

General Terms of Use (“TOU”)

Introduction

Thanks for considering, accessing, using, or subscribing to Bear Analytics’ products, services and/or apps, including those branded as “the Bear IQ Platform” and/or “Bear Insights” (each a “Service” and collectively the “Services”).

These General Terms of Use (“TOU”) contain the terms under which Bear Analytics, Inc. (“Bear Analytics”, “us”, “our”, or “we”) makes available our Services to you and describe how the Services may be accessed and used by you. Certain Services may be subject to supplemental or additional terms (“Additional Terms”), Schedules or Purchase Order Forms. We refer to the combination of these TOU and any applicable Additional Terms collectively as these “Terms.” These Terms may change from time to time at Bear Analytics’ discretion, so you should periodically check the current Terms on our website.

You indicate your agreement to these Terms by clicking or tapping on a button indicating your acceptance of these Terms, by executing a document that references them, or by accessing or using the Services. If you do not agree to these Terms (or changes to the Terms), you must cease using the Services.

If you will be using the Services on behalf of an organization, you agree to these Terms on behalf of that organization and you represent that you have the authority to do so. In such case, “Customer”, “you”, and “your” will refer to that organization. These Term form a legally binding agreement between you and Bear Analytics.

For additional questions, please contact Bear Analytics at:

Bear Analytics, Inc.

Email: legal@bearanalytics.com

Attention: Terms

2711 Richmond Highway #401, Arlington, VA 22202

United States of America

1. DEFINITIONS AND BACKGROUND

Defined Terms.

Capitalized terms used in this Agreement are defined in place where they are used or as set forth in this Section 1.1 (Definitions). Capitalized terms, acronyms and phrases not specifically defined have the generally understood meaning in the IT industry or other pertinent business context.

- (a) **“Agreement”** means these Terms and any Schedules or Purchase Order Forms entered into by the Parties.
- (b) **“Documentation”** means documentation to instruct or assist end users of the Services regarding the installation, development, maintenance, operation, use and modification of such Services (including applicable functional and technical specifications), as updated from time to time.

- (c) **“including”** and its derivatives (such as “include” and “includes”) means including without limitation. This term is as defined, whether or not capitalized in the Agreement.
- (d) **“Intellectual Property Rights”** means all copyrights, patents, trademarks, service marks, trade secrets, moral rights and other proprietary and intellectual property rights of whatever nature.
- (e) **“Law”** means any applicable law, statute, regulation, ordinance or subordinate legislation in force from time to time to which a Party is subject.
- (f) **“Party”** means you or us.
- (g) **“Schedule”** or **“Purchase Order Form”** means a document referencing these Terms for specific business or Service activities between the Parties not otherwise covered by these Terms.

1.2. Software-as-a-Service Model.

Unless expressly provided otherwise in the Agreement, our Services, including the Bear IQ platform, are made available on a software-as-a-service subscription basis and are a cloud-based analytics platform relating to virtual events.

You can access and use our Services through the public internet in accordance with our Documentation and this Agreement. Our Services are designed to assist (i) virtual event providers (“**VEP**”), (ii) event organizers (“**Event Organizers**”), (iii) event registration organizations (“**Registration Companies**”), and (iv) organizations that are sponsors or exhibitors at such events or who send employees or representatives to such events to analyze the impact, efficacy, and/or other attributes of events.

SUBJECT TO THE OTHER PROVISIONS OF THE AGREEMENT, YOU AND YOUR USERS CAN ONLY ACCESS AND USE THE SERVICES FOR YOUR BENEFIT IN ACCORDANCE WITH THE AGREEMENT, AND YOU ARE RESPONSIBLE FOR THEIR COMPLIANCE WITH THIS AGREEMENT.

2. CONFIDENTIALITY

2.1. “Confidential Information” Defined.

“Confidential Information” of a Party means any non-public, commercially proprietary or sensitive information (or materials) belonging to, concerning or in the possession or control of the Party or its affiliates (the **“Furnishing Party”**) that is furnished, disclosed or otherwise made available to the other Party (the **“Receiving Party”**) (or entities or persons acting on the other Party’s behalf) in connection with the Agreement, and which is either marked or identified in writing as confidential, proprietary, secret or with another designation sufficient to give notice of its sensitive nature, or is of a type that a reasonable person would recognize it to be confidential. In the case of Bear Analytics, “Confidential Information” includes its platform and software relating to the Services and supporting Documentation.

