



General Terms and Conditions

for

Subscription and Professional Services

The following terms and conditions shall apply to the provision by Perspectium Corp. ("Company") of computer software services and associated software and documentation (the "Subscription Services") and professional services (the "Professional Services") listed on one or more written ordering documents executed by the Company and a customer ("Customer") and referencing these terms and conditions (each such ordering document, an "Order Form").

1. Provision of Subscription Services. The Company authorizes Customer to access and use the purchased Subscription Services to the extent set forth in the Order Form during the term of this agreement for its internal business purposes in accordance with the terms and conditions of this agreement.
2. Provision of Software. Solely in order to facilitate the use of the purchased Subscription Services, Company may provide Customer with software to operate on Customer-provided machines ("Software"). Company grants to Customer a limited, personal, worldwide, non-exclusive, non-transferrable, non-sub-licensable license during the term of this agreement to install and execute the Software. The Software may include code that is licensed under third party agreements, the terms of which will be binding upon Customer. Software is licensed and not sold.
3. Provision of Professional Services. The Company shall provide the Professional Services listed on the Order Form, if any, in accordance with the specifications set forth in the associated Statement of Work relating to such Professional Services.
4. Use Restriction. The Subscription Services and Software shall be used in accordance with this agreement, the Order Form, any applicable documentation and applicable third-party license terms. Customer agrees not to (i) license, sub-license sell, re-sell, rent, lease, transfer, or distribute, or otherwise make the Software or Subscription Services available to any third party, or (ii) disassemble or reverse engineer or decompile the Software or Subscription Services.
5. Fees.

5.1. Customer shall pay to Company the fees for the Subscription Services and Professional Services in the amounts and on the schedule set forth on the Order Form. Unless specified otherwise on the Order Form, fees for Subscription Services are payable in advance. All prices are final and non-refundable.

5.2. Unless otherwise set forth on the Order Form, the fees specified in the Order Form shall be payable in full thirty (30) days from the date of the applicable invoice.

5.3. Fees are exclusive of all taxes, duties, levies, imposts, fines or similar governmental assessments including sales and use taxes, value-added taxes, goods and services taxes, excises, business, service and similar transactional taxes imposed by any jurisdiction. Customer shall be responsible for and bear any such taxes related to the access and use of the Subscription Services, Software or Professional Services. Taxes shall not be deducted from amounts payable to Company, except as required by law, in which case the payment shall be increased as necessary to equal an amount that the Company would have received if no deductions or withholdings of taxes would have been made.

5.4. Company may suspend Customer's use of the Subscription Services and Software, terminate this agreement for cause, and pursue other available rights and remedies in the event that Customer is delinquent in payment of the fees set forth in the Order Form for more than 30 calendar days following notice by Company of such delinquency.

6. Intellectual Property. As between Customer and Company, all rights, title and interest in and to all intellectual property rights in the Subscription Services and Software are owned exclusively by Company. To the extent Customer provides suggestions, proposals, ideas recommendations or other feedback regarding improvements to Company's services, Customer grants Company a royalty-free, fully paid, sub-licensable, transferrable, non-exclusive, worldwide, irrevocable, perpetual license to make, use, sell, offer for sale, import and otherwise exploit such feedback without restriction. To the extent that any statement of work for Professional Services, requires Company to create any new invention or work of authorship exclusively for Customer ("Exclusive IP"), Company shall assign any intellectual property rights in such Exclusive IP upon payment in full for the related Professional Services. Nothing in this agreement or otherwise shall restrict Company's ability to perform similar Professional Services or create similar Exclusive IP for any other customer. The Company collects, stores and uses data regarding the use of the Subscription Services and Software for its internal business purposes, which may include: (1) monitoring compliance with the licensing provisions of this agreement, and (2) ongoing development and support of the Subscription Services and Software and Software. All rights to such data are owned exclusively by the Company.
7. Services Guide. The Company's policies with respect to the provision of the Subscription Services and Software, including technical support and availability, are set forth in the Company's standard Service Guide as in effect at the effective date of this agreement.
8. Indemnification.
 - 8.1. By Company. The Company agrees to indemnify, defend and hold harmless Customer and its officers, directors, agents and employees from and against any claim,

including reasonable attorney fees, alleging that Customer's use of the Subscription Services or Software in accordance with this agreement infringes any valid patent, copyright or trademark of a third party. Notwithstanding the above, the Company shall have no liability or obligation for any claim arising from: (i) use of the Subscription Services or Software exceeding the authorized use permitted under this agreement; (ii) use of the Subscription Services or Software in combination with any hardware, software, application or service not made, required or provided by the Company; or (iii) use of the Subscription Services or Software by Customer in violation of an applicable law.

