

## SAAS TERMS OF SERVICE COVER PAGE

We are excited to partner with you and we're committed to getting you started with VanishID as soon as possible. As we start the contracting process, we want to provide the following context to help you and your legal team understand our services and the terms under which we offer them to help expedite the review. We hope that this context is helpful and look forward to working together.

### WHAT DOES VANISHID DO?

VanishID helps organizations and their employees reduce the risk of digital and physical attacks by identifying and removing exposed personal information from the public internet. We continuously monitor a network of third-party data brokers ("Data Brokers") for publicly available or breached data linked to your employees and work to remove it—enhancing both individual and corporate security

VanishID provides managed software-as-a-service under the terms of our SaaS Terms of Service located at <https://vanishid.com/tos/>

Most of VanishID's business customers partner with us to strengthen their Executive Protection and Corporate Security programs

VanishID's service reduces the amount of employee information available on the public internet, lowering risks associated with targeted attacks.

To operate the service, VanishID's business customers provide basic information about the individuals they wish to protect

VanishID uses this information solely to identify and remove already exposed data from public sources including Data Brokers and the dark web

### GRC

- SOC 2 Type II Compliant (100% of audits passed)
- Data Storage & Processing: U.S. Data Centers Only
- Data Center Provider: Google Cloud (Georgia)
- Data encrypted at rest and in motion

### CORPORATE DETAILS

- Legal Name: Picnic Corporation (DBA VanishID)
- Legal Entity: Delaware C-Corporation
- Headquarters: Bethesda, Maryland
- Employees: 100% based in the USA

### WHAT KIND OF INFORMATION DOES VANISHID COLLECT?

At VanishID, privacy and security are top priorities. Only the name and work email addresses of key individuals within the organization designated for protection are required:

- Other than name and work email, VanishID does NOT collect personal information from you, and treats all collected data with the highest priority in accordance with our privacy and security standards
- VanishID does NOT disclose any personally identifiable information in the reports we generate for you or within the VanishID Dashboard
- VanishID does NOT require sensitive access or a persistent connection to your systems

### WHAT'S UNIQUE ABOUT VANISHID'S TERMS OF SERVICE?

Our Terms of Service are specifically tailored to our Platform from start to finish. These Terms:

- define the parameters of permitted usage for our Platform, including IP terms;
- specify our respective obligations regarding use of the Platform, provision of our Services, and the limited data provided to VanishID; and
- summarize our subscription model.

We invest our resources in creating a best-in-class offering at extremely competitive pricing, so efficiency in our sales and contracting process is absolutely essential, which is why we require using our ToS for our contract.

### WILL VANISHID'S TERMS MEET MY REQUIREMENTS?

Our ToS includes industry-standard terms and protections specifically tailored to the offering of our SaaS platform and managed services that we know customers expect and are consistent with industry practice, including for example reasonable indemnities, confidentiality protections, intellectual property rights, client data and content management, limitations on liability and other standard terms. If your legal team has specific questions about our ToS, please let us know and we will do our best to address them.

We have found it is best for both sides to engage in a discussion of issues rather than making wholesale changes to the document.

