

Komprise Business Agreement - SaaS

Last Updated: June, 2023

SOFTWARE AS A SERVICE AGREEMENT

PLEASE READ THIS AGREEMENT BEFORE USING KOMPRISE'S SAAS SERVICES. BY ACCESSING OR USING KOMPRISE'S DATA MANAGEMENT SAAS SERVICES OFFERING, YOU (the "Customer") SIGNIFY ACCEPTANCE OF AND AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, DO NOT ACCESS OR USE THE SAAS SERVICES. IF THE PARTIES HAVE A FULLY EXECUTED AGREEMENT THAT EXPRESSLY GOVERNS ORDERS FOR KOMPRISE'S SOFTWARE AS A SERVICE AGREEMENT, SUCH AGREEMENT SHALL SUPERSEDE THIS AGREEMENT.

This Software as a Service Agreement (the "**Agreement**") is entered into between Customer and Komprise, Inc. a Delaware corporation ("**Komprise**"), with its principal place of business at 1901 S. Bascom Ave., Tower 1, 5th Floor, Campbell, CA 95008, USA. Komprise and Customer agree that the following terms and conditions will apply to the SaaS Services and Other Services provided under this Agreement and Orders placed thereunder.

Purchase from Reseller: Customer may procure use of the SaaS Service from an authorized reseller of Komprise ("Reseller") pursuant to a separate Reseller quote that references this Agreement. Customer's use of any SaaS Service procured through a Reseller will be subject to the terms of this Agreement and all fees payable for such use shall be payable pursuant to the terms set forth in the Reseller quote between Customer and Reseller.

1. Definitions.

"**Account Data**" means the account and contact information submitted to the SaaS Services by Customer.

"**Administrator User**" means each Customer employee designated by Customer to serve as technical administrator of the SaaS Services on Customer's behalf through the administrator console. Each Administrator User must complete training and qualification requirements reasonably required by Komprise.

"**Client Software**" is any optional virtual machine software (e.g. Observers and Proxies) included in the applicable SaaS Service that is made available to Customer by Komprise to connect Customer's infrastructure to the SaaS Service.

"**Customer Data**" means file data and Account Data provided by Customer to Komprise for use in connection with the SaaS Services and Meta Data.

"**Documentation**" means the published user guides, online help, release notes, training materials and other documentation provided or made available by Komprise to its customers generally regarding the use or operation of the SaaS Services.

“Meta Data” means meta data information about files (e.g. attributes such a size, access times and owner) and tags and indexes that are derived from file content or associated with files processed by the SaaS Services but not the files themselves.

“Other Services” means all technical and non-technical services performed or delivered by Komprise under this Agreement, including, without limitation, implementation services and other professional services, training and education services but excluding the SaaS Services and the Support Services. Other Services will be provided on a time and material basis at such times or during such periods, as may be specified in a Quote and mutually agreed to by the parties. All Other Services will be provided on a non-work for hire basis.

“Support Services” means the support and maintenance services provided by Komprise to Customer pursuant to this Agreement and Exhibit A.

“Quote” is a written document or executed separately by Komprise and Customer or Reseller and Customer for the purpose of purchasing SaaS Services under the terms and conditions of this Agreement

“SaaS Services” refer to the specific Komprise’s internet-accessible service identified in a Quote that provides use of Komprise’s data management software-as-a-service offering made generally available and ordered by Customer as set forth on a Quote.

“Subscription Term” shall mean that period specified in a Quote during which Customer will have on-line access to the Komprise SaaS Services. The Subscription Term shall renew for successive 12- month periods unless either party delivers written notice of non-renewal to the other party at least 30 days prior to the expiration of the then-current Subscription Term.

2. **SAAS Services.**

1. During the Subscription Term, Customer will receive a nonexclusive, non-assignable, royalty free, worldwide right to access and use the SaaS Services solely During the Subscription Term, Customer will receive a nonexclusive, non-assignable, royalty free, worldwide right to access and use the SaaS Services solely for its internal business operations subject to the terms of this Agreement and for up to the capacity documented in the Quote. To the extent use of the SaaS Services requires Customer to install Client Software, Komprise grants to Customer a limited, non-transferable, non-sublicensable, non-exclusive license during the Subscription Term to use the object code form of the Client Software internally in connection with Customer’s and its Affiliates use of the SaaS Service, subject to the terms and conditions of this Agreement and the Documentation.