8.2. By Customer. Customer agrees to indemnify, defend and hold harmless the Company and its officers, directors, agents and employees from and against any claim, including reasonable attorney fees, alleging that Customer's data infringes any valid patent, copyright, or trademark of a third party.

8.3. Indemnity Procedure. Promptly after receiving a threat, notice or filing of any claim by a third party, the indemnified party shall provide notice in writing to the indemnifying party and shall give sole control of the defense to the indemnifying party and for all negotiations of a settlement of a claim and the indemnified party shall cooperate and may assist in the defense of a claim at its expense. The indemnifying party shall not enter into any settlement without the indemnified party's written consent, which shall not be unreasonably withheld, if such settlement: (i) imposes any obligation upon the indemnified party other than ceasing use of the infringing Subscription Services or Software, or (ii) includes an admission of any kind by or on behalf of the indemnified party.

9. Confidentiality. The parties have executed a non-disclosure agreement governing the non-use and non-disclosure of confidential information exchanged between the parties (the "CDA"), which shall remain in effect throughout the term of this agreement.

10. Warranty, THE COMPANY EXPRESSLY EXCLUDES ALL WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING, WITHOUT LIMITATION: (a) ANY WARRANTY THAT THE SUBSCRIPTION SERVICES, SOFTWARE OR PROFESSIONAL SERVICES ARE ERROR-FREE, WILL OPERATE WITHOUT INTERRUPTION, OR ARE COMPATIBLE WITH CUSTOMER'S EQUIPMENT AND SOFTWARE CONFIGURATIONS; (b) ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY; AND (c) ANY AND ALL WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE.

11. Limitation of liability. TO THE EXTENT PERMITTED BY LAW, THE CUMULATIVE LIABILITY OF A PARTY, WHETHER BASED ON AN ACTION OR CLAIM IN CONTRACT, EQUITY, NEGLIGENCE, TORT, OR OTHERWISE FOR ALL EVENTS, ACTS, OR OMISSIONS UNDER THIS AGREEMENT SHALL NOT EXCEED THE FEES PAID BY CUSTOMER FOR THE TWELVE (12) MONTH PERIOD PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY UNDER THIS AGREEMENT; PROVIDED, HOWEVER, THAT SUCH LIABILITY LIMITATION SHALL NOT APPLY TO (i) INFRINGEMENT INDEMNIFICATION AS SET FORTH HEREIN; (ii) CUSTOMER'S OBLIGATION TO PAY AMOUNTS

OWED UNDER THIS AGREEMENT; (iii) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY; OR (iv) A PARTY'S BREACH OF IT'S OBLIGATIONS OF CONFIDENTIALITY TO THE OTHER PURSUANT TO THIS AGREEMENT.

12. Exclusion of Damages. TO THE EXTENT PERMITTED BY LAW, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR LOST PROFITS (WHETHER DIRECT OR INDIRECT), LOSS OF USE OR OF DATA, THE COST OF SUBSTITUTE GOODS OR SERVICES, OR FOR INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR EXEMPLARY DAMAGES (INCLUDING DAMAGE TO BUSINESS, REPUTATION OR GOODWILL), OR FOR INDIRECT DAMAGES OF ANY TYPE, IN EACH CASE HOWEVER CAUSED, WHETHER BY BREACH OF WARRANTY, BREACH OF CONTRACT, IN TORT OR ANY OTHER LEGAL OR EQUITABLE CAUSE OF ACTION, EVEN IF SUCH PARTY HAS BEEN ADVISED OF SUCH DAMAGES IN ADVANCE OR IF SUCH DAMAGES WERE FORESEEABLE; PROVIDED, HOWEVER, THAT SUCH LIABILITY LIMITATION SHALL NOT APPLY TO (i) INFRINGEMENT INDEMNIFICATION AS SET FORTH HEREIN; (ii) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY; (iii) A PARTY'S BREACH OF IT'S OBLIGATIONS OF CONFIDENTIALITY TO THE OTHER; OR (iv) DAMAGES CAUSED BY A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

13. Term. The initial term of this agreement shall be until terminated in accordance with Section 14. The term of any Subscription Services purchased hereunder shall be as set forth in the applicable Order Form.

