

Updated April 1, 2023

The following Terms of Service are for Website Users who have not entered into formal written contracts with Beyond Pricing. If you have a subscription contract with Beyond Pricing, please refer to our Contracted Terms of Service:

<https://www.beyondpricing.com/terms-of-service-contracted>.

These Terms of Service (the "Terms"), together with the Documentation (defined below), are hereby incorporated by reference to constitute the full legal agreement (the "Agreement") between Ten Twenty Four, Inc., a Delaware corporation, d/b/a Beyond Pricing, ("Beyond," "we," or "us") and the other entity or person entering into the Agreement, including any affiliates, successors, or subsidiaries ("User" or "You" or "Your"). Beyond and User are each referred to herein individually as a "Party" or collectively as the "Parties."

This Agreement governs Your access to and use of Beyond's websites and services, including the online portal and any free trials (the "Services"). Please carefully read this Agreement before using the Services. By using the Services You agree to be bound by this Agreement. If You are using the Services on behalf of an organization, You are agreeing to this Agreement on behalf of that organization and attesting that You have the authority to bind that organization to this Agreement.

Beyond reserves the right, in its sole discretion, to modify, amend, or replace any part of these Terms by posting the revised Terms on Beyond's website. Any such modifications shall take effect thirty (30) days (or less, if reasonably necessary) following the date of notice. Supplemental terms and conditions may apply to certain options or offers available through Beyond. Any such supplemental terms and conditions will be disclosed to you in connection with the applicable option or offer. Any such supplemental terms and conditions are in addition to these Terms. Your continued use of Services after the effective date of any such addition, modification, amendment, or replacement shall signify Your acceptance of, and agreement to, abide by the terms and conditions contained in any such additional, modified, amended, or replacement Terms.

1. Definitions.

"User" means, in the case of an individual accepting these terms on their own behalf, such individual, or, in the case of an individual accepting this Agreement on behalf of a company or other legal entity, any individual who is authorized by that entity to use the Services. Sub-Users may include, for example, employees, consultants, contractors and agents of a User, and third parties with which a User transacts business or has contracted with.

"Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity.

"Beta Services" means pre-production versions of the Services, or features that are identified as beta, pilot, limited release, pre-market, preview, non-production, evaluation, test, or the like.

“Gross Booking Revenue” means, all money collected from each booking of a Property for all Properties priced using, or enabled or booked through, the applicable Service, including but not limited to the nightly rate, cleaning fees, insurance, resort fees, pet fees, channel markups, or any other fees collected. Gross Booking Revenue does not include taxes collected or paid.

“Gross Booking Revenue Fee” means the applicable percentage of Gross Booking Revenue paid by You for a Service that involves Gross Booking Revenue.

"Additional Content" means any content or other materials which Users and their Sub-Users upload, post to, or make available through the Signal Service, through Third Party Applications, or otherwise, such as Property Listings. Additional Content does not include User Data. For example, if User provides content about a property on a Signal website hosted by Beyond, such content constitutes Additional Content, which Beyond will display on User's behalf, but for which User will remain fully responsible for its content, use, and effect.

"Documentation" means the applicable Service's onboarding, implementation and security documents, usage guidelines, and/or policies, each as updated from time to time.

“Effective Date” means the date of commencement of using Services.

“Property” means a physical space (including, without limitation, a house, apartment, cooperative, condo, or room) made available to third parties for rental by You, either on your own behalf or on behalf of one of Your clients or customers.

“Property Listing” means a listing or post offering a Property for rental.

"User Data" means all data and information submitted or uploaded by or for You to a Beyond platform or to use a Beyond Service, including information necessary for the successful onboarding of new Users or via integrations with other systems, excluding Additional Content and Third Party Applications.

“Third Party Applications” means any User or third party web-based, mobile, or other software application, service, system, or platform that is made available or integrated into a Service by a User or on behalf of a User, including, without limitation, banking systems, review management systems, property management software, channels, Online Travel Agencies (“OTAs”), and channel managers.