2.2. Obligations of Confidentiality.

- (a) Each Party acknowledges that it may be furnished, receive or otherwise have access to Confidential Information of the other Party in connection with the Agreement. The Receiving Party will use the Furnishing Party's Confidential Information only to carry out its obligations and exercise its rights under the Agreement.
- (b) As necessary to accomplish the purposes of the Agreement, the Receiving Party may disclose Confidential Information of the Furnishing Party to any employee, officer, director, agent or representative of the Receiving Party who has a legitimate need to know the information in question for the purposes of the Agreement and who is bound to the Receiving Party to protect the confidentiality of the information in a manner substantially equivalent to that required of the Receiving Party. The Receiving Party may also disclose Confidential Information of the Furnishing Party to the Receiving Party's regulatory agencies, legal counsel, and auditors provided they are made aware of the Receiving Party's obligations of confidentiality with respect to the Furnishing Party's Confidential Information.
- (c) The Receiving Party will keep the Confidential Information of the Furnishing Party confidential and secure, and will protect it from unauthorized use or disclosure by using at least the same degree of care as the Receiving Party employs to avoid unauthorized use or disclosure of its own Confidential Information of a similar nature, but in no event less than reasonable care.
- (d) If any unauthorized disclosure, loss of, or inability to account for any Confidential Information of the Furnishing Party occurs on account of the Receiving Party (or any entity or person for which the Receiving Party is responsible), the Receiving Party will promptly so notify the Furnishing Party and will cooperate with the Furnishing Party and take such actions as may be necessary or reasonably requested by the Furnishing Party to minimize the extent of any unauthorized disclosure or use of such Confidential Information and any resulting damage.

2.3. Exclusions from Obligations of Confidentiality.

The obligations of confidentiality set forth in Section 2.2 (Obligations of Confidentiality) do not apply to any particular information of the Furnishing Party that the Receiving Party can demonstrate: (i) was in the possession of, or was rightfully known by, the Receiving Party without an obligation to maintain its confidentiality prior to its receipt from the Furnishing Party; (ii) was or has become generally available to the public through no fault of the Receiving Party or its agents or representatives; (iii) was received by it in good faith from a third party who lawfully in possession of such information and not under an obligation of nondisclosure; or (iv) was independently developed by the Receiving Party without use of or reference to any Confidential Information of the Furnishing Party.

2.4. No Implied Rights.

Each Party's Confidential Information will remain the property of that Party. Nothing contained in this Section 0 (Confidentiality) will be construed as obligating a Party to disclose its Confidential Information to the other Party, or as granting to or conferring on a Party, expressly or by implication, any rights to the Confidential Information of the other Party.

2.5. Compelled Disclosure.

If the Receiving Party becomes legally compelled to disclose any Confidential Information of the Furnishing Party in a manner not otherwise permitted by the Agreement, the Receiving Party will provide the Furnishing Party with prompt notice of the requirement (unless legally precluded from doing so) so that the Furnishing Party may seek a protective order or other appropriate remedy. If a protective order or similar order is not obtained by the date by which the Receiving Party must comply with the request, the Receiving Party may furnish that portion of the Confidential Information that it determines it is legally required to furnish, but will request confidential treatment of it.

2.6. Return or Destruction.

As requested by the Furnishing Party during the Term, the Receiving Party will return or provide the Furnishing Party a copy of any designated Confidential Information of the Furnishing Party. When Confidential Information of the Furnishing Party is no longer required for the Receiving Party's performance under the Agreement, or in any event upon expiration or termination of the Agreement, the Receiving Party will return all materials in any medium that contain, refer to, or relate to Confidential Information of the Furnishing Party or, at the Furnishing Party's election, destroy them. At the Furnishing Party's request, the Receiving Party will certify in writing that it has re-turned or destroyed all copies of the Furnishing Party's Confidential Information in the possession or control of the Receiving Party's or any of its affiliates or contractors.

3. TERMS, FEES AND PAYMENTS

3.1. Term.

Unless expressly provided otherwise, the term for each Service will commence when you first order, access, or use the Services and shall continue until terminated by you or us in accordance with these Terms (the "**Term**"). A Schedule may set forth grounds for termination of the applicable Services under that Schedule. The termination of any particular Service shall not affect the Parties' respective rights and obligations under any other Services or Schedules then in effect or this Agreement, unless expressly provided otherwise.