2. Customer acknowledges that this Agreement is a services agreement and Komprise will not be delivering copies of software to Customer as part of the SaaS Services (other than Client Software used to connect to the SaaS Services).
3. True Up. The SaaS Services has capacity limitations as set forth on the Quote ("Capacity"). If Customer's Actual Use exceeds the Capacity, Customer shall, upon receipt of Komprise's invoice, pay additional fees on a proportionate basis for the excess use of the Capacity, for prior excess use and for the remainder of the term. If Customer does not agree, Komprise may end the SaaS Services and/or this Agreement.
3. **Restrictions.** Customer shall not, and shall not permit anyone to: (i) copy or republish the SaaS Services, (ii) make the SaaS Services available to any person other than authorized users, (iii) use or access the SaaS Services to provide service bureau, time-sharing or other computer hosting services to third parties, (iv) modify or create derivative works based upon the SaaS Services or Documentation, (v) remove, modify or obscure any copyright, trademark or other proprietary notices contained in the software used to provide the SaaS Services or in the Documentation, (vi) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code or non-public APIs of the SaaS Services, except to the extent expressly permitted by applicable law (and then only upon advance written notice to Komprise), or (vii) access the SaaS Services or use the Documentation in order to build a similar product or competitive product. Subject to the limited licenses granted herein, Komprise shall own all right, title and interest in and to the SaaS Services, Other Services, Documentation, and other deliverables provided under this Agreement, including all modifications, improvements, upgrades, derivative works and feedback related thereto and intellectual property rights therein. Customer agrees to assign all right, title and interest it may have in the foregoing to Komprise.
4. **Customer responsibilities.**
 1. Assistance. Customer shall provide commercially reasonable information and assistance to Komprise to enable Komprise to deliver the SaaS Services. Customer acknowledges that Komprise's ability to deliver the SaaS Services in the manner provided in this Agreement may depend upon the accuracy and timeliness of such information and assistance.
 2. Compliance with Laws. Customer shall comply with all applicable local, state, national and foreign laws in connection with its use of the SaaS Services, including those laws related to data privacy, international communications, and the transmission of technical or personal data. Customer acknowledges that Komprise

exercises no control over the content of the information transmitted by Customer or the users through the SaaS Services. Customer shall not upload, post, reproduce or distribute any information, software or other material protected by copyright, privacy rights, or any other intellectual property right without first obtaining the permission of the owner of such rights.

3. Unauthorized Use; False Information. Customer shall: (a) notify Komprise immediately of any unauthorized use of any password or user id or any other known or suspected breach of security, (b) report to Komprise immediately and use reasonable efforts to stop any unauthorized use of the SaaS Services that is known or suspected by Customer or any user, and (c) not provide false identity information to gain access to or use the SaaS Services.
4. Administrator Access. Customer shall be solely responsible for the acts and omissions of its Administrator Users. Komprise shall not be liable for any loss of data or functionality caused directly or indirectly by the Administrator Users. Administrator Users may have the ability to access, disclose, restrict or remove Customer Data in or from SaaS Services accounts. Administrator Users may also have the ability to monitor, restrict, or terminate access to SaaS Services accounts. Komprise's responsibilities do not extend to the internal management or administration of the SaaS Services. Customer is responsible for: (i) maintaining the confidentiality of passwords and Administrator accounts; (ii) managing access to Administrator accounts; and (iii) ensuring that Administrator Users use of the SaaS Services complies with this Agreement. Customer acknowledges that if Customer purchases the SaaS Services through a Reseller and delegates any of such Reseller's personnel as Administrator Users of Customer's SaaS Services account, such Reseller may be able to control account information, including Customer Data, and access Customer's SaaS Services account as further described above.
5. Customer Input. Customer is solely responsible for managing all Customer Data to be processed by the SaaS Services.
6. License from Customer. Subject to the terms and conditions of this Agreement, Customer shall grant to Komprise a limited, non-exclusive and non-transferable license, to copy, store, configure, perform, display and transmit Customer Data solely as necessary to provide the SaaS Services to Customer. For the avoidance of doubt, the SaaS Services do not store any Customer file data.
7. Ownership and Restrictions. Customer retains ownership and intellectual property rights in and to its Customer Data. Komprise or its licensors retain all ownership and

intellectual property rights to the Other Services, SaaS Services, programs, and anything developed and delivered under the Agreement. Third party technology that may be appropriate or necessary for use with some Komprise programs is specified in the program Documentation or ordering document as applicable. Customer's right to use such third party technology is governed by the terms of the third party technology license agreement specified by Komprise and not under the Agreement. Customer shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness and retains ownership of all of Customer Data.