2. Provision of Services.

2.1. Services. Subject to Your compliance with the terms and conditions of this Agreement and payment of all Fees, Beyond will make the Services available to You and your Sub-Users, and grants You a limited, worldwide, non-exclusive, non-transferable, non-assignable (except as permitted in this Agreement) right to access and use the Services and to implement integrations with Third Party Applications, solely for Your internal business purposes. Beyond will use commercially reasonable efforts to: (a) make

the Services available to You pursuant to this Agreement; (b) provide applicable standard support for the Services; (c) make the Services available for regular use except for (i) planned downtime (of which Beyond will endeavor to give advance notice); (ii) emergency downtime or maintenance; and (iii) any unavailability caused by circumstances beyond Beyond's reasonable control, including, without limitation, acts of God, acts of government, floods, fires, earthquakes, civil unrest, war, riots, acts of terror, strikes or other labor problems (other than those involving Beyond employees), integrated Third Party Applications, Internet service provider failures or delays, or denial of service attacks; and (d) provide the Services in accordance with laws and government regulations applicable to Beyond's provision of its Services to its customers generally. Your right to access and use the Services pursuant to this Section is subject to Your timely payment of all applicable Fees and limited by all terms set forth in the Agreement.

2.2. Free Trial, Beta Services. If You register for access of a Service provided as a Free Trial or as a Beta Service, You may only access the Free Trial and Beta Services subject to the terms of this Agreement; provided, however (i) Beyond shall have the right to terminate a Free Trial or Beta Service at any time and for any reason; (ii) Beyond is providing Free Trial and Beta Services solely "as is" and makes no warranties (express or implied) of any kind with respect to such services; and (iii) Beyond shall have no obligation to indemnify You for any use of Free Trial or Beta Services. Beta Services are for evaluation purposes only and not for production use and may be subject to additional terms. Beyond is under no obligation to maintain, continue, support, update, or provide error corrections for Free Trials or Beta Services. Beyond reserves the right to never make Beta Services generally available. BEYOND WILL HAVE NO LIABILITY FOR ANY HARM OR DAMAGE ARISING OUT OF, OR IN CONNECTION WITH, THE USE OF A BETA SERVICE. BETA SERVICES ARE PROVIDED "AS IS" AND AS AVAILABLE, AND ARE EXCLUSIVE OF ANY WARRANTY WHATSOEVER. WITHOUT LIMITING THE FOREGOING, BEYOND EXPLICITLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT OR NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE.

3. Use of Services.

3.1. Responsibilities. You will: (a) comply with and be responsible for Sub-Users' compliance with these Terms and will not use the Services, and ensure that Sub-Users do not use the Services, to engage in illegal or prohibited activity (including but not limited to money-laundering or financing of terrorist activities); (b) be responsible for the accuracy, quality and legality of User Data, the means by which You acquired User Data, Your use of User Data with the Services, and the interoperation of any Third Party Applications with which You use Services; (c) use commercially reasonable efforts to prevent unauthorized access to or use of Services, and notify Beyond promptly of any such unauthorized access or use; (d) use Services only in accordance with this Agreement and applicable laws and government regulations; and (e) comply with terms of service of any Third Party Applications with which You use Services. Any use of the Services in breach of the foregoing by You or Your Sub-Users that in Beyond's judgment threatens the security, integrity or availability of Beyond's Services, may result in Beyond's immediate suspension of the Services.

You further acknowledge that if you wish to protect your transmission of data to Beyond Pricing, it is your responsibility to use a secure encrypted connection to communicate with the Services.

3.2. Usage Restrictions. To register for a Beyond account you must be at least 18 years of age, or the age of legal majority in your jurisdiction if different than 18. You may not register or maintain a Beyond account if you have been previously banned from Beyond. You will not, and will not permit anyone else to: (a) make any Service available to any third party other than Your Sub-Users, through any means, including, without limitation, any hosting, application services provider, service bureau, or other type of service; (b) sell, resell, license, sublicense, distribute, make available, rent or lease any Services or Content; (c) use the Services or Third Party Application to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third party privacy rights; (d) use any automated tool (e.g., robots, spiders) to access or use the Services, or circumvent or disable any security or management features of the Services; (e) use the Services or Third Party Application to store or transmit malicious code; (f) interfere with or disrupt the integrity or performance of any Services or third party data contained therein; (g) attempt to gain unauthorized access to any Services or related systems or networks; (h) permit direct or indirect access to or use of any Services in a way that circumvents a contractual usage limit, or use any Services to access or use any of Beyond's intellectual property except as permitted under this Agreement; (i) modify, copy, or create derivative works based on the Services or any part, feature, function or user interface thereof; (j) disassemble, reverse engineer, or decompile the Services or access it to (1) build a competitive product or service, (2) build a product or service using similar ideas, features, functions or graphics of the Service, (3) copy any ideas, features, functions or graphics of the Services, or (4) determine whether the Services are within the scope of any patent; (k) use the Services in a manner that overburdens, or that threatens the integrity, performance, or availability of, the Services; or (l) remove, alter, or obscure any proprietary notices (including copyright and trademark notices) on any portion of the Services. Beyond's competitors are prohibited from accessing or using the Services, except with Beyond's prior written consent.