3.2. Fees for Services.

You agree to pay to Bear Analytics any fees for each Service you order, access or use (including any overage fees), in accordance with the pricing and payment terms presented to you for that Service. Where applicable, you will be billed using the billing method you select through your account administration portal. If you have elected to pay the fees by credit card, you represent and warrant that the credit card information you provide is correct and you will promptly notify Bear Analytics of any changes to such information. You hereby authorize Bear Analytics to charge that credit card for any fees due under this Agreement. Fees paid by you are non-refundable and Services are non-cancellable by

you during the applicable Term, except as provided in these Terms or a Schedule or when required by law.

Except as otherwise set forth in this Agreement, all invoices shall be due and payable by you within thirty (30) days after receipt. Bear Analytics may assess interest at a rate of + 1.5% of invoice total per 30 days overdue on any outstanding amounts not timely paid by you under this Agreement, without limiting our other rights and remedies. We may suspend your access to the Services if your account is more than 60 days in arrears. All invoices and payments will be in U.S. dollars.

3.3. Subscriptions.

Some of our Services are billed on a subscription basis (we call these “Subscriptions”). This means that you will be billed in advance on a recurring, periodic basis (each period is called a “billing cycle”). Billing cycles are typically monthly, but your subscription is for an annual Term, unless otherwise specified by us. Your Subscription will automatically renew at the end of each annual period, unless you cancel by contacting our customer support team.

3.4. Taxes.

Our prices listed do not include any taxes, levies, duties or similar governmental assessments of any nature such as value-added, sales, use or withholding taxes, assessable by any jurisdiction (collectively, “Taxes”) unless otherwise indicated. You are responsible for paying Taxes associated with your Services and keeping your billing information up to date.

(a) United States Sales Tax. If we have a legal obligation to pay or collect Taxes for which you are responsible, we will calculate the Tax based upon the billing information we have about you and charge you that amount (which, if your billing information is incomplete or inaccurate, may be the highest prevailing rate then in effect), unless you timely provide us with a valid tax exemption certificate acceptable to the appropriate taxing authority.

- To be timely, you must provide us with a tax exemption certificate before your initial purchase or upgrade, or, if you miss that mark, within 90 days after such purchase or upgrade, unless your billing information is in Alabama, Louisiana, Maine, Massachusetts, Pennsylvania, or South Carolina in which case within 60 days; or if in Hawaii, Mississippi, or New Mexico within 45 days.
- If you provide us with a tax exemption certificate, you represent and warrant that it accurately reflects your tax status and that you will keep such document current and accurate.
- If we subsequently determine in our sole discretion that your tax exemption document is valid, we will refund the sales tax collected based on applicable state tax laws.

(b) Non-United States Sales Tax. If applicable, we will charge you VAT, GST or any other sales, consumption, use, or similar Taxes that arise in connection with your purchases of Bear Analytics Services, unless you provide us with a tax identification number that entitles you to an exemption, a valid tax exemption certificate or other documentary proof issued by an appropriate taxing authority that tax should not be charged. If you are located in a jurisdiction with multiple sales, consumption, use, or similar taxes, we may charge you the highest prevailing rate if your billing information is incomplete or inaccurate.

3.5. Price Changes.

Bear Analytics may change the fees charged to you for the Services at any time, provided that, for Services billed on a Subscription basis, the change will become effective only at the end of the then-current billing cycle of your annual Subscription. Bear Analytics will provide you with advance notice of any change in fees.

3.6. Overage Fees.

Unless otherwise stated, any overage fees incurred by you will be billed in arrears. Overage fees which remain unpaid for 30 days after being billed are considered overdue. Failure to pay overage fees when due may result in the applicable Service being limited, suspended, or terminated (subject to applicable legal requirements), which may result in a loss of your data associated with that Service.

3.7. Failure to Renew.

Failure to renew your Subscription will result in the termination of the applicable Service(s), including related account access. We will retain your Content for up to approximately 30 days after the Subscription expires for you to download, but are not obligated to retain your Content thereafter. This includes the deletion of your Content and all Bear-Analytics-created metrics, visuals, and other information associated with your Services.