## VANISHID

### SAAS TERMS OF SERVICE

PLEASE READ THIS SOFTWARE AS A SERVICE TERMS OF SERVICE CAREFULLY BEFORE CLICKING THE "I AGREE" BUTTON OR ACCESSING OR USING SERVICES. THESE TERMS OF SERVICE, TOGETHER WITH THE ORDER FORM(S) THAT REFERENCE THESE TERMS OF SERVICE (COLLECTIVELY, THE "AGREEMENT") CONSTITUTE A LEGALLY BINDING AGREEMENT GOVERNING THE TERMS AND CONDITIONS PURSUANT TO WHICH YOU MAY USE ACCESS AND USE THE SERVICES (AS DEFINED BELOW). BY CLICKING "I AGREE" OR ACCESSING OR USING THE VANISHID CORPORATION (DOING BUSINESS AS VANISHID) ("VANISHID") SERVICES, THE INDIVIDUAL OR ENTITY USING THE SERVICES ("LICENSEE") AGREES TO BE BOUND BY AND BECOME A PARTY TO THIS AGREEMENT. IF LICENSEE DOES NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, LICENSEE MUST NOT USE OR ACCESS THE SERVICES. LICENSEE REPRESENTS AND WARRANTS THAT LICENSEE HAS THE AUTHORITY TO ENTER INTO THIS AGREEMENT PERSONALLY (IF A NATURAL PERSON), OR ON BEHALF OF THE ENTITY ENTERING INTO THIS AGREEMENT, AND TO BIND THAT ENTITY. IF THE PARTIES HAVE PREVIOUSLY ENTERED INTO A WRITTEN AND PEN-SIGNED AGREEMENT REGARDING THE SUBJECT MATTER HEREOF, THIS AGREEMENT WILL SUPERSEDE THAT AGREEMENT TO THE EXTENT OF ANY CONFLICT.

**1. DEFINITIONS.** Capitalized terms shall have the meanings set forth in this section, or in the section where they are first used.

1.1 "Access Protocols" means the passwords, access codes, technical specifications, connectivity standards or protocols, or other relevant procedures, as may be necessary to allow Licensee or any Authorized Users to access the Services.

1.2 "Authorized User" means any individual who is an employee of Licensee or such other person or entity as may be authorized by VanishID to access the Services pursuant to Licensee's rights under this Agreement.

1.3 "Documentation" means the technical materials provided by VanishID to Licensee in hard copy or electronic form describing the use and operation of the Software and the Services.

1.4 "Intellectual Property Rights" means any and all now known or hereafter existing (a) rights associated with works of authorship, including copyrights, mask work rights, and moral rights; (b) trademark or service mark rights; (c) trade secret rights; (d) patents, patent rights, and industrial property rights; (e) layout design rights, design rights, and other proprietary rights of every kind and nature other than trademarks, service marks, trade dress, and similar rights; and (f) all registrations, applications, renewals, extensions, or reissues of the foregoing, in each case in any jurisdiction throughout the world.

1.5 "Licensed Material" means results, reports, materials and documentation made available to Licensee as part of the Services.

1.6 "Licensee Content" means any content that is uploaded onto the Services by Licensee, an Authorized User or otherwise used on or in connection with the Software.

1.7 "Order Form" means the quotation, pursuant to which a purchase order is issued, identifying the Services to be made available by VanishID pursuant to this Agreement and any limitations or restrictions in connection with Licensee's access to and use of such Services.

1.8 "Services" means VanishID's software-as-a-service offering identified in any Order Form that measures exposure to social engineering attacks and automates actions to reduce risk via integrations with existing security tools and proprietary technologies inside VanishID's platform and allows Authorized Users to access certain features and functions through a web interface.

1.9 "Software" means the software programs and any associated user interfaces and related technology that VanishID makes available pursuant to this Agreement for access and use through the Services.

1.10 "Supported Environment" means the minimum hardware, software, operating system, cloud platform, and connectivity configuration specified from time to time by VanishID as required for use of the Services. The current requirements are described in the Documentation.

## 2. PROVISION OF SERVICES

2.1 Access. Subject to Licensee's payment of the fees ("Fees"), VanishID shall provide to Licensee the necessary passwords, security protocols and policies and network links or connections and Access Protocols to allow Licensee and its Authorized Users to access the Services in accordance with the Access Protocols. Licensee will use commercially reasonable efforts to prevent unauthorized access to, or use of, the Services, and notify VanishID promptly of any such unauthorized use known to Licensee.

2.2 Support Services. Subject to the terms and conditions of this Agreement, VanishID will exercise commercially reasonable efforts to (a) provide support for the use of the Services and Software to Licensee, and (b) keep the Services and Software operational and available to Licensee, in each case in accordance with its standard policies and procedures.