3.3. Future Features and Functionality. You agree that any payment made pursuant to this Agreement is not contingent on the delivery of any future feature or functionality or dependent on any oral or written public or private comments made by Beyond regarding future features or functionality. Beyond may release improvements and other features and functionality in its sole discretion. Some features and functionality may be available only with certain versions of the Services.

3.4. Termination of Services. User can terminate their use of the Services at any time by disabling or removing all of their listings from the Services. Beyond reserves the right to suspend or end the Services at any time, with or without cause, and with or without notice. Users are responsible for all fees accrued while using the Services.

4. Proprietary Rights and Data

4.1. Services. Subject to the limited rights expressly granted in this Agreement, Beyond and its Affiliates reserve all rights, title, and interest in and to the Services (including all

algorithms, features, functionality, updates, customizations, and/or modifications thereto), trademarks, trade names, logos, and service marks, and the Aggregate Data (defined below), including, in each case, all related intellectual property rights. No rights are granted to You or Your Sub-Users hereunder other than as expressly set forth in this Agreement.

4.2. User Data. As between User and Beyond, User owns all rights, title, and interest in and to User Data. User grants Beyond, its Affiliates, and its and their applicable contractors a limited, personal, non-transferable, non-assignable (except as expressly stated herein), worldwide, non-exclusive license to host, copy, use, transmit, and display User Data, as appropriate for Beyond to provide and ensure proper operation of the Services in accordance with this Agreement, and by implementing integrations between any Third Party Applications. User agrees that Beyond shall also have the right to: (a) access and use User Data (i) to provide, maintain, optimize, update, and improve the Services; (ii) conduct research; and (iii) provide statistical insights and analysis related to User and its clients' or customers' use of the Services; and (b) anonymize and aggregate User Data (such as anonymized and aggregated data, "Aggregate Data") to prepare reports, studies, analyses, and other work product, and create, improve and develop products. In the event that User uses or is introduced to the Services through a third party referral, partner, or PMS provider, User acknowledges that its revenue data will be shared with such third party.

4.3. Additional Content. As between User and Beyond, User owns all rights, title, and interest in and to Additional Content. To the extent User embeds or posts Additional Content on or to a website hosted or otherwise provided by Beyond in connection with the Services, User hereby grants Beyond and its Affiliates a limited, personal, non-transferable, non-assignable (except as permitted by this Agreement), worldwide, non-exclusive, royalty-free, license to host, copy, transmit and display such Additional Content, as appropriate for Beyond to provide the applicable Services.

4.4. Third Party Applications. The Services contain features designed to interoperate with Third Party Applications. To use such features, You or Your Sub-Users may be required to obtain access to such Third Party Applications from Your providers, and grant Beyond access to Your account(s) on such Third Party Applications. If You use a Third Party Application with the Services, You grant Beyond permission to allow the Third Party Application and its provider to access User Data and Additional Content solely as required for the interoperation of that Third Party Application with the Services. Any acquisition by You of Third Party Applications, and any exchange of User Data or Additional Content between You and any Third Party Application provider, product or service, is solely between You and the applicable Third Party Application provider. Beyond does not warrant, support, or have any liability for Third Party Applications. Beyond is not responsible for any disclosure, modification or deletion of User Data or content resulting from access by any Third Party Application or its provider. Beyond is not responsible for any disclosure, modification or deletion of User Data or content resulting from access by any Third Party Application or its provider.

