Bazaarvoice, Inc.

General Business Terms and Conditions for Software as a Service and IT Services (the "Terms")

1. SERVICES

1.1 <u>Provision of Services:</u> The Customer's contracting partner is Bazaarvoice, Inc., a Delaware company with its registered office in 10901 Stonelake Blvd, Austin, Texas 78759, USA ("Bazaarvoice"). Subject to the provisions of these Terms, Bazaarvoice will provide the Customer with services, particularly software as a service ("**SaaS Services**") and IT services for optimization of distribution as well as a data access (as per Section 3) through the Bazaarvoice platform (each a "**Service**" and collectively the "**Services**"). The specific conditions for the Services and their statements of work are set forth in the relevant service agreement or service order (each an "**Order**"). The duration of the Services depends on the specifications made in the applicable Order. The Customer may use the Services solely in accordance with these Terms and the applicable Order. The SaaS Services shall be governed by German lease law (§§ 535 et seqq. German Civil Code, BGB), while the other Services shall be governed by the law governing service contracts (§§ 611 et seqq. BGB). These Terms apply to all Services of Bazaarvoice.

1.2 <u>Service Levels.</u> Bazaarvoice will provide the Services in accordance with the Service Level Agreement in Exhibit A.

1.3 <u>Third Party Sites.</u> To the extent that the Customer requests or otherwise causes the Services to be integrated with the websites of third parties (e.g. Twitter, Instagram, LinkedIn, Facebook, and Google) ("Third Party Sites"), the Customer agrees that Bazaarvoice only provides the integration as a part of Bazaarvoice's service and does not have control over the terms of use, privacy policies, operation, performance or content of any Third Party Sites and your contractual relationship regarding use of such Third Party Sites shall be solely between you and the operator of the Third Party Site. Accordingly, Bazaarvoice disclaims all responsibility and liability for any information collected or used by Third Party Sites and damages or other harm whether to the Customer or end users, resulting from such use of Third Party Sites.

1.4 <u>Loyalty, Rewards and Similar Programs.</u> If the Customer elects to use the Services in conjunction with a loyalty, rewards, contest, sweepstakes or similar program, then the Customer acknowledges and agrees that it is responsible for ensuring that such program, including without limitation the earning, redemption and expiration of points and rewards, is compliant with all applicable laws, codes, rules and regulations.

1.5 <u>Syndicated Content</u>. In the event that you receive syndicated content through the Bazaarvoice Syndication service ("Syndicated Content"), you are granted a limited, non-exclusive, royalty-free, revocable, world-wide license solely to display Syndicated Content on your website for the duration of the Agreement. You may not use it for any other purpose. Syndicated Content is owned by the party who originally collected it and that party may revoke licenses in that content at-will.

1.6 <u>Legacy Content</u>. In the event that you have Bazaarvoice import any of your content that exists prior to this Agreement ("**Legacy Content**"), you represent and warrant that you have any and all consents necessary to use Legacy Content.

1.7 <u>Authenticity.</u> You and Bazaarvoice shall comply with the terms of Bazaarvoice's Authenticity Policy, which can be found at www.bazaarvoice.com/legal/authenticity-policy as amended from time to time under the conditions set forth therein.

1.8 <u>Customer Content.</u> The Customer acknowledges and agrees that, as between the Customer and Bazaarvoice, the Customer is responsible for all content it posts via the Services (e.g. answering of end user questions). Bazaarvoice does not conduct any assessment of this content as to its completeness, correctness, lawfulness, actuality, quality and eligibility for the intended purpose.

1.9 <u>Account Protection:</u> The Customer will protect the confidentiality of all account information, including user names and passwords. In the case of a threat to the security of login information, the Customer shall promptly deactivate the concerned user account or change the login information for the account.

1.10 <u>Assistance:</u> The Customer shall provide Bazaarvoice with all information and assistance as reasonably required for Bazaarvoice to activate and operate the Services. Further details on the Customer's assistance can be found in the applicable Service Order.

2. FEES AND PAYMENT

2.1 <u>Fees:</u> The Customer shall pay Bazaarvoice the undisputed fees in the currency indicated in the applicable Order. The particular payment terms are provided in Bazaarvoice's invoice to the Customer. All fees are exclusive of applicable sales, excise or use taxes. The Customer is responsible for paying such taxes, whether such taxes are billed by Bazaarvoice or assessed directly by the applicable taxing authority. Payments are due net 30 days from receipt of the invoice of Bazaarvoice by the Customer unless agreed otherwise in the applicable Order. The Customer will notify Bazaarvoice of any invoice dispute within thirty (30) days of receipt of invoice, at which time the parties will engage in good faith efforts to resolve the dispute.