2.3 Hosting. VanishID will, at its own expense, provide for the hosting of the Services, provided that nothing herein shall be construed to require VanishID to provide for, or bear any responsibility with respect to any telecommunications or computer network hardware required by Licensee or any Authorized User to provide access from the Internet to the Services.

## 3. INTELLECTUAL PROPERTY

3.1 License Grant. Subject to the terms and conditions of this Agreement, VanishID grants to Licensee a non-exclusive, non-transferable (except as permitted under subsection titled *Assignment*) license during the Term (as defined below), solely within the Supported Environment, for Licensee's internal business purposes and in accordance with the limitations (if any) set forth in the Order Form, (a) to access and use the Services in accordance with this Agreement and the Documentation; and (b) to use and reproduce a reasonable number of copies of the Documentation solely to support Licensee's use of the Services. Licensee may permit any Authorized Users to access and use the features and functions of the Services as contemplated by this Agreement.

3.2 Restrictions. Licensee agrees that it will not, and will not permit any Authorized User or other party to: (a) permit any party to access the Software or Documentation or use the Services, other than the Authorized Users authorized under this Agreement; (b) modify, adapt, alter or translate the Software or Documentation, except as expressly allowed herein; (c) sublicense, lease, rent, loan, distribute, or otherwise transfer the Software or Documentation to any third party; (d) reverse engineer, decompile, disassemble, or otherwise derive or determine or attempt to derive or determine the source code (or the underlying ideas, algorithms, structure or organization) of the Software; (e) use or copy the Software or Documentation except as expressly allowed under this subsection; or (f) disclose or transmit any data contained in the Software to any individual other than an Authorized User, except as expressly allowed herein. Except as expressly set forth herein, no express or implied license or right of any kind is granted to Licensee regarding the Services, Software, Documentation, or any part thereof, including any right to obtain possession of any source code, data or other technical material relating to the Software.

3.3 Ownership. The Services (excluding the Licensee Content hosted thereon), Software, Documentation, and all other materials provided by VanishID hereunder, including but not limited to all manuals, reports, records, programs, data and other materials, and all Intellectual Property Rights in each of the foregoing, are the exclusive property of VanishID and its suppliers. All rights in and to the Services, Software and Documentation not expressly granted to Licensee in this Agreement are reserved by VanishID and its suppliers. Except as expressly set forth herein, no express or implied license or right of any kind is granted to Licensee regarding the Software, Documentation, and Services or any part thereof, including any right to obtain possession of any source code, data or other technical material related to the Software.

3.4 License to Licensed Material. Subject to the terms and conditions of this Agreement, VanishID grants Licensee a perpetual, royalty-free, fully-paid, nonexclusive, non-transferable (except as permitted under subsection titled *Assignment*), non-sublicensable license to use the Licensed Material solely for Licensee's internal business purposes.

3.5 Open Source Software. Certain items of software may be provided to Licensee with the Software and are subject to "open source" or "free software" licenses ("Open Source Software"). Some of the Open Source Software is owned by third parties. The Open Source Software is not subject to the terms and conditions of the section titled *Indemnification* or the subsection titled *License Grant*. Instead, each item of Open Source Software is licensed under the terms of the end-user license that accompanies such Open Source Software. Nothing in this Agreement limits Licensee's rights under, or grants Licensee rights that supersede, the terms and conditions of any applicable end user license for the Open Source Software. If required by any license for particular Open Source Software, VanishID makes such Open Source Software, and VanishID's modifications to that Open Source Software, available by written request at the notice address specified below.

3.6 Feedback. Licensee hereby grants to VanishID a royalty-free, worldwide, transferable, sublicensable, irrevocable, perpetual license to use or incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback provided by Licensee, including Authorized Users, relating to the Services. VanishID will not identify Licensee as the source of any such feedback.