4.5. Feedback. You or Your Sub-Users may provide Beyond with feedback, suggestions, and ideas, if You or Your Sub-Users choose to do so, about the Services ("Feedback"). You agree that Beyond may, in its sole discretion, use the Feedback in any way, including in future enhancements and modifications to the Services. You and Your Sub-Users hereby

grant Beyond and its Affiliates a non-exclusive, worldwide, perpetual, irrevocable, royalty-free, transferable, and assignable license to use and incorporate into the Services any suggestions, recommendations, corrections, or other feedback provided by You or Your Sub-Users relating to the Services.

5. Fees & Payment

5.1. Fees. You will pay Beyond the applicable fees described in accordance with this Agreement or as described on Beyond's website as well as any other ancillary collected fees.

5.2. Gross Booking Revenue Fee. For Services that utilize a Gross Booking Revenue Fee the Gross Booking Revenue Fee is listed and described on Beyond's website. A description of the current Gross Booking Revenue Fee is located here:

<https://www.beyondpricing.com/plans>. Beyond reserves the right to change the Gross Booking Revenue Fee upon providing thirty (30) days notice.

5.3. Fees; Payment Terms; Invoice Disputes.

(a) Fees will be invoiced monthly and are due upon receipt of invoice. You are responsible for providing complete and accurate billing information to Beyond. You hereby authorize Beyond and its successor or assigns to charge the credit card ("Card") or initiate ACH debits from a depository account at a U.S. financial institution ("ACH Account") that You have designated for all fees and other amounts owed to Beyond or its affiliates. Users may also pay using PayPal. Your designated Card, ACH Account, or PayPal account, are collectively referred to as the "Payment Method." You represent and warrant that you are the cardholder/account holder named on the designated Payment Method or have the authority to authorize any charges or debits to the designated Payment Method. You will provide accurate and complete information to verify your Payment Method as requested by Beyond including but not limited to your billing address. You must always maintain the Account with sufficient cleared funds or the Card with a sufficient balance to meet your obligations under this Agreement while using the Service and for as long as you have any outstanding financial obligations to Beyond after you cease using the Service. As a condition to receive the Service, you must authorize Beyond to store your Payment Method for future transactions in accordance with this Agreement. Payment obligations are non-cancelable and fees paid are non-refundable unless otherwise provided herein. If You want to change Your Payment Method you may do so, provided however, that such change will not become effective until the date on which Beyond makes the change on its system. In no event is Beyond liable for any amounts or fees charged with respect to its charge or debit of the Payment Method. You are responsible for any non-sufficient funds (NSF) fees for amounts charged to the Account. Beyond may rely on the payment information inputted by You and as may be updated from time to time by You. You authorize Beyond to share any information You provide us with our banking and payment processing partners. Your authorization to charge or debit your Payment Method will remain in full force and effect for as long as You use the Service and for as long as there are any outstanding financial obligations owed to Beyond after You cease using the Service.

(b) Beyond reserves the right to suspend Your account, in addition to all of its other available rights and remedies, in the event that Your account becomes overdue. Suspension shall not relieve Your obligation to pay amounts due. All unpaid Fees are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection, including but not limited to attorneys' fees and expenses, collection agency fees, and any applicable interest, and may result in immediate termination of Services.

(c) If You believe that Beyond has billed You incorrectly, or You believe that invoices have included fees that should be excluded, You must contact Beyond at payments@beyondpricing.com no later than 15 days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit.

5.4. Credits. In the event that a Property booking is canceled prior to the commencement of the stay, Beyond will apply to Your account a credit in the amount of the Gross Booking Revenue Fees charged for that booking and will automatically apply any such credit to future Gross Booking Revenue Fees. Gross Booking Revenue Fee Credits are non-refundable. Gross Booking Revenue Fee Credits are only applied to Services that have Gross Booking Revenue Fees. Credits can only be applied to future balances and invoices.

5.5. Taxes. Fees do not include any taxes, levies, duties, or similar governmental assessments of any nature, including, but not limited to, VAT, sales, use, occupancy, or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction ("Taxes"). You are responsible for determining and fulfilling Your tax obligations under applicable laws to report, collect, or remit taxes. In jurisdictions where Beyond facilitates the collection and/or remittance of Taxes on behalf of a User, You or Your Sub-User instruct and authorize Beyond to collect taxes on Your behalf, and/or to remit such Taxes to the relevant Tax authority. Any Taxes that are collected and/or remitted by Beyond are identified to You on Your invoice records, as applicable. If Beyond has the legal obligation to remit Taxes for which You are responsible, Beyond will invoice You and You will pay that amount unless You provide Beyond with a valid tax exemption certificate authorized by the appropriate tax authority. You agree that Your sole remedy for Taxes collected by Beyond is a refund from the applicable tax authority. Additionally, in certain jurisdictions, regulations may require that Beyond collect and/or report tax information about Users. For clarity, Beyond is solely responsible for taxes assessable against it based on its income, property, and employees.