2.2 <u>Late Payments:</u> In case of payment default by the Customer, Bazaarvoice may, in its sole discretion, choose to do any or all of the following: (i) charge the Customer default interest of 8 percentage points above the base interest rate; and/or (ii) suspend your access to the Services. Bazaarvoice's suspension or resumption of the Services does not limit or prevent Bazaarvoice from pursuing all other remedies available.

3. PROPRIETARY RIGHTS

3.1 Intellectual Property to Services, License: Bazaarvoice owns all intellectual property rights to the Services. This particularly applies also to all modifications, improvements, upgrades and derivative products based on corresponding feedback. Bazaarvoice grants the Customer a limited, non-exclusive, non-transferable license to use the Services for the term of the applicable Order. Payment of the fee for the applicable Order covers the granting of the license. The Customer acknowledges that the rights granted to it under these Terms do not provide the Customer with any legal title or ownership to the Services, but only a right to use the Services subject to the provisions of these Terms. All rights not expressly granted to the Customer under these terms are reserved by the Bazaarvoice.

3.2 Restrictions: Unless otherwise permitted in writing by Bazaarvoice, the Customer may not, and may not permit any third party to, (i) copy, reproduce, modify, translate, prepare derivative works of, decompile, reverse engineer, disassemble or otherwise attempt to derive source code from the Services; (ii) use, evaluate or review the Services for the purpose of designing, modifying or otherwise creating any environment, program or infrastructure or any portion thereof which performs functions similar to the functions performed by the Services; or (iii) resell, use the Services in a service bureau or provide Services for a third party in any manner. If the Customer wishes to perform decompilation based on § 69e German Copyright Act (UrhG), the Customer will notify Bazaarvoice in writing in advance and will grant Bazaarvoice a reasonable period to provide any legally required interface information prior to the start of such decompilation. The Customer may not remove, obscure or alter any copyright notice, trademarks, logos and trade names or other proprietary rights notices affixed to or contained within the Services.

3.3 Data Collection, Ownership and Use:

3.3.1 User Generated Content. "**User Generated Content**" (or "**UGC**") means content submitted via the Services with the intent of being publicly displayed. UGC includes but is not limited to reviews, ratings, questions, and answers. UGC includes associated meta data, such as date and time stamp.

3.3.2 Service Data. "**Service Data**" is data provided by you for the purpose of facilitating the Services. Service Data includes but is not limited to, product information included in feeds and transaction detail information such as unit prices and cart values.

3.3.3 Client Data. "**Client Data**" means all UGC, personal data (as defined in Section 3.4) and Service Data (collectively). As between Bazaarvoice and you, you own all Client Data. Nothing contained herein shall be construed as granting Bazaarvoice ownership in any Client Data.

3.3.4 License. You grant Bazaarvoice a limited, non-exclusive, royalty-free, irrevocable, world-wide license to use Client Data as necessary to provide, improve, monitor and develop the Services for the duration of the Agreement, and an irrevocable license to use UGC for analytics purposes in perpetuity. Unless it has been aggregated or anonymized, Client Data will only be disclosed as necessary to provide you the Services.

3.3.5 Personal Data: In the event that the Customer, its employees or its contractors request that Bazaarvoice collect information in connection with the Services that facilitate a personal identification of the end users, then the Customer shall remain responsible for the data. Bazaarvoice collects and processes the data only by order of the Customer on the basis of a data processing agreement to be entered into separately. On request of the Customer Bazaarvoice will provide proof that it has received certificates from independent reviewing bodies confirming that Bazaarvoice has established effective processes for data protection in accordance with the provisions of the German Federal Data Protection Act.

3.3.6 Data Transfer and Deletion: Upon the request of the Customer, Bazaarvoice will provide the Customer with a raw data feed of the Client Data. Bazaarvoice may charge a fee of EUR 160.00 for an electronic copy of the Client Data if the format or method of delivery is not currently supported by Bazaarvoice. Upon termination of the Order, Bazaarvoice shall permanently delete the Client Data no later than six (6) months following the termination effective date.

4. CONFIDENTIALITY

4.1 Definition: "**Confidential Information**" means, in particular, business secrets, information about business projects, finances, products and projects, procedures, customers and employees of the other party and its affiliates as well as any other information that is either designated as confidential or that a third party would reasonably consider to be confidential, including such data which are subject to data protection ("Confidential Information"). Confidential Information may be provided in tangible or intangible form, including in the form of written documents, electronic media, prototypes and oral communication. Both parties agree to maintain secrecy about all Confidential Information and not to disclose Confidential Information to any third parties.

