third party anywhere in the world, and to appoint any third party to do so, without giving You notice thereof and without incurring any liability to You therefor.

12.14 **Further Assurances.** Each party agrees that it shall, from and after the date of this EULADRA, execute and deliver such other documents and take such other actions as may reasonably be requested to effect the transactions contemplated hereunder.

12.15 **Expenses.** Except as set forth in Sections 3.1 and 3.2 herein, each party shall bear its own expenses, costs and fees (including attorneys and auditors) in connection with the transactions contemplated herein, including the preparation, execution and delivery of this EULADRA and compliance herewith.

12.16 **Interpretation.** The parties acknowledge that they have participated jointly in the negotiation and drafting of this EULADRA. In the event an ambiguity or question of intent or interpretation arises, this EULADRA shall be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this EULADRA. Unless the context requires otherwise, all words used in this EULADRA in the singular number shall extend to and include the plural, all

words in the plural number shall extend to and include the singular and all words in any gender shall extend to and include all genders.

12.17 Captions and Headings. The captions and headings used in this EULADRA are used for convenience only and are not to be given any legal effect.

Click-on to accept each time MSP accesses the Application or Clarity-provided analytic business metric data and agrees to the below privacy statement

PRIVACY STATEMENT

You grant Clarity Intelligence Partner LLC (Clarity) the authority to access Your Subscriber Company's business data by having installed Clarity access software on that Subscriber Company's computer system to permit Clarity to access and extract the business data at such frequency as needed or desirable by Clarity to support the functions, business metric services, data services or products currently available or planned or implemented by Clarity in the future as well as the ownership and the rights to publish or share combined extracted business data from several Subscriber Companies, but only in a way that would not allow the business name or any individual to be identified.

Clarity will anonymize the extracted Subscriber Company's business data, aggregate this business data with anonymized business data sets from other participating Subscribing Companies in order to provide to You, the MSP, access to appropriate Clarity anonymized business data sets for comparison of the Subscriber Company's business metrics benchmarks with those of other Clarity anonymized business metrics for selected regional and similarly situated companies. You, the MSP represents and warranted that it has the authority to and does grants Clarity the right to use the Subscriber Company anonymized data as part of the Clarity's aggregated anonymized data sets for other comparisons with other participating Subscriber Companies and for other Clarity business purposes and services.

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