3.8. Additional Analyst Services.

If you or your customers require Services customizations and additional customer service or analyst time above what is considered reasonable by us or what has been agreed to in your Services Purchase Order Form, Bear Analytics may charge you or your customer an Analyst Usage Overage Fee. Bear Analytics will provide reasonable notification that specific requests will result in these types of fees, and will try to provide good faith estimations of cost up-front upon request. Unless otherwise agreed upon, Analyst Service Fees will be billed in arrears.

Analyst Service Fees which remain unpaid for 30 days after being billed are considered overdue. Failure to pay fees when due may result in the applicable Service being limited, suspended, or terminated (subject to applicable legal requirements), which may result in a loss of your data associated with that Service.

4. CONTENT

4.1. Content.

In the course of using the Services, you may submit data and content to Bear Analytics through the Services (all of the above will be referred to as your “**Content**”). You represent and warrant that you have the right and any consents necessary to submit that Content to us to process on your behalf to perform the Services and to exercise the rights granted to us under these Terms. We will implement commercially reasonable and appropriate measures designed to protect your Content in our possession

or control as described below and only use Content that is personal data in accordance with these Terms.

4.2. Legally Compelled Disclosures.

We may disclose your Content when required by law or legal process, but only after Bear Analytics, if permitted by law, uses commercially reasonable efforts to notify you to give you the opportunity to challenge the requirement to disclose.

4.3. Security.

We will store and process your Content in a manner consistent with industry security standards relating to the Services and our business. We have implemented appropriate technical, organizational, and administrative systems, policies, and procedures designed to help protect the security, integrity, and confidentiality of your Content and to mitigate the risk of unauthorized access to or use of your Content. We have no oversight or responsibility for how your users use the Content or Services, and you are responsible for their acts and omissions.

If we become aware of any unauthorized or unlawful access to, or acquisition, alteration, use, disclosure, or destruction of, your Content (“Security Incident”), Bear Analytics will take reasonable steps to notify you without undue delay, but in any event within 72 hours of becoming aware of the Security Incident.

If you become aware of any security incidents originating in your user authentication mechanism or your users misplace their credentials, you may request Bear Analytics freeze or terminate specific user accounts or users by contacting your account representative.

4.4. You Retain Ownership of Your Content.

You retain ownership of all of your intellectual property rights in your Content. Bear Analytics does not claim ownership over any of your Content and will not sell your Content for marketing or other purposes. These Terms do not grant us any licenses or rights to your Content except for the limited rights needed for us to provide the Services, and as otherwise described in these Terms.

4.5. Freedom of Create and Commercialize Aggregated and Anonymized Data; Feedback.

In addition to using your Content to provide the Services, we may aggregate and/or anonymize your Content to create benchmarks, statistics and other metrics, so long as your identity and the identity of any specific individuals relating to you and your Content is not apparent. We solely and exclusively own all right, title, and interest in and to such anonymized or aggregated benchmarks, statistics and other metrics and may improve our Services or create new services from such aggregated and/or anonymized data. If you provide us with feedback about the Services, we may use your feedback without any obligation to you or consideration payable to you.

4.6. Representations and Warranties.

You represent and warrant that: (a) you own or control the appropriate rights in and to your Content, including any intellectual property owned by your users, customers or third parties; and (b) you will not submit, upload, or otherwise make available via the Services, any Content or materials that (i) you do not have the rights necessary to use, transmit, publish, or to grant us the license as described herein; or (ii) infringe, misappropriate, or otherwise violate any intellectual property, publicity or other rights of any third party.

4.7 Customer Lists.

Bear Analytics may identify you by name and logo as a customer of the Services on our websites and on other promotional materials. Any goodwill arising from the use of your name and logo will inure to your benefit.

4.8 Reports & Data Access For Your Customer's Customers.

If you have made the Bear IQ Services available to your users or customers and they elect to make certain reports or content downloads available to their users or customers via the Customized Reporting Upgrade, that upgrade functions as an authorization and permission for the Bear IQ System to share the Content with the specific Exhibitor or Sponsor organizations that have been given Customized Reporting Upgrades. Information shared may include event-specific performance key performance indicators, platform performance averages, and lists of event attendees that interacted with a specific sponsor or exhibitor. Bear Analytics is not responsible for any data errors in this information and places the burden of GDPR compliance, email opt-ins, etc. on either your platform or the platforms/providers who are functioning as the data collectors for an event.