5.6. Fee Changes. Beyond reserves the right to change the fees or applicable charges and to institute new charges and fees upon providing thirty (30) days notice.

5.7. Additional Fees. You are responsible for any bank, third party, or ancillary fees that are charged to Beyond for the completion of any Service.

6. Confidentiality.

6.1. Definition of Confidential Information. "Confidential Information" means any information disclosed electronically, orally, or in writing by a party (the "Disclosing Party") to the other party (the "Receiving Party") that is not generally known to the public and at the time of disclosure is either identified as, or should reasonably be understood by the Receiving Party to be, confidential. Confidential Information includes, but is not limited to, the Services, User Data, business plans, product plans and roadmaps, strategies, forecasts, projects and analyses, financial information and fee structures, pricing, business processes, methods and models, and technical documentation. Confidential Information does not include information that: (a) is or becomes publicly available without breach of this Agreement by the Receiving Party; (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party; (c) is or was independently developed by the Receiving Party without the use of any Confidential Information of the Disclosing Party; or (d) is or was lawfully received by the Receiving Party from a third party under no obligation of confidentiality.

6.2. Protection of Confidential Information. Except as otherwise permitted in writing by the Disclosing Party, the Receiving Party will: (a) use the same degree of care that it uses to protect the confidentiality of its own Confidential Information of like kind (but in no event less than reasonable care) to protect the Confidential Information of the Disclosing Party; (b) not use any Confidential Information of the Disclosing Party for any purpose not authorized by this Agreement; and (c) except as otherwise authorized by the Disclosing Party in writing, limit access to, and disclosure of, the Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not materially less protective of the Confidential Information than those herein. Notwithstanding the foregoing, Beyond may provide access to Your Confidential Information to Your Sub-Users, employees, contractors, and agents whom You permit to use and manage Your access and use of the Services.

6.3. Compelled Disclosure. The Receiving Party may access and disclose Confidential Information of the Disclosing Party if legally required to do so in connection with any legal or regulatory proceeding; provided, however, that in such event the Receiving Party will, if lawfully permitted to do so, notify the Disclosing Party within a reasonable time prior to such access or disclosure so as to allow the Disclosing Party an opportunity to seek appropriate protective measures. If the Receiving Party is compelled by law to access or disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, the Disclosing Party will reimburse the Receiving Party for the reasonable costs of compiling and providing secure access to such Confidential Information.

6.4. Equitable Relief. The Receiving Party acknowledges that the remedy at law for breach of this "Confidentiality" section may be inadequate and that, in addition to any other remedy the Disclosing Party may have, it shall be entitled to seek equitable relief, including, without limitation, an injunction or injunctions (without the requirement of posting a bond, other security or any similar requirement or proving any actual damages), to prevent breaches or threatened breaches of this "Confidentiality" Section by the

Receiving Party and to enforce the terms and provisions of this section in addition to any other remedy to which the Disclosing Party is entitled at law or in equity.

7. Data Protection. Beyond's Data Protection Addendum ("DPA") is incorporated by reference into these Terms and is part of the Agreement. A copy of the current Beyond DPA is located at: <https://www.beyondpricing.com/dpa>.

8. Privacy Policy. Beyond's Privacy Policy is incorporated by reference into these Terms and is part of the Agreement. A copy of the current Beyond Privacy Policy is located at: <https://www.beyondpricing.com/privacy>.

9. Representations and Warranties; Disclaimer

9.1. Mutual Representations. Each Party represents and warrants that: (a) it is duly organized under applicable law and has sufficient authority to enter into this Agreement; (b) the person entering into this Agreement is authorized to enter into this Agreement on behalf of such Party; and (c) the execution and performance of this Agreement does not conflict with any contractual obligations such Party has to any third party.