8. Third-Party Services. If Customer uses any third-party service (e.g., a service that uses a Komprise API) with the SaaS Services ("Third-Party Services"), (a) Komprise will not be responsible or liable for any act or omission of the third party, including the third party's access to or use of Customer Data and (b) Komprise does not warrant or support any service provided by the third party.
9. Suggestions. Komprise shall have a royalty-free, worldwide, irrevocable, perpetual license to use and incorporate into the SaaS Services any suggestions, enhancement requests, recommendation or other feedback provided by Customer relating to the operation of the SaaS Services.

5. Orders and Payment.

1. Orders. Customer shall order SaaS Services and Other Services pursuant to a Quote. All services acquired by Customer shall be governed exclusively by this Agreement and the applicable Quote. In the event of a conflict between the terms of a Quote and this Agreement, the terms of the Quote shall take precedence.
2. Invoicing and Payment. Unless otherwise provided in the Quote, Komprise shall invoice Customer for all fees on the Quote effective date. Customer shall pay all undisputed invoices within 30 days after Customer receives the invoice. Late payments are subject to 1.5% per month surcharge. Except as expressly provided otherwise, fees are non-refundable. All fees are stated in United States Dollars, and must be paid by Customer to Komprise in United States Dollars.
3. Expenses. Customer will reimburse Komprise for its reasonable, out-of-pocket travel and related expenses incurred in performing the Other Services. Komprise shall notify Customer prior to incurring any such expense. Komprise shall comply with Customer's travel and expense policy if made available to Komprise prior to the required travel.
4. Taxes. Komprise shall bill Customer for applicable taxes as a separate line item on each invoice. Customer shall be responsible for payment of all sales and use taxes,

value added taxes (VAT), or similar charges relating to Customer's purchase and use of the services. Customer shall not be liable for taxes based on Komprise's net income, capital or corporate franchise.

6. Term and Termination.

1. Term of Agreement. The term of this Agreement shall begin on the effective date set forth in the Quote and shall continue until terminated by either party as outlined in this Section.
2. Termination. Either party may terminate this Agreement immediately upon a material breach by the other party that has not been cured within thirty (30) days after receipt of notice of such breach.
3. Suspension for Non-Payment. Komprise reserves the right to suspend delivery of the SaaS Services and/or Other Services if Customer fails to timely pay any undisputed amounts due to Komprise under this Agreement, but only after Komprise notifies Customer of such failure and such failure continues for fifteen (15) days. Suspension of the SaaS Services and/or Other Services shall not release Customer of its payment obligations under this Agreement. Customer agrees that Komprise shall not be liable to Customer or to any third party for any liabilities, claims or expenses arising from or relating to suspension of the SaaS Services and/or Other Services resulting from Customer's nonpayment.
4. Suspension for Ongoing Harm. Komprise reserves the right to suspend delivery of the SaaS Services if Komprise reasonably concludes that Customer use of the SaaS Services is causing immediate and ongoing harm to Komprise or others. In the extraordinary case that Komprise must suspend delivery of the SaaS Services, Komprise shall immediately notify Customer of the suspension and the parties shall diligently attempt to resolve the issue. Komprise shall not be liable to Customer or to any third party for any liabilities, claims or expenses arising from or relating to any suspension of the SaaS Services in accordance with this Section 6.4. Nothing in this Section 6.4 will limit Komprise's rights under Section 6.5 below.
5. Effect of Termination.
 - (a) Upon termination of this Agreement or expiration of the Subscription Term, Komprise shall immediately cease providing the SaaS Services and all usage rights granted under this Agreement shall terminate.
 - (b) If Komprise terminates this Agreement due to a breach by Customer, then Customer shall immediately pay to Komprise all amounts then due under this Agreement and to become due during the remaining term of this Agreement, but for

such termination. If Customer terminates this Agreement due to a breach by Komprise, then Komprise shall immediately repay to Customer all pre-paid amounts for any unperformed SaaS Services ordered to be delivered after the termination date.