5. INTELLECTUAL PROPERTY

5.1. Bear Analytics IP.

Neither these Terms nor your use of the Services grants you ownership in the Services or the materials you access through the Services (other than your original Content passed to the Services). These Terms do not grant you any right to use the Bear Analytics or Bear IQ trademarks or other brand elements. All rights not expressly granted are reserved by Bear Analytics.

You agree you will not access, use, disclose, or reference any aspects related to the Services, including data schema, benchmarks, metrics, user interfaces, or other elements of the Services other than to use the Services as permitted under this Agreement. You may not directly or indirectly access, use or reference the Services to create a competing or similar platform, product, or service or to reverse engineer the Services or any component of the Services. You will ensure that your users comply with the foregoing restrictions.

5.2. Third Party Content.

The Services may display content provided by others that is not owned by Bear Analytics. Such content is the sole responsibility of the entity that makes it available. Correspondingly, you are responsible for your own Content and that of your clients. You must ensure that you have all the rights and permissions needed to use and make available that Content in connection with the Services. Bear Analytics is not

responsible for any actions you take with respect to your Content, including sharing it publicly. Under no circumstances will Bear Analytics be liable for any Content, any other third-party content or materials, or any loss or damage resulting from your use of, or reliance on, such Content or other third-party content or materials. Please do not use content from the Services unless you have first obtained the permission of its owner, or are otherwise authorized by law to do so.

5.3. Open Source.

Certain items of software code provided with the Services may be subject to “open source” or “free software” licenses (“Third Party Code”), a list of which is available on our website and/or in the Documentation as necessary. The Third Party Code is not subject to the terms and conditions of this Agreement, except this section, the disclaimers of warranty, and limitations of liability. Instead, each item of Third Party Code is licensed under the terms of the license that accompanies such Third Party Code. Nothing in this Agreement limits your rights under, or grants you rights that supersede, the terms and conditions of any applicable license for the Third Party Code, including any rights to copy, modify, or distribute Third Party Code under the applicable license. If we make modifications to such Third Party Code and if the applicable license requires that such modifications be made available and we do not already publish such modifications via the applicable Third Party Code community, then we will make applicable modifications available on our website.

6. ACCOUNT MANAGEMENT

6.1. Keep Your Password Secure.

If you have been issued an Admin account by Bear Analytics in connection with your use of the Services, you are responsible for safeguarding your password and any other credentials used to access that account. You, and not Bear Analytics, are responsible for any activity occurring in your account, whether or not you authorized that activity. If you become aware of any unauthorized access to your account, you should notify Bear Analytics immediately.

6.2. Keep Your Details Accurate.

Bear Analytics occasionally sends notices to the email address registered with your account. You must keep your email address and, where applicable, your contact details and payment details associated with your account current and accurate.

6.3. Remember to Backup.

You are responsible for maintaining, protecting, and making backups of your system and customer Content prior to sharing with Bear Analytics. To the extent permitted by applicable law, Bear Analytics will not be liable for any failure to store, or for loss or corruption of, your Content.

6.4. Customer Success.

Bear Analytics may assign you a customer success manager (“CSM”). The CSM may review your use of the Services and your Content to help you to more effectively use the Services, including by providing reporting and usage insight.

6.5 Direct Outreach.

Notwithstanding anything to the contrary, by signing a customer up for the Services inside your Admin Portal or referring an organization to Bear Analytics through the Services functions or features, you give Bear Analytics permission to contact that customer organization directly in order to provide access to the Services. If that customer organization has additional questions or technical issues requiring continued engagement with Bear Analytics, Bear Analytics may correspond with via email or phone without your express permission or knowledge.

Occasionally, Bear Analytics may email all current and former end-users of the Services with marketing or system education content and offers and nothing in this Agreement prohibits or restricts Bear Analytics from doing so. Individuals will have the option to unsubscribe from this Bear Analytics marketing following anti-spam laws.

7. SYSTEM PERFORMANCE AND YOUR RESPONSIBILITIES

7.1 Your Uptime Responsibilities.

We try to keep our online Services up, but they may be unavailable from time to time for various reasons. We are excused from responsibility for latency of data or failure of the Services due to disruptions or instability in your system’s API or other factors outside of our control. We are excused from responsibility from latency of data or failure of the Services due to changes in your API’s architecture, endpoints, or taxonomy without adequate notification to Bear Analytics. We also are excused from responsibility from latency of data or failure of the Services due to disruptions to your system’s authentication process or your user error around their passwords and usernames.