#### **4. FEES AND EXPENSES; PAYMENTS.**

4.1 Fees. In consideration for the access rights granted to Licensee and the Services performed by VanishID under this Agreement, Licensee will pay to VanishID the Fees. Except as otherwise provided in the Order Form, all Fees are payable annually in advance. In the event the Effective Date commences in the middle of the calendar month, then the Fees for such month will be pro-rated based on the number of days in such month. VanishID reserves the right to modify the Fees payable hereunder upon written notice to Licensee at least ninety (90) days prior to the end of the then-current term. VanishID will be reimbursed only for expenses that are expressly provided for in an Order Form or that have been approved in advance in writing by Licensee, provided VanishID has furnished such documentation for authorized expenses as Licensee may reasonably request. VanishID reserves the right (in addition to any other rights or remedies VanishID may have) to discontinue the Services and suspend all Authorized Users' and Licensee's access to the Services if any Fees are more than thirty (30) days overdue until such amounts are paid in full. Licensee will maintain complete, accurate and up-to-date Licensee billing and contact information at all times.

4.2 Taxes. The Fees are exclusive of all applicable sales, use, value-added and other taxes, and all applicable duties, tariffs, assessments, export and import fees, or other similar charges, and Licensee will be responsible for payment of all such taxes (other than taxes based on VanishID's income), fees, duties, and charges and any related penalties and interest, arising from the payment of the fees, the provision of the Services, or the license of the Services to Licensee. Licensee will make all payments of Fees to VanishID free and clear of, and without reduction for, any withholding taxes; any such taxes imposed on payments of Fees to VanishID will be Licensee's sole responsibility, and Licensee will provide VanishID with official receipts issued by the appropriate taxing authority, or such other evidence as the VanishID may reasonably request, to establish that such taxes have been paid.

4.3 Interest. Any amounts not paid when due will bear interest at the rate of one and one half percent (1.5%) per month, or the maximum legal rate if less, from the due date until paid.

#### **5. LICENSEE CONTENT AND RESPONSIBILITIES**

5.1 License; Ownership. Licensee is solely responsible for any and all obligations with respect to the accuracy, quality and legality of Licensee Content. Licensee will obtain all third party licenses, consents and permissions needed for VanishID to use the Licensee Content to provide the Services. Without limiting the foregoing, Licensee will be solely responsible for obtaining from third parties all necessary rights for VanishID to use the Licensee Content submitted by or on behalf of Authorized Users for the purposes set forth in this Agreement. Licensee grants VanishID a non-exclusive, worldwide, royalty-free and fully paid license during the Term (a) to use the Licensee Content as necessary for purposes of providing and improving the Services; and (b) to use the Licensee trademarks, service marks, and logos as required to provide the Services. Notwithstanding the foregoing or anything to the contrary in this Agreement, VanishID owns all rights and interests in and to Licensee's interaction with, and use of the Services, including such aggregated and/or anonymized forms of Licensee Data, including to: (i) improve the Services and VanishID's related products and services; (ii) provide analytics and benchmarking services; and (iii) generate and disclose statistics regarding use of the Services ("VanishID Data") VanishID, provided, however, that no Licensee-only statistics will be disclosed to third parties without Licensee's consent. The Licensee Content, and all worldwide Intellectual Property Rights in it, is the exclusive property of Licensee. All rights in and to the Licensee Content not expressly granted to VanishID in this Agreement are reserved by Licensee.

5.2 Licensee Warranty. Licensee represents and warrants that any Licensee Content hosted by VanishID as part of the Services shall not (a) infringe any copyright, trademark, or patent; (b) misappropriate any trade secret; (c) be deceptive, defamatory, obscene, pornographic or unlawful; (d) contain any viruses, worms or other malicious computer programming codes intended to damage VanishID's system or data; or (e) otherwise violate the rights, including any applicable privacy rights, of a third party. VanishID is not obligated to back up any Licensee Content outside of the normal course of business operations; the Licensee is solely responsible for creating backup copies of any Licensee Content at Licensee's sole cost and expense. Licensee agrees that any use of the Services contrary to or in violation of the representations and warranties of Licensee in this section constitutes unauthorized and improper use of the Services.