9.2. Representations and Warranties by User. You represent and warrant that: (a) You have all necessary rights to provide Additional Content and User Data to Beyond under this Agreement; (b) the Additional Content and User Data will be accurate and complete, and will not contain any material which is unlawful, defamatory, fraudulent, or obscene, or which infringes or violates any third party rights (including any intellectual property rights); and (c) You and Your Sub-Users will use the Services in compliance with all applicable law.

9.3. Disclaimer.

Beyond is not responsible for the success of Your listing(s) and cannot guarantee any results. However, it is in Beyond's best interest for You to succeed. The prices posted to Your listing by Beyond reflect Beyond's best assessment of current market conditions, but You are always welcome to override any price or other recommendations made as part of the Services. Users are always able to change any Beyond pricing recommendations and can always terminate their use of the Services at any time.

EXCEPT AS EXPRESSLY PROVIDED IN THE AGREEMENT, THE SERVICES, AND THE DOCUMENTATION ARE PROVIDED "AS IS," WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND. WITHOUT LIMITING THE FOREGOING, BEYOND EXPLICITLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT OR NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. BEYOND DOES NOT WARRANT THE ACCURACY, COMPLETENESS, OR USEFULNESS OF THE SERVICES, AND THE DOCUMENTATION, NOR DOES BEYOND WARRANT THAT THE SERVICES WILL BE FREE FROM ERRORS, OR THAT THE OPERATIONS OF THE SERVICES WILL BE UNINTERRUPTED. YOU RELY ON THE SERVICES AND THE DOCUMENTATION AT YOUR OWN RISK. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN

WARRANTIES IN CERTAIN CIRCUMSTANCES. ACCORDINGLY, THE LIMITATIONS SET FORTH ABOVE APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

BEYOND IS NOT RESPONSIBLE FOR AND DISCLAIMS ALL LIABILITY RELATED TO DELAYS, DELIVERY FAILURES, INTERCEPTION, ALTERATION, OR OTHER DAMAGE RESULTING FROM MATTERS OUTSIDE OF ITS CONTROL, INCLUDING WITHOUT LIMITATION, PERFORMANCE OF THIRD PARTY APPLICATIONS, PROBLEMS INHERENT IN THE USE OF THE INTERNET, MOBILE AND PERSONAL COMPUTING DEVICES, TRANSMISSION OF ELECTRONIC COMMUNICATIONS OVER THE INTERNET OR OTHER NETWORKS, AND THIRD PARTY HOSTING SERVICE PROVIDERS.

10. Indemnification.

10.1. Indemnification by Beyond.

(a) Beyond will defend You and Your Affiliates and Your officers, agents, employees, representatives and assigns (the "User Indemnified Parties") against any claim, demand, suit, action or proceeding made or brought against You by a third party alleging that the Services infringe any copyright rights or misappropriate the trade secret rights of any third party (a "Claim Against User"), and will indemnify User Indemnified Parties from any damages, attorney fees and costs finally awarded against User Indemnified Parties as a result of, or for amounts paid by You under a settlement approved by Beyond in writing of, a Claim Against User.

(b) The defense and indemnification obligations in Section 10.1(a) do not apply to the extent a Claim Against User arises from Your breach of the Agreement or usage of the Services in violation of the Documentation. Upon the occurrence of a claim, suit or action for which indemnity is or may be due pursuant to Section 10.1(a) or in the event that Beyond believes that such a claim, suit or action is likely, Beyond may, at its option: (i) appropriately modify the Services so that they become non-infringing, or substitute functionally equivalent services; (ii) obtain a license to the applicable third party intellectual property rights; or (iii) terminate the Services. You agree that Beyond's performance of its obligations under this section constitute Your exclusive remedy, and Beyond's sole obligation, with respect to a third party infringement claim. Beyond's obligations set forth within Section 10.1(a) do not apply if: (iv) a Claim Against User arises out of, and would not have otherwise occurred absent of, User's Additional Content, User Data, or User's use of the Services in violation of this Agreement or the Documentation; (v) a Claim Against User arises from, and would not have otherwise occurred absent the, use or combination of the Services or any part thereof with hardware, software, data or processes not provided, or explicitly approved in writing, by Beyond, if the Services or use thereof would not infringe without such combination; (vi) the allegation does not state with specificity that the Services are the basis of the Claim Against User; or (vii) a Claim Against User arises from Services for which there is no charge.