14. Termination This agreement may be terminated:

14.1. by either party upon giving not less than thirty days' notice to the other party at any time when there are no active subscriptions or open orders for Subscription Services, Software or Professional Services under any Order Form;

14.2. forthwith by either party if the other commits any material breach of any term of this agreement and which (in the case of a breach capable of being remedied) shall not have been remedied within three days of a written request to remedy the same; or

14.3. forthwith by either party if: (i) all or a substantial portion of the assets of the other party are transferred to an assignee for the benefit of creditors, to a receiver, or to a trustee in bankruptcy; (ii) a proceeding is commenced by or against the other party for relief under bankruptcy or similar laws and such proceeding is not dismissed within sixty (60) days; or (iii) the other party is adjudged bankrupt.

Any termination of this agreement pursuant to this Paragraph shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

15. Force majeure. Neither party hereto shall be liable for any breach of its obligations hereunder resulting from causes beyond its reasonable control including, but not limited to, fires, floods, failure of power systems, communications systems, or utilities, hurricanes, tornadoes or other natural conditions, strikes (of its own or other employees), insurrection or riots, embargoes, container shortages, wrecks or delays in transportation, inability to obtain supplies and raw materials, requirements or regulations of any civil or military authority.
16. Waiver. The waiver by either party of a breach or default of any of the provisions of this agreement by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions nor shall any delay or omission on the part of either party to exercise or avail itself of any right power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other party. A breach by a party of its obligations with respect to one service shall not by itself constitute a breach by that party of its obligations with respect to another service even if the services are enumerated in the same Order Form.
17. Notices. Company may give notice to Customer by means of (i) a general notice in Customer account information, (ii) by electronic mail to Customer e-mail address on record, or (iii) by written communication sent by first class mail or pre-paid post to Customer address on record. Customer may give notice to the Company at any time by any of the following: (a) by e-mail to us at legal@perspectium.com; or (b) by letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail as follows: Perspectium Corp., 10301 Meanley Drive, Suite 250, San Diego, CA 92131, United States in either case, addressed to the attention of "President of the Company". Notices will not be effective unless sent in accordance with the above requirements.
18. Invalidity and severability. If any court or administrative body of competent jurisdiction shall find any provision of this agreement to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of this agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision, which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid or unenforceable provision.
19. Entire agreement. The Company shall not be liable to the Customer for loss arising from or in connection with any representations agreements statements or undertakings made prior to the date of execution of this agreement other than those representations agreements statements or undertakings confirmed by a duly authorized representative of the Company in writing or expressly incorporated or referred to in this agreement. This agreement, including any Order Form or SOW and the CDA is the entire agreement between the parties with regard to the subject matter of this agreement and supersedes and incorporates all prior or contemporaneous representations, understandings or agreements. Orders are not

contingent on, and Customer has not relied on, the delivery of any future functionality regardless of any communication about the Company's future plans.

20. Successors. This agreement shall be binding upon and inure for the benefit of the successors in title of the parties hereto.
21. Assignment and Sublicensing. The Customer shall not be entitled to assign, sublicense or otherwise transfer this agreement nor any of its rights or obligations hereunder without the prior written consent of the Company.
22. Headings. Headings to paragraphs in this agreement are for the purpose of information and identification only and shall not be construed as forming part of this agreement.
23. Law and Jurisdiction. This agreement shall be governed by and construed in accordance with the laws of the State of California. In the event of any dispute concerning this agreement or the services licensed hereunder, suit may be brought only in a court of competent jurisdiction in the State California, County of San Diego.
24. Attorneys' Fees. In the event that any suit or action is instituted under or in relation to this Agreement, including without limitation to enforce any provision in this Agreement, the prevailing party in such dispute shall be entitled to recover from the losing party all fees, costs and expenses of enforcing any right of such prevailing party under or with respect to this Agreement, including without limitation, such reasonable fees and expenses of attorneys and accountants, which shall include, without limitation, all fees, costs and expenses of appeals.
25. Counterparts. This agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission, is electronically signed, or e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile, electronic signature, ".pdf" signature page were an original thereof.