5.3 Licensee Responsibility for Data and Security. Licensee and its Authorized Users shall have access to the Licensee Content and shall be responsible for all changes to and/or deletions of Licensee Content and the security of all passwords and other Access Protocols required in order to access the Services. Licensee shall have the ability to export Licensee Content out of the Services and is encouraged to make its own back-ups of the Licensee Data.

## 6. WARRANTIES AND DISCLAIMERS.

6.1 Limited Warranty. VanishID represents and warrants that it will provide the Services and perform its other obligations under this Agreement in a professional and workmanlike manner substantially consistent with general industry standards. Provided that Licensee notifies VanishID in writing of the breach within thirty (30) days following performance of the defective Services, specifying the breach in reasonable detail, VanishID will, as Licensee's sole and exclusive remedy, for any breach of the foregoing, re-perform the Services which gave rise to the breach or, at VanishID's option, refund the fees paid by Licensee for the Services which gave rise to the breach. VanishID further warrants to Licensee that the Services will operate free from Errors during the Term, provided that such warranty will not apply to failures to conform to the Documentation to the extent such failures arise, in whole or in part, from (a) any use of the Services not in accordance with this Agreement or as specified in the Documentation; (b) any use of the Services in combination with other products, equipment, software or data not supplied by VanishID; or (c) any modification of the Services by any person other than VanishID or its authorized agents. Provided that Licensee notifies VanishID in writing of any breach of the foregoing warranty during the Term, VanishID will, as Licensee's sole and exclusive remedy, provide the support described in subsection titled *Support Services*.

6.2 DISCLAIMER. EXCEPT AS EXPRESSLY PROVIDED IN SECTION TITLED *LIMITED WARRANTY*, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SOFTWARE, SERVICES, AND ALL OTHER DOCUMENTATION AND MATERIALS ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. LICENSEE ACCESS AND USES THE SERVICES AT ITS OWN RISK. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY VANISHID OR ITS AGENTS OR EMPLOYEES SHALL IN ANY WAY INCREASE THE SCOPE OF THIS WARRANTY.

## 7. LIMITATION OF LIABILITY

7.1 As between the Parties, Licensee, and not VanishID, shall be responsible and liable for any actions, or lack thereof, taken by Licensee, an Authorized User or any other party or person as a result of, or in connection with, the Services or the Licensed Material.

7.2 Types of Damages. TO THE EXTENT LEGALLY PERMITTED UNDER APPLICABLE LAW, VANISHID OR ITS SUPPLIERS SHALL NOT BE LIABLE TO LICENSEE FOR ANY SPECIAL, INDIRECT, EXEMPLARY, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE INCLUDING, BUT NOT LIMITED TO DAMAGES OR COSTS DUE TO LOSS OF PROFITS, DATA, REVENUE, GOODWILL, PRODUCTION OR USE, BUSINESS INTERRUPTION, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR PERSONAL OR PROPERTY DAMAGE ARISING OUT OF OR IN CONNECTION WITH VANISHID'S PERFORMANCE HEREUNDER OR THE USE, MISUSE, OR INABILITY TO USE THE SOFTWARE, DOCUMENTATION, SERVICES OR OTHER PRODUCTS OR SERVICES HEREUNDER, REGARDLESS OF THE CAUSE OF ACTION OR THE THEORY OF LIABILITY, WHETHER IN TORT, CONTRACT OR OTHERWISE, EVEN IF VANISHID HAS BEEN NOTIFIED OF THE LIKELIHOOD OF SUCH DAMAGES.

7.3 Amount of Damages. THE MAXIMUM LIABILITY OF VANISHID ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT SHALL NOT EXCEED THE FEES PAID BY LICENSEE TO VANISHID DURING THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT, ACT, OR OMISSION GIVING RISE TO THE LIABILITY. IN NO EVENT SHALL VANISHID'S SUPPLIERS HAVE ANY LIABILITY ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT. NOTHING IN THIS AGREEMENT SHALL LIMIT OR EXCLUDE VANISHID'S LIABILITY FOR GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT OF VANISHID OR ITS EMPLOYEES OR AGENTS OR FOR DEATH OR PERSONAL INJURY. SOME STATES AND JURISDICTIONS DO NOT ALLOW FOR THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION AND EXCLUSION MAY NOT APPLY TO LICENSEE.