10.2. Indemnification by User.

You will defend Beyond and its Affiliates and their officers, agents, employees, representatives and assigns (the "Beyond Indemnified Parties") against any claim, demand, suit, action or proceeding made or brought against Beyond by a third party (a) arising from Your or any Sub-User's use of the Services in an unlawful manner or in violation of the Agreement or the Documentation; (b) resulting from a payment being

returned for non-sufficient funds; or (b) alleging that any of User's Additional Content and or the User Data infringes or misappropriates such third party's intellectual property rights (each a "Claim Against Beyond"). You will indemnify Beyond Indemnified Parties from any costs, damages, and expenses finally awarded against Beyond Indemnified Parties as a result of, or for any amounts paid by Beyond Indemnified Parties under a settlement approved by You in writing of, a Claim Against Beyond.

10.3. Indemnification Procedure. The "User Indemnified Parties" and the "Beyond Indemnified Parties" are referred to as the "Indemnified Party," and the Party obligated to provide the indemnity, as described above, is referred to as the "Indemnifying Party" for purposes of this Section. The obligations of either Party to provide indemnification under this Agreement will be contingent upon: (a) the Indemnified Party promptly giving the Indemnifying Party written notice of any claim for which indemnification is sought (provided that the Indemnified Party's failure to notify the Indemnifying Party will not diminish the Indemnifying Party's obligations under this Section, except to the extent that the Indemnifying Party is materially prejudiced as a result of such failure); (b) the Indemnifying Party having sole control of the defense and settlement of any and all claims for which indemnification is sought (provided that no settlement may be entered into without either (i) the consent of the Indemnified Party if such settlement would require any action on the part of the Indemnified Party other than to cease using any allegedly infringing or illegal content or services or (ii) unconditionally releasing the Indemnified Party of all liability); and (3) the Indemnified Party giving the Indemnifying Party all reasonably requested assistance at the indemnifying party's expense. Subject to the foregoing, an Indemnified Party will at all times have the option to participate in any matter or litigation through counsel of its own selection solely at its own expense.

10.4. Exclusive Remedy. This "Indemnification" section states the Indemnifying Party's sole liability to, and the Indemnified Party's exclusive remedy against, the other Party for any third party claim described in this section.

11. Limitation of Liability and Exclusion of Damages.

11.1. Limitation of Liability. OTHER THAN AS REQUIRED BY APPLICABLE LAW, IN NO EVENT SHALL THE AGGREGATE LIABILITY OF BEYOND OR ITS AFFILIATES, ARISING OUT OF OR RELATED TO THIS AGREEMENT, EXCEED THE TOTAL AMOUNT PAID OR PAYABLE BY CUSTOMER AND ITS AFFILIATES HEREUNDER FOR THE SERVICES GIVING RISE TO THE LIABILITY IN THE 12 MONTHS PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY BUT WILL NOT LIMIT CUSTOMER AND ITS AFFILIATES' PAYMENT OBLIGATIONS HEREUNDER.

11.2. Exclusion of Consequential and Related Damages. IN NO EVENT SHALL EITHER PARTY OR ITS AFFILIATES HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, REVENUES, OR LOSS OF USE RESULTING FROM BUSINESS DISRUPTION, OR FOR ANY HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH

DAMAGES OR SUCH DAMAGES WERE REASONABLY FORESEEABLE, AND EVEN IF A REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

12. General

12.1. Export Compliance. The Service may be subject to export laws and regulations of the United States and other jurisdictions. You and Beyond each represent that neither Party nor any of their Sub-Users are named on any U.S. government denied-party list. You will not permit any Sub-User to access or use any Service in a U.S. embargoed country or region or in violation of any U.S. export law or regulation.

12.2. Use Outside the United States of America. The Service is controlled and operated by Beyond from its offices in the United States of America. Except as explicitly set forth herein, Beyond makes no representations that the Services are appropriate for use in other jurisdictions. Those who access or use the Service from other jurisdictions do so at their own risk and are responsible for compliance with local laws. Beyond may offer services in other jurisdictions that are subject to different terms and conditions. In such instances, the terms and conditions governing those non-U.S. services shall take precedence over any conflicting provisions in this Agreement.