4.2 Exceptions: Neither party shall be liable for the disclosure of any Confidential Information if the same information verifiably: (i) was publicly available at the time of the disclosure or becomes publicly available at a later date, unless this is due to an act or omission by the receiving party; (ii) was lawfully known to the receiving party independent of the disclosing party, unless such knowledge is based on a breach of any confidentiality obligations; (iii) has been received from a third party unless such third party was subject to a non-disclosure obligation with respect to such information; or (iv) was disclosed to the receiving party from any source other than the disclosing party, unless this was done in breach of any confidentiality obligations. Corresponding proof shall be furnished by the receiving party on the basis of documents or other means.

4.3 Permitted Use: All Confidential Information disclosed in connection with these Terms and/or the Order shall be used exclusively in connection with the common business purpose and its evaluation. Both parties agree that they will not make any copies

of Confidential Information received from the other party, without the disclosing party's prior written consent. When making authorized copies, the parties must reproduce confidentiality notices of the other party the way they appear on the originals. Alternatively, when making any copies, the parties must ensure that any marks on the original documents which indicate the confidentiality of the information shall be legible on the copies in the same way as on the originals. Notwithstanding the above provisions, each party shall be authorized to disclose and/or pass on to third parties Confidential Information of the other party subject to the other party's approval. Without the other party's approval, any disclosure/passing-on of Confidential Information shall be permissible only if this (i) is required by a supervisory authority based on legal requirements; (ii) or is prescribed by mandatory law; (iii) or if the Confidential Information has been made available to the employees or advisors of the receiving party in connection with the interpretation or execution of the contract documents or any dispute resulting therefrom and if the employee or advisor has first agreed to observe confidentiality by written notice to the receiving party or is under a professional non-disclosure obligation; or (iv) before any courts and/or authorities in connection with a dispute. The receiving party may disclose the confidential information only to those employees, subcontractors or third parties who have a need to know the information to achieve the business purpose and who have agreed to observe confidentiality to the same degree as, or to a higher degree than, provided in these Terms.

4.4 Disclosure Prescribed by Law: In the event that the receiving party is obligated based on any rule of law, order, enforcement measure or under any court or administrative proceedings to disclose Confidential Information of the other party, the receiving party must promptly notify the other party of such obligation to disclose, its conditions and circumstances, so that the other party can seek (temporary) relief from the concerned court or authorities. The receiving party shall fully collaborate with the disclosing party to obtain such relief. If the receiving party should still be obligated to disclose the Confidential Information, it will disclose only such part of the Confidential Information as is required and will make all reasonable efforts to ensure that the Confidential Information will be kept in confidence as far as possible.

4.5 Duty of Care: As regards the protection of Confidential Information of the other party, each party shall employ the same duty of care it employs for its own internal similar confidential information, but in no event a lower level of care than the that usually employed in business dealings.

5. WARRANTY

5.1 SaaS Services: Bazaarvoice warrants that the contractually agreed quality of the SaaS Services will be maintained during the term of the applicable Order and that the use of the SaaS Services as agreed by contract will not conflict with any rights of third parties. Bazaarvoice further warrants that the SaaS Services are free of any viruses, trojans or other defective codes. Bazaarvoice will eliminate any defects of quality or title to the SaaS Services within a reasonable period of time. Bazaarvoice does not give any warranty that the SaaS Services are usable for the purposes intended by the Customer or that the objectives pursued by the

Customer by using the SaaS Services can be achieved unless otherwise agreed upon. The Customer agrees to notify Bazaarvoice in writing of any defects to the SaaS Services promptly upon detection. In case of defects as to quality, this shall be done by the Customer specifying the specific time of occurrence of the defects and the detailed circumstances. § 536a(1) 1st alt. German Civil Code shall apply only if Bazaarvoice is responsible for the initial defect to the SaaS Services.

5.2 Other Services: The rights of the Customer in case of malperformance by Bazaarvoice concerning services other than the SaaS Services shall be subject to the general provisions of the German law governing service contracts.