7.4 Basis of the Bargain. The parties agree that the limitations of liability set forth in this section shall survive and continue in full force and effect despite any failure of consideration or of an exclusive remedy. The parties acknowledge that the prices have been set and the Agreement entered into in reliance upon these limitations of liability and that all such limitations form an essential basis of the bargain between the parties.

## 8. CONFIDENTIALITY

8.1 Confidential Information. During the term of this Agreement, each party (the "Disclosing Party") may provide the other party (the "Receiving Party") with certain information regarding the Disclosing Party's business, technology, products, or services or other confidential or proprietary information (collectively, "Confidential Information"). As used herein, "Confidential Information" means (i) any product, financial, marketing, manufacturing, organizational, technical and other

information which is proprietary to or used strategically by either party including, but not limited to, work papers, concepts, formulas, techniques, strategies, components, programs, reports, studies, memoranda, correspondence, materials, manuals, records, data, trade secrets, know-how, source code, software processes, designs, technology, products, customer information, marketing plans, research and other data, and includes not only written information but also information transferred orally, visually, electronically or by any other means; (ii) any other information which a reasonable person should know to be the confidential information of Disclosing Party given the nature of the information disclosed and the circumstances surrounding such disclosure; and (ii) the terms of this Agreement Regardless of whether so marked or identified, the Software, Documentation, and all enhancements and improvements thereto will be considered Confidential Information of VanishID.

8.2 Protection of Confidential Information. The Receiving Party agrees that it will not use or disclose to any third party any Confidential Information of the Disclosing Party, except as expressly permitted under this Agreement. The Receiving Party will limit access to the Confidential Information to Authorized Users (with respect to Licensee) or to those employees who have a need to know, who have confidentiality obligations no less restrictive than those set forth herein, and who have been informed of the confidential nature of such information (with respect to VanishID). In addition, the Receiving Party will protect the Disclosing Party's Confidential Information from unauthorized use, access, or disclosure in the same manner that it protects its own proprietary information of a similar nature, but in no event with less than reasonable care. At the Disclosing Party's request or upon termination of this Agreement, the Receiving Party will return to the Disclosing Party or destroy (or permanently erase in the case of electronic files) all copies of the Confidential Information that the Receiving Party does not have a continuing right to use under this Agreement, and the Receiving Party shall provide to the Disclosing Party a written affidavit certifying compliance with this sentence.

8.3 Exceptions. The confidentiality obligations set forth in this section will not apply to any information that (a) becomes generally available to the public through no fault of the Receiving Party; (b) is lawfully provided to the Receiving Party by a third party free of any confidentiality duties or obligations; (c) was already known to the Receiving Party at the time of disclosure; or (d) the Receiving Party can prove, by clear and convincing evidence, was independently developed by employees and contractors of the Receiving Party who had no access to the Confidential Information. In addition, the Receiving Party may disclose Confidential Information to the extent that such disclosure is necessary for the Receiving Party to enforce its rights under this Agreement or is required by law or by the order of a court or similar judicial or administrative body, provided that the Receiving Party promptly notifies the Disclosing Party in writing of such required disclosure and cooperates with the Disclosing Party if the Disclosing Party seeks an appropriate protective order.