7.2 Your Data Fidelity Responsibilities.

Bear Analytics is not responsible for dissatisfaction or any issues resulting from poor incoming data quality, lack of data standardization, lack of endpoints, or other data-related deficiencies in your Content.

It is your responsibility to cleanse, validate, investigate, and explain data-related anomalies, including omissions or quality issues. We may rely on the accuracy of your data and are excused from any errors arising from inaccurate data.

7.3 Your Customer Communication and Service Responsibilities.

You are responsible for making your users aware that they have access to the Services and only access and use the Services as permitted under this Agreement. You are also responsible for all customer service regarding username and password retrieval and Services log-in troubleshooting.

8. ACCEPTABLE USES

8.1. Legal Compliance.

You represent and warrant that you will comply with all laws and regulations applicable to your use of the Services.

8.2. Acceptable Uses Policy.

Legal Compliance

You must use the Services in compliance with, and only as permitted by, applicable law. The use of our Services in conjunction with other tools or resources in furtherance of any of the unacceptable uses described herein is also prohibited.

Usage Terms

You are responsible for your and your users' conduct, Content, and communications with others in connection with the Services. You must comply with the following requirements when using the Services. We may take steps to prevent uses of our Services that are contrary to the spirit of this policy, including suspension or termination of rights.

- (a) You may not use the Services to commit an unlawful activity; use the Services for activities where use or failure of the Services could lead to physical damage, death, mental harm, or personal injury.
- (b) You may not provide any person under the age of 13 with access to the Services.
- (c) You may not purchase, use, or access the Services for the purpose of building a competitive product or service or for any other competitive purposes including augmenting your system's native analytics capabilities.
- (d) You may not misuse our Services by interfering with their normal operation, or attempting to access them using a method other than through the interfaces and instructions that we provide.
- (e) You may not circumvent or attempt to circumvent any limitations that Bear Analytics imposes on your account (such as an event limit or data caps).
- (f) Unless authorized by Bear Analytics in writing, you may not probe, scan, or test the vulnerability or security of the Services or network.
- (g) You may not deny others access to, or reverse engineer, the Services, or assist anyone else to do so, to the extent such restriction is permitted by law.
- (h) You may not use the Services to infringe the intellectual property rights of others.
- (i) Unless authorized by Bear Analytics in writing as part of a white label agreement, you may not resell or lease the Services.
- (j) If your use of the Services requires you to comply with industry-specific regulations applicable to such use, you will be solely responsible for such compliance. You may not use the Services in a way that would subject Bear Analytics to those industry-specific regulations. For example, you may not use the

Services to collect, protect, display, or otherwise handle “protected health information” (as defined in 45 C.F.R. §160.103 under United States federal regulations).

(k) You may not engage in abusive or excessive usage of the Services, which is usage significantly in excess of average usage patterns of reasonable users similar to you that adversely affects the speed, responsiveness, stability, availability, or functionality of the Services for other users. Bear Analytics will endeavor to notify you of any abusive or excessive usage to provide you with an opportunity to reduce such usage to a level acceptable to Bear Analytics which no longer causes such adverse effects.

(l) All metrics, benchmarks and context created as part of the Services is sole property of Bear Analytics. Copying, distributing, or sharing this intellectual property without the written consent of Bear Analytics represents a breach of the acceptable uses and may result in account termination or other pursuant legal actions.

9. CREDIT CARD PAYMENTS.

9.1. Processing Services.

We utilize best-in-class third-party payment processing platforms to facilitate payment transactions and do not collect or store your credit card information, or that of your customers. By entering into this Agreement with us, you authorize Bear Analytics’ payment processing vendor to charge your credit card at the interval specified on your Purchase Order Form or otherwise agreed in connection with your use of the Services.

10. SUSPENSION AND TERMINATION OF SERVICES

10.1. By You.

You can terminate your Subscription or any Service and delete your account at any time through the Admin Portal in the Services. Such termination and deletion will result in the deactivation or disablement of your primary account and any and all of your users’ (including customers if applicable) access to the Services derived as the result of your primary account. Account deletion results in the immediate loss of any metrics, benchmarks, and dashboards and data enrichments Bear Analytics has created as part of the Services for you.