12.3. Governing Law; Venue. This Agreement and any disputes arising under it will be governed by the laws of the State of Delaware without regard to its conflict of laws provisions, and each Party consents to the personal jurisdiction and venue of the state or federal courts located in California. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.

12.4. Informal Dispute Resolution and Arbitration. The Parties agree that most disputes can be resolved without resort to litigation. The Parties agree to use their best efforts to settle any dispute directly through consultation with each other before initiating a lawsuit or arbitration. If, after good faith negotiations the Parties are unable to resolve the dispute, the Parties agree that any and all disputes arising out of or in any way relating to this Agreement, including without limitation its existence, validity or termination, shall be resolved according to Delaware law, in conformity with the procedures laid out in the Federal Arbitration Act, and exclusively by binding arbitration before a single arbitrator with the Judicial Arbitration and Mediation Service (JAMS) and pursuant to the then existing arbitration rules at JAMS. If the Parties cannot agree upon selection of an arbitrator, then JAMS shall appoint an arbitrator experienced in the enterprise software industry. The place of the arbitration will be California unless otherwise agreed upon by the Parties. The arbitration will be conducted in English. The arbitrator shall provide detailed written findings of fact and conclusions of law in support of any award. Judgment upon any such award may be enforced in any court of competent jurisdiction. The Parties further agree that the arbitration shall be conducted in their individual capacities only and not as a class action or other representative action, and the Parties expressly waive their right to file a class action or seek relief on a class basis. You may opt out and not be bound by the arbitration and class action waiver provisions by sending written notice to Beyond. The notice must be sent within thirty (30) days of Your first use of the Services. If You opt out of arbitration, Beyond also will not be bound to arbitrate. Notwithstanding the foregoing, either Party shall be entitled to seek injunctive relief as set forth in the "Equitable

Relief” section above and to stop unauthorized use of the Service or infringement of intellectual property rights. Disputes, claims, or controversies concerning either Party’s intellectual property rights or claims of piracy or unauthorized use of the Service shall not be subject to arbitration. The Parties further agree that the prevailing Party in any action or proceeding to enforce any right or provisions under this Agreement, including any arbitration or court proceedings, will be entitled to recover its reasonable costs and attorneys’ fees.

12.5. Notices. Except as otherwise specified in this Agreement, all notices related to this Agreement will be in writing and will be effective upon (a) personal delivery, (b) the second business day after mailing, or (c), except for notices of an indemnifiable claim (“Legal Notices”), which shall clearly be identifiable as Legal Notices, the day of sending by email or posting on Beyond’s website. All notices to Beyond shall also be sent to legal@beyondpricing.com. Billing-related notices to You will be addressed to the relevant billing contact designated by You. All other notices to You will be addressed to the relevant account contact designated by You or posted on Beyond’s website.

12.6. Publicity. Beyond may include Your name and logo in Beyond’s online customer list and in print and electronic marketing materials.

12.7. Relationship of the Parties. The Parties are and shall be independent contractors with respect to all services provided under this Agreement. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the Parties. There are no third party beneficiaries to this Agreement. As a matter of clarity, Your clients or customers are not third party beneficiaries to Your rights under this Agreement.

12.8. Severability; No Waiver. In the event that any provision of this Agreement is found to be invalid or unenforceable, such provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and remain enforceable between the Parties. No waiver of any term of this Agreement shall be deemed a further or continuing waiver of such term or any other term, and a Party’s failure to assert any right or provision under this Agreement shall not constitute a waiver of such right or provision.

12.9. Assignment. Neither this Agreement nor any of the rights and licenses granted under this Agreement may be transferred or assigned by either Party without the other Party’s express written consent (not to be unreasonably withheld or delayed); provided, however, that Beyond may assign this Agreement upon written notice without the other Party’s consent to an Affiliate or to its successor in interest in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Any other attempt to transfer or assign this Agreement will be null and void. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the Parties, their respective successors, and permitted assigns.

12.10. Entire Agreement. This Agreement, including all attachments, exhibits, and addendums, hereunder, constitutes the entire agreement between the Parties concerning the subject matter hereof and supersedes and replaces any prior or contemporaneous

representations, understandings and agreements, whether written or oral, with respect to its subject matter. The Parties are not relying and have not relied on any representations or warranties whatsoever regarding the subject matter of this agreement, express or implied, except for the representations and warranties set forth in this Agreement.