(c) Upon termination of this Agreement and upon subsequent written request by the disclosing party, the receiving party of tangible Confidential Information shall immediately return such information or destroy such information and provide written certification of such destruction, provided that the receiving party may permit its legal counsel to retain one archival copy of such information in the event of a subsequent dispute between the parties.

7. Warranties

1. Warranty. Komprise represents and warrants that it will provide the SaaS Services in a professional manner consistent with general industry standards and that the SaaS Services will perform substantially in accordance with the Documentation. For any breach of a warranty, Customer's exclusive remedy and Komprise's sole liability shall be as provided in Section 6.5(b), Term and Termination.
2. KOMPRISE WARRANTS THAT THE SAAS SERVICES WILL PERFORM IN ALL MATERIAL RESPECTS IN ACCORDANCE WITH THE DOCUMENTATION. KOMPRISE DOES NOT GUARANTEE THAT THE SAAS SERVICES WILL BE PERFORMED ERROR-FREE OR UNINTERRUPTED, OR THAT KOMPRISE WILL CORRECT ALL SAAS SERVICES ERRORS. CUSTOMER ACKNOWLEDGES THAT KOMPRISE DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE SAAS SERVICE MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES. THIS SECTION SETS FORTH THE SOLE AND EXCLUSIVE WARRANTY GIVEN BY KOMPRISE (EXPRESS OR IMPLIED) WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT. NEITHER KOMPRISE NOR ANY OF ITS LICENSORS OR OTHER SUPPLIERS WARRANT OR GUARANTEE THAT THE OPERATION OF THE SUBSCRIPTION SERVICE WILL BE UNINTERRUPTED, VIRUS-FREE OR ERROR-FREE, NOR SHALL KOMPRISE OR ANY OF ITS SERVICE PROVIDERS BE LIABLE FOR UNAUTHORIZED ALTERATION, THEFT OR DESTRUCTION OF CUSTOMER'S OR ANY USER'S DATA, FILES, OR PROGRAMS.

8. Limitations of Liability.

NEITHER PARTY (NOR ANY LICENSOR OR OTHER SUPPLIER OF KOMPRISE) SHALL BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST BUSINESS, PROFITS, DATA OR

USE OF ANY SERVICE, INCURRED BY EITHER PARTY OR ANY THIRD PARTY IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF THE NATURE OF THE CLAIM (INCLUDING NEGLIGENCE), EVEN IF FORESEEABLE OR THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NEITHER PARTY'S AGGREGATE LIABILITY FOR DAMAGES UNDER THIS AGREEMENT, REGARDLESS OF THE NATURE OF THE CLAIM (INCLUDING NEGLIGENCE), SHALL EXCEED THE FEES PAID OR PAYABLE BY CUSTOMER UNDER THIS AGREEMENT DURING THE 12 MONTHS PRECEDING THE DATE THE CLAIM AROSE. The foregoing limitations shall not apply to the parties' obligations (or any breach thereof) under Sections entitled "Restrictions", "Indemnification by Customer", or "Confidentiality".

9. Indemnification.

1. Indemnification by Komprise. If a third party makes a claim against Customer that the SaaS Services infringes any United States patent or copyright or that Komprise's negligence or willful misconduct has caused bodily injury or death, Komprise shall defend Customer and its directors, officers and employees against the claim at Komprise's expense and Komprise shall pay all losses, damages and expenses (including reasonable attorneys' fees) finally awarded against such parties or agreed to in a written settlement agreement signed by Komprise, to the extent arising from the claim. Komprise shall have no liability for any claim based on (a) the Customer Data, (b) modification of the SaaS Services not authorized by Komprise, (c) use of the SaaS Services other than in accordance with the Documentation and this Agreement, or (d) any technology owned or licensed by Customer from third parties including Third Party Services. Komprise may, at its sole option and expense, procure for Customer the right to continue use of the SaaS Services, modify the SaaS Services in a manner that does not materially impair the functionality, or terminate the Subscription Term and refund to Customer any amounts pre-paid by Customer that correspond to the unused portion of the Subscription Term following the termination date.
2. Possible Infringement. If Komprise believes the SaaS Services infringe or may be alleged to infringe a third party's intellectual property rights, then Komprise at its option may: (i) obtain the right for Customer, at Komprise's expense, to continue using the Services; (ii) provide a non-infringing functionally equivalent replacement; or (iii) modify the SaaS Services so that they no longer infringe. If Komprise does not believe the options described in this section are commercially reasonable then Komprise may suspend or terminate Customer's use of the affected SaaS Services

(with a pro-rata refund of prepaid fees for the SaaS Services as of the effective date of termination).