5.3 Your Warranty. You represent and warrant (*gewährleisten*) that (i) in relation to the Services, you will comply with all applicable laws, codes, regulations and ordinances in all material respects; (ii) you have any and all consents and authorizations that are required in order to obtain the Services; (iii) each of the sites where the Services are deployed contains a privacy policy that discloses the usage of third-party technology and the data collection and usage resulting from the Services (it being understood that this clause will not be deemed to require those privacy policies to expressly identify Bazaarvoice or any Service, unless otherwise required by law, rule or regulation) and complies with all applicable privacy laws, rules and regulations; and (iv) your websites upon which the Services are deployed do not contain any material which is defamatory, promotes illegal activity, or contains hate speech

5.4 Customer's Indemnity: The Customer shall indemnify Bazaarvoice against all losses and expenses (including reasonable attorneys' fees) resulting from any judgment or proceedings or settlement agreement from a third party's claim that arises out of (a) unauthorized use of or changes to the Services by the Customer or any user authorized by the Customer, (b) use of the Services by the Customer or any Authorized User in violation of any law or regulation, (c) use by the Customer of the Client Data or of the Bazaarvoice Data in violation of any laws or rights or third parties. This shall not apply where the Customer is not responsible for the concerned breach.

5.5 Bazaarvoice's Indemnity: Bazaarvoice shall indemnify the Customer against all losses and expenses (including reasonable attorneys' fees) resulting from any judgment or proceedings or any settlement agreement from a third party's claim that arises out of (a) a violation of any laws or rights of third parties due to the Services, (b) use of the Client Data by Bazaarvoice in breach of contract. This shall not apply where Bazaarvoice is not responsible for such breach.

5.6 Legal Consequences: If the Customer's use of the Services is enjoined due to a third-party claim or an infringement of rights, Bazaarvoice may, at its expense and within its sole discretion, either (i) procure for the Customer the right to continue using the Services, (ii) replace or modify the enjoined Services to make them non-infringing but functionally equivalent; or (iii) terminate the enjoined Services and return any fees paid for the enjoined Services not yet rendered.

5.7 <u>Indemnification Conditions</u>: The indemnification obligations contained in these Terms are conditioned upon: (a) notice by the indemnified party to the indemnifying party of any claim, action or demand for which indemnity is claimed within three (3) business days of the indemnified party receiving notice of such claim; (b) complete control of the defense and settlement by the indemnifying party, provided that no settlement may be made without the consent of the indemnified party, such consent not to be unreasonably withheld or delayed; and (c) reasonable cooperation by the indemnified party in the defense as the indemnifying party may request. Failure by the indemnified party to meet the conditions in this Section 5.7 does not exempt the indemnifying party of its indemnification obligation, except to the extent that such failure has materially prejudiced the indemnifying party's ability to defend the claim.

6. LIMITATIONS OF LIABILITY

6.1 <u>Limitations of Liability</u>: Bazaarvoice shall be liable in accordance with the statutory regulations for damage claims based on intent or gross negligence, including intent or gross negligence by representatives or vicarious agents of Bazaarvoice. To the extent that Bazaarvoice is blamed for the slightly negligent violation of a material contractual obligation the fulfillment of which facilitates the proper performance of the contract in the first place, the fulfillment of which is indispensible to achieve the purpose of the contract and on the fulfillment of which the Customer can typically rely, then Bazaarvoice's liability for damages shall be limited to compensation of the foreseeable damage typically occurring. The liability based on the culpable violation of the life, body or health as well as the liability under the German Product Liability Act remains unaffected. Liability for all other damage shall be excluded.

6.2 <u>Amount of Typically Foreseeable Damage</u>: The parties agree that the typically foreseeable damage may not exceed the order value unless the Customer has advised Bazaarvoice of a particularly high damage risk associated with that Order.

7. TERM

7.1 <u>Term and Ordinary Termination</u>: The term as well as the conditions and notice periods for ordinary termination are indicated in the applicable Order.

7.2 <u>Termination for Breach</u>: If either party breaches any of the provisions of these Terms or of the Order and fails to cure such breach within thirty (30) days after written notice from the non-breaching party, the non-breaching party may terminate the Order, in addition to any other remedies it may have, upon ten (10) days' written notice. Upon termination of this Agreement or a Service Order due solely to your failure to pay fees, you will pay for the Services that have been rendered through the termination date plus all other charges that would have been due under the remaining term of each affected Service Order, not to exceed twelve (12) months of fees per Service Order. Upon termination of this Agreement or a Service Order due solely to a breach by Bazaarvoice, Bazaarvoice shall refund a pro rata portion of any fees paid for services not yet rendered as of the date of termination.

7.3 <u>Effect of Termination</u>: Upon termination of the Order, but no later than upon complete performance of the Service according to the Exhibits hereto, the Customer and each Authorized User must immediately stop using the Services, return or destroy all documentation and certify in writing such return or documentation to Bazaarvoice. In the event of termination of the Order, the provisions of these Terms regarding non-disclosure, limitation of liability and indemnity remain unaffected and continue in effect.

8. GENERAL TERMS

8.1 <u>Independent Contractor</u>: In performing the Order, each party is acting as an independent contractor, and in no way are the parties to be construed as partners, joint venturers or agents of one another in any respect.