If you terminate a Subscription in the middle of your monthly or annual Subscription Term, you will not receive a refund and must pay any unpaid fees for the remainder of the originally contemplated Subscription Term, unless you are terminating for any of the following reasons: (a) we have materially breached and failed to cure that breach within 30 days after you have so notified us in writing; or (b) we, in our sole discretion, determine a refund or cancellation is appropriate. For clarity, we will not grant a refund where you have used our Services, collected responses, and/or downloaded your responses unless the termination is due to our material, uncured breach.

10.2. By Bear Analytics.

Bear Analytics may terminate your Subscription or any Service for any reason by providing at least 90 days' written notice to you and will provide a pro rata refund for any period of time you could not use the Services after such termination. Bear Analytics may suspend performance or terminate for any of the following reasons: (a) you have materially breached and failed to cure that breach within 30 days after Bear Analytics has so notified you in writing; (b) you cease your business operations or become subject to insolvency proceedings and the proceedings are not dismissed within 90 days; or (c) you fail to pay fees for 30 days past the due date. Additionally, Bear Analytics may limit, suspend, or terminate the Services to you: (i) if you fail to comply with the Agreement, (ii) if you use the Services in a way that causes legal liability or risk to us or disrupts others' use of the Services; or (iii) if we are investigating suspected misconduct by you. Also, if we limit, suspend, or terminate the Services you receive, depending upon the reason, we will endeavor to give you advance notice. However, there may be time sensitive situations where Bear Analytics may decide that we need to take immediate action without notice. Bear Analytics has no obligation to retain your Content upon termination of the applicable Service.

10.3. Further Measures.

If Bear Analytics stops providing the Services to you because you repeatedly or egregiously breach the Agreement, Bear Analytics may take measures to prevent the further use of the Services by you, including blocking your and your users' IP address.

11. CHANGES AND UPDATES

11.1. Changes to Terms.

Bear Analytics may change these Terms at any time for a variety of reasons, such as to reflect changes in applicable law or updates to Services, and to account for new Services or functionality. The most current version will always be posted on the Bear Analytics website. If an amendment is material, as determined in Bear Analytics' sole discretion, Bear Analytics will endeavor to notify you by email based on your account information on file with Bear Analytics. Changes will be effective no sooner than the day they are publicly posted. In order for certain changes to become effective, applicable law may require Bear Analytics to obtain your consent to such changes, or to provide you with sufficient advance notice of them. If you do not want to agree to any changes made to the terms for a Service, you should stop using that Service, because by continuing to use the Services you indicate your agreement to be bound by the updated terms.

11.2. Changes to Services.

Bear Analytics may constantly change and/or improve the Services. Bear Analytics may add, alter, or remove functionality from a Service it provides to you at any time without prior notice. Bear Analytics may also limit, suspend, or discontinue a Service provided to you at its discretion. If Bear Analytics discontinues a portion of the Services, we will give you reasonable advance notice.

11.3. Downgrades.

Downgrading your account Service plan may cause the loss of content, features, event user rights, functionality, or capacity.

12. DISCLAIMERS AND LIMITATIONS OF LIABILITY

12.1. Disclaimers.

EXCEPT AS EXPRESSLY PROVIDED IN THESE TERMS AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES AND ANY ANALYSIS, DATA, GUIDANCE OR RECOMMENDATIONS THEREIN ARE PROVIDED “AS IS” AND BEAR ANALYTICS DOES NOT MAKE WARRANTIES OF ANY KIND, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OR ANY REPRESENTATIONS REGARDING AVAILABILITY, RELIABILITY, OR ACCURACY.

12.2. Exclusion of Certain Liability.

TO THE EXTENT PERMITTED BY APPLICABLE LAW, BEAR ANALYTICS, ITS AFFILIATES, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS, AND LICENSORS WILL NOT BE LIABLE FOR (A) ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, OR EXEMPLARY DAMAGES WHATSOEVER, OR (B) LOSS OF USE, DATA, BUSINESS, REVENUES, OR PROFITS (IN EACH CASE WHETHER DIRECT OR INDIRECT), ARISING OUT OF OR IN CONNECTION WITH THE SERVICES AND THE AGREEMENT, AND WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY, OR ANY OTHER LEGAL THEORY, EVEN IF BEAR ANALYTICS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

12.3. Limitation of Liability.

TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE AGGREGATE LIABILITY OF EACH OF BEAR ANALYTICS, ITS AFFILIATES, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS, AND LICENSORS ARISING OUT OF OR IN CONNECTION WITH THE SERVICES AND THIS AGREEMENT WILL NOT EXCEED THE AMOUNTS PAID BY YOU TO Bear Analytics FOR USE OF THE SERVICES AT ISSUE DURING THE 12 MONTHS PRIOR TO THE LAST EVENT GIVING RISE TO LIABILITY.