3. This Section sets forth Customer's sole remedy with respect to any claim of intellectual property infringement.
4. Indemnification by Customer. If a third party makes a claim against Komprise that the Customer Data infringes any patent, copyright or trademark, Customer shall defend Komprise and its directors, officers and employees against the claim at Customer's expense and Customer shall pay all losses, damages and expenses (including reasonable attorneys' fees) finally awarded against such parties or agreed to in a written settlement agreement signed by Customer, to the extent arising from the claim.
5. Conditions for Indemnification. A party seeking indemnification under this section shall (a) promptly notify the other party of the claim, (b) give the other party sole control of the defense and settlement of the claim, and (c) provide, at the other party's expense for out-of-pocket expenses, the assistance, information and authority reasonably requested by the other party in the defense and settlement of the claim.

10. Confidentiality.

1. Definition. "**Confidential Information**" means any information disclosed by a party to the other party, directly or indirectly, which, (a) if in written, graphic, machine-readable or other tangible form, is marked as "confidential" or "proprietary," (b) if disclosed orally or by demonstration, is identified at the time of initial disclosure as confidential and is confirmed in writing to the receiving party to be "confidential" or "proprietary" within 30 days of such disclosure, (c) is specifically deemed to be confidential by the terms of this Agreement, or (d) reasonably appears to be confidential or proprietary because of the circumstances of disclosure and the nature of the information itself. Confidential Information will also include information disclosed by third parties to a disclosing party under an obligation of confidentiality. Subject to the display of Customer Data as contemplated by this Agreement, Customer Data is deemed Confidential Information of Customer. Komprise SaaS Services and Documentation are deemed Confidential Information of Komprise.
2. Confidentiality. During the term of this Agreement and for 5 years thereafter, each party shall treat as confidential all Confidential Information of the other party, shall not use such Confidential Information except to exercise its rights and perform its

obligations under this Agreement, and shall not disclose such Confidential Information to any third party. Without limiting the foregoing, each party shall use at least the same degree of care, but not less than a reasonable degree of care, it uses to prevent the disclosure of its own confidential information to prevent the disclosure of Confidential Information of the other party. Each party shall promptly notify the other party of any actual or suspected misuse or unauthorized disclosure of the other party's Confidential Information. Neither party shall reverse engineer, disassemble or decompile any prototypes, software or other tangible objects which embody the other party's Confidential Information and which are provided to the party hereunder. Each party may disclose Confidential Information of the other party on a need-to-know basis to its contractors who are subject to confidentiality agreements requiring them to maintain such information in confidence and use it only to facilitate the performance of their services on behalf of the receiving party.

3. Exceptions. Confidential Information excludes information that: (a) is known publicly at the time of the disclosure or becomes known publicly after disclosure through no fault of the receiving party, (b) is known to the receiving party, without restriction, at the time of disclosure or becomes known to the receiving party, without restriction, from a source other than the disclosing party not bound by confidentiality obligations to the disclosing party, or (c) is independently developed by the receiving party without use of the Confidential Information as demonstrated by the written records of the receiving party. The receiving party may disclose Confidential Information of the other party to the extent such disclosure is required by law or order of a court or other governmental authority, provided that the receiving party shall use reasonable efforts to promptly notify the other party prior to such disclosure to enable the disclosing party to seek a protective order or otherwise prevent or restrict such disclosure. Each party may disclose the existence of this Agreement and the relationship of the parties, but agrees that the specific terms of this Agreement will be treated as Confidential Information; provided, however, that each party may disclose the terms of this Agreement to those with a need to know and under a duty of confidentiality such as accountants, lawyers, bankers and investors.

11. General Provisions.

1. Non-Exclusive Service. Customer acknowledges that SaaS Services and Other Services are provided on a non-exclusive basis. Nothing shall be deemed to prevent or restrict Komprise's ability to provide the SaaS Services and Other Services or

other technology, including any features or functionality first developed for Customer, to other parties.