8.2 <u>Subcontractors</u>: If Bazaarvoice subcontracts any portion of the Services, the support or other services to a third party, Bazaarvoice, (i) shall require such subcontractor to comply with the provisions of these Terms and of the Order; (ii) remains responsible for any acts or omissions of its subcontractors as if such act or omission were performed by Bazaarvoice.

8.3 <u>Exports</u>: The Customer may not export or re-export any software included in the Services, either directly or indirectly, without receiving Bazaarvoice's written consent and any required license from the applicable governmental agency.

8.4 <u>Force Majeure</u>: Neither party will be in default for failing to perform any contractual obligation if such failure is caused solely by conditions beyond the concerned party's control, including without limitation, acts of God, civil commotions, strikes, terrorism, failure of third-party networks or the public Internet, power outages, labor disputes or governmental demands or restrictions.

8.5 <u>Assignment</u>: The contractual relationship existing between the parties may be assigned by either party without the approval of the other party in connection with (i) a merger where the contracting entity does not survive such merger, or (ii) the floatation, acquisition or sale of all or any of its assets. Except as stated in the above provision, neither party may assign its rights or obligations under these Terms and/or the Order without obtaining the other party's prior written consent. Any assignment in contravention of this subsection will be void.

8.6 <u>Miscellaneous</u>: These Terms and the Order are governed by the laws of the Federal Republic of Germany excluding the United Nations Convention on Contracts for the International Sale of Goods. These Terms, including the exhibits attached hereto, and the applicable Order constitute the entire agreement between the parties regarding the subject matter stated herein and supersedes all previous agreements. An amendment to this Agreement is only valid if in writing and acknowledged by an executive or duly-authorized representative of both parties. Any general terms and conditions of business of the Customer or of the Authorized User will not become part of the contract between the parties, even if these are enclosed to any requests for offers, orders, or declarations of acceptance, etc. and are not objected to and even if Bazaarvoice performs the Service while being aware of the

conflicting general business terms and conditions of the Customer of Authorized User. If any of the contractual agreements are or become invalid, regardless of the legal ground, the validity of the other agreements shall not thereby be affected. The parties will endeavor to replace any invalid provision with a valid provision coming closest financially to what was originally intended. If no agreement is reached, the applicable statutory regulations shall apply additionally. The same applies to any gaps in these Terms or in the Order. No delay or omission by a party to exercise any right or power occurring upon any breach or default by the other party with respect to any of the provisions of these Terms will be construed to be a waiver. This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

8.7 Place of Jurisdiction: The place of jurisdiction is Munich. Bazaarvoice is free, however, to sue the Customer also at the court having jurisdiction at the Customer's place of business.

Exhibit A
Service Level Agreement

1. **Uptime Commitment**: Bazaarvoice will deliver 99.9% uptime for the Bazaarvoice controlled portions of the Customer's website that are end-user facing. The uptime percentage is calculated as follows: (Total minutes in any calendar month – total minutes of unavailability) divided by (the total minutes in the same calendar month) x 100.

1.1   Exceptions: Bazaarvoice is not responsible for a failure to meet any service level to the extent that failure is attributable to any of the following, in which case the service downtime does not count against the Uptime Commitment:

    1.1.1   The Customer's failure to install any upgrades provided by Bazaarvoice or perform any of its responsibilities set forth in the Agreement to the extent such failure adversely affects Bazaarvoice's ability to perform the Services, provided that Bazaarvoice uses all commercially reasonable efforts to perform despite the Customer's failure.
    1.1.2   Circumstances which may be considered under force majeure (Section 8.4 of these Terms).

2. **Communication**: If the Services are unavailable for a period longer than five (5) minutes, Bazaarvoice shall use all commercially reasonable efforts to (i) notify the Customer's designated contact, (ii) identify the source of the issue and (iii) resolve the issue. Notwithstanding the foregoing, Bazaarvoice has no obligation to the extent the Services are down due to the Customer's actions (e.g., code change without notice to Bazaarvoice).

3. **Moderation Commitment**: Except as provided in this Section 3, Bazaarvoice will moderate all submissions within an average of seventy-two (72) hours after submission, measured on a monthly basis. Notwithstanding the foregoing, submissions that Bazaarvoice reasonably believes to be fraudulent are not subject to the Moderation Commitment of 72 hours.

4. **Termination Option**: The Customer may terminate the concerned Order with thirty (30) days' written notice if Bazaarvoice fails to meet the Uptime Commitment for any two (2) consecutive calendar months or during three calendar months within a period of twelve (12) months.