## 9. INDEMNIFICATION

9.1 By VanishID. VanishID will defend at its expense any suit brought against Licensee, and will pay any settlement VanishID makes or approves, or any damages finally awarded in such suit, insofar as such suit is based on a claim by any third party alleging that the Services or Software infringes such third party's patents, copyrights or trade secret rights under applicable laws of any jurisdiction within the United States of America. If any portion of the Services or Software becomes, or in VanishID's opinion is likely to become, the subject of a claim of infringement, VanishID may, at VanishID's option: (a) procure for Licensee the right to continue using the Services and/or Software; (b) replace the Services and/or Software with non-infringing software or services which do not materially impair the functionality of the Services and/or Software; (c) modify the Services and/or Software so that it becomes non-infringing; or (d) terminate this Agreement and refund any unused prepaid Fees for the remainder of the term then in effect, and upon such termination, Licensee will immediately cease all use of the Services, Software and Documentation. Notwithstanding the foregoing, VanishID will have no obligation under this Section or otherwise with respect to any infringement claim based upon (i) any use of the Services and Software not in accordance with this Agreement or as specified in the Documentation; (ii) any use of the Services or Software in combination with other products, equipment, software or data not supplied by VanishID; or (iii) any modification of the Services or Software by any person other than VanishID or its authorized agents (collectively, the "Exclusions" and each, an "Exclusion"). This Section states the sole and exclusive remedy of Licensee and the entire liability of VanishID, or any of the officers, directors, employees, shareholders, contractors or representatives of the foregoing, for infringement claims and actions.

9.2 By Licensee. Licensee will defend at its expense any suit brought against VanishID, and will pay any settlement Licensee makes or approves, or any damages finally awarded in such suit, insofar as such suit is based on a claim arising out of or relating to: (a) an Exclusion; (b) Licensee's (and any of Licensee's Authorized Users') breach or alleged breach of the subsections titled *Licensee Warranty*; or (c) the Licensee's dissemination, use, misuse or other disposition of the Licensed Material. This Section states the sole and exclusive remedy of VanishID and the entire liability of Licensee, or any of the officers, directors, employees, shareholders, contractors or representatives of the foregoing, for the claims and actions described herein.

9.3 Procedure. The indemnifying party's obligations as set forth above are expressly conditioned upon each of the foregoing: (a) the indemnified party shall promptly notify the indemnifying party in writing of any threatened or actual claim or suit; (b) the indemnifying party shall have sole control of the defense or settlement of any claim or suit; and (c) the indemnified party shall cooperate with the indemnifying party to facilitate the settlement or defense of any claim or suit.

## 10. TERM AND TERMINATION

10.1 Term. This Agreement commences on the Effective Date and remains in effect for the period of time set forth on the Order Form, or if no period of time is listed, then for a period of one (1) year (“Initial Term”), unless earlier terminated by either party in accordance with subsection titled *Termination*. Following the Initial Term, this Agreement shall automatically renew for additional, successive periods of one (1) year (each, a “Renewal Term”), unless and until either party gives notice to the other party of its intent not to renew this Agreement within thirty (30) days of the end of the Initial Term or then current Renewal Term. The Initial Term and any Renewal Term(s) are collectively referred to herein as the “Term”.

10.2 Termination. Either party may terminate this Agreement immediately upon notice to the other party if the other party materially breaches this Agreement, and such breach remains uncured more than thirty (30) days after receipt of written notice of such breach.

10.3 Effect of Termination. Upon termination of this Agreement for any reason: (a) all rights and obligations of both parties, including all licenses granted hereunder, shall immediately terminate; and (b) within ten (10) days after the effective date of termination, each party shall comply with the obligations to return all Confidential Information of the other party, as set forth in the section titled *Confidentiality*. The sections and subsections titled *Definitions, Limitations, Ownership, Feedback, Fees, Disclaimer of Warranties, Limitation of Liability, Confidentiality, Indemnification, Effect of Termination*, and Miscellaneous will survive expiration or termination of this Agreement for any reason.

## 11. MISCELLANEOUS

11.1 Compliance with Laws. Licensee shall comply with all laws, regulations, rules, ordinances and orders applicable to its access to and use of the Services. Without limiting the foregoing, Licensee shall comply with the relevant export administration and control laws and regulations, as may be amended from time to time, including, without limitation, the United States Export Administration Act, to ensure that the Services are not shipped, transferred or exported (directly or indirectly) in violation of U.S. law.