2. Facilities and Data Processing. Komprise will use, at a minimum, industry standard technical and organizational security measures to transfer, store, and process Customer Data. These measures are designed to protect the integrity of Customer Data and guard against the unauthorized or unlawful access to, use, and processing of Customer Data. Customer agrees that Komprise may transfer, store, and process Meta Data and Account Data in locations other than Customer's country which may include the United States. The SaaS Services are provided from the United States. By using and accessing the SaaS Services, Customer understands and consents to the storage and processing of the Meta Data and any other personal information in the United States. Komprise may change the location at any time and will use commercially reasonable efforts to provide Customer with at least 30 days' notice of any such changes in the location. Komprise also reserves the right to store and process personal information outside of the United States, and will use commercially reasonable efforts to provide Customer with at least 30 days' notice of any such changes in the processing location.
3. Personal Data. Customer hereby acknowledges and agrees that Komprise's performance of this Agreement may require Komprise to process, transmit and/or store Customer personal data or the personal data of Customer employees and affiliates. By submitting personal data to Komprise, Customer agrees that Komprise and its affiliates may process, transmit and/or store personal data only to the extent necessary for, and for the sole purpose of, enabling Komprise to perform its obligations to under this Agreement. Customer agrees to obtain all necessary consents and make all necessary disclosures before uploading personal data into the SaaS Services. Customer confirms that Customer is solely responsible for any personal data that may be contained in Customer Data, including any information which any Komprise SaaS User shares with third parties on Customer's behalf. Customer is solely responsible for determining the purposes and means of processing Customer personal data by Komprise under this Agreement, including that such processing according to Customer's instructions will not place Komprise in breach of applicable data protection laws. Prior to processing, Customer will inform Komprise about any special categories of data contained within Customer personal data and any restrictions or special requirements in the processing of such special categories of data, including any cross border transfer restrictions. Customer is responsible for ensuring that the Komprise SaaS meets such

restrictions or special requirements. Komprise to process any personal data that meets the requirements set forth in this Section according this Agreement.

4. Assignment. Neither party may assign this Agreement or any right under this Agreement, without the consent of the other party, which consent shall not be unreasonably withheld or delayed; provided however, that either party may assign this Agreement to an acquirer of all or substantially all of the business of such party to which this Agreement relates, whether by merger, asset sale or otherwise. This Agreement shall be binding upon and inure to the benefit of the parties' successors and permitted assigns. Komprise may employ subcontractors in performing its duties under this Agreement, provided, however, Komprise shall not be relieved of any obligation under this Agreement.
5. Notices. Except as otherwise permitted in this Agreement, notices under this Agreement shall be in writing and shall be deemed to have been given (a) five (5) business days after mailing if sent by registered or certified U.S. mail, or (b) when delivered if delivered personally or sent by express courier service. All notices to Customer shall be sent to the at the address set forth on the Quote. Notices to Komprise must be sent to Komprise, Inc., 1901 S. Bascom Ave., Tower 1, 5th Floor, Campbell, CA 95008, USA, with a copy to the Legal Department.
6. Force Majeure. Each party will be excused from performance for any period during which, and to the extent that, such party or any subcontractor is prevented from performing any obligation or Service, in whole or in part, as a result of causes beyond its reasonable control, and without its fault or negligence, including without limitation, acts of God, strikes, lockouts, riots, acts of terrorism or war, epidemics, communication line failures, and power failures.
7. Waiver. No waiver shall be effective unless it is in writing and signed by the waiving party. The waiver by either party of any breach of this Agreement shall not constitute a waiver of any other or subsequent breach.
8. Severability. If any term of this Agreement is held to be invalid or unenforceable, that term shall be reformed to achieve as nearly as possible the same effect as the original term, and the remainder of this Agreement shall remain in full force.
9. Terms Modification. Komprise may revise this Agreement from time to time and the most current version will always be posted on the Komprise Business website. If a revision, in Komprise's sole discretion, is material, Komprise will notify Customer (by, for example, sending an email to the email address associated with the applicable account). Other revisions may be posted to Komprise's blog or terms

page, and Customer is responsible for checking such postings regularly. By continuing to access or use the Services after revisions become effective, Customer agrees to be bound by the revised Agreement. If Customer does not agree to the revised Agreement terms, Customer may terminate the Services within 30 days of receiving notice of the change.

10. Entire Agreement. This Agreement, including Customer's invoice and Quote with Komprise (if applicable), constitutes the entire agreement between Customer and Komprise with respect to the subject matter of this Agreement and supersedes