12.4. Indemnification.

Each Party will indemnify, defend, and hold harmless the other Party, its affiliates, and their respective employees, directors, officers, and principals (“*Indemnitee*”) from and against any and all losses, liabilities, damages, liens and claims and all related costs, expenses and other charges, including but not limited to reasonable attorney’s fees and court costs (“*Losses*”) to the extent arising from, or in connection with, any of the following:

- (a) In the case of you as the Indemnitor, your breach of your representations or warranties regarding your Content;
- (b) In the case of Bear Analytics as the indemnitor, infringement claims arising from our Services (but not the combination of our Services with your Content or other materials or your unauthorized use of our Services)
- (c) Any claim attributable to a Party’s gross negligence, willful misconduct or fraud.

Indemnitee shall provide the other Party (the “*Indemnitor*”) prompt notice of any third party claim received by an Indemnified Party, provided that failure to do so shall not relieve the Indemnitor of its indemnification obligation except to the extent that it can demonstrate damages attributable to such failure. The Indemnitor shall have the right to control the investigation, defense and settlement of such claim, provided that: (a) the Indemnitee shall be entitled to participate in the defense of such claim and to employ counsel at its own expense; and (b) if a proposed settlement imposes any obligation or restriction on an Indemnitee, the Indemnitor shall obtain the prior written approval of the Indemnitee before entering into such settlement. The Indemnitee shall provide such cooperation and assistance as may be reasonably requested by the Indemnitor in connection with the investigation, defense or settlement of the third party claim at the Indemnitor’s expense.

13. GOVERNING LAW AND JURISDICTION

13.1. Jurisdiction.

This Agreement is governed by the laws of the State of Virginia (without regard to its conflict of laws provisions). Except if prohibited by applicable law, each Party submits to the exclusive jurisdiction of the state courts located in Arlington County, Virginia, and the federal courts located in the Northern District of Virginia with respect to the subject matter of this Agreement.

14. OTHER TERMS

14.1. Entire Agreement.

These Terms (including the Additional Terms, Schedules, and Purchase Order Forms) constitute the entire agreement between you and Bear Analytics, and supersede any other prior or contemporaneous agreements, terms and conditions, written or oral concerning its subject matter. Any terms and conditions appearing on a purchase order or similar document issued by you do not apply to the Services, do not override or form a part of these Terms, and are void.

14.2. Independent Contractors.

The relationship between you and Bear Analytics is that of independent contractors, and not legal partners, employees, or agents of each other. This Agreement does not constitute and will not be construed as constituting an endorsement, certification, partnership, joint venture or other such relationship between the Parties. Neither Party shall state or imply any such relationship, and neither Party shall have any right to obligate or bind the other Party in any manner whatsoever.

14.3. Interpretation.

The use of the terms “includes”, “including”, “such as”, and similar terms, will be deemed not to limit what else might be included.

14.4. No Waiver.

A Party’s failure or delay to enforce a provision under these Terms is not a waiver of its right to do so later.

14.5. Precedence.

To the extent any conflict exists, the Additional Terms prevail over these Terms with respect to the Services to which the Additional Terms apply.

14.6. Severability.

If any provision of these Terms is determined to be unenforceable by a court of competent jurisdiction, that provision will be severed and/or rewritten to conform with applicable law to the extent possible, and the remainder of terms will remain in full effect.

14.7. Third Party Beneficiaries.

There are no third party beneficiaries to these Terms.

14.8. Survival.

Sections of the Agreement that customarily survive termination or expiration, including limitations and disclaimers of liability, will so survive.

14.9 Non-Exclusive.

Nothing contained within this Agreement is intended to establish an exclusive relationship between the Parties. Either Party may contract with other Parties for the procurement or sale of similar or comparable products and services.