11.2 Assignment. Licensee may not assign or delegate, directly or indirectly, by operation of law, change of control or otherwise, this Agreement or any of its rights or obligations under this Agreement to any third party, and any attempt to do so will be void and of no effect.

11.3 Governing Law and Venue. This Agreement and any action related thereto will be governed and interpreted by and under the laws of the State of Delaware without giving effect to any conflicts of laws principles that require the application of the law of a different jurisdiction. Licensee hereby expressly consents to the personal jurisdiction and venue in the state and federal courts located in the State of Delaware for any lawsuit filed there against Licensee by VanishID arising from or related to this Agreement. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

11.4 Government End Users. The Services are a “commercial item” as that term is defined at 48 C.F.R. 2.101, consisting of “commercial computer software” and “commercial computer software documentation” as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end users acquire the Services with only those rights set forth therein.

11.5 Export. Licensee agrees not to export, reexport, or transfer, directly or indirectly, any U.S. technical data acquired from VanishID, or any products utilizing such data, in violation of the United States export laws or regulations.

11.6 Severability. If any provision of this Agreement is, for any reason, held to be invalid or unenforceable, the other provisions of this Agreement will remain enforceable and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law. Without limiting the generality of the foregoing, Licensee agrees that the section titled *Limitation of Liability* will remain in effect notwithstanding the unenforceability of any provision in the subsection titled *Limited Warranty*.

11.7 Waiver. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

11.8 Remedies. Except as provided in the sections titled *Limited Warranty* and *Indemnification*, the parties’ rights and remedies under this Agreement are cumulative. Licensee acknowledges that the Services, Software, and Documentation contain valuable trade secrets and proprietary information of VanishID, that any actual or threatened breach of the sections titled *Intellectual Property* or *Confidentiality* or any other breach by Licensee of its obligations with respect to Intellectual Property Rights of VanishID will constitute immediate, irreparable harm to VanishID for which monetary damages would be an inadequate remedy. In such case, VanishID will be entitled to immediate injunctive relief without the requirement of posting bond, including an order that any Software, Documentation, or any portions thereof, that Licensee attempts to import into any country or territory be seized, impounded and destroyed by customs officials. If any legal action is brought to enforce this Agreement, the prevailing party will be entitled to receive its attorneys’ fees, court costs, and other collection expenses, in addition to any other relief it may receive.

11.9 Force Majeure. Any delay in the performance of any duties or obligations of either party (except the payment of money owed) will not be considered a breach of this Agreement if such delay is caused by a labor dispute, shortage of materials, fire, earthquake, flood, or any other event beyond the control of such party, provided that such party uses reasonable efforts, under the circumstances, to notify the other party of the cause of such delay and to resume performance as soon as possible.

11.10 Independent Contractors. Licensee's relationship to VanishID is that of an independent contractor, and neither party is an agent or partner of the other. Licensee will not have, and will not represent to any third party that it has, any authority to act on behalf of VanishID.

11.11 Notices. Each party must deliver all notices or other communications required or permitted under this Agreement in writing to the other party at the address listed on the first page of the Agreement by courier, by certified or registered mail (postage prepaid and return receipt requested), or by a nationally-recognized express mail service. Notice will be effective upon receipt or refusal of delivery. If delivered by certified or registered mail, any such notice will be considered to have been given five (5) business days after it was mailed, as evidenced by the postmark. If delivered by courier or express mail service, any such notice shall be considered to have been given on the delivery date reflected by the courier or express mail service receipt. Each party may change its address for receipt of notice by giving notice of such change to the other party.

11.12 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be taken together and deemed to be one instrument.

11.13 Entire Agreement. This Agreement is the final, complete and exclusive agreement of the parties with respect to the subject matters hereof and supersedes and merges all prior discussions between the parties with respect to such subject matters. No modification of or amendment to this Agreement, or any waiver of any rights under this Agreement, will be effective unless in writing and signed by an authorized signatory of Licensee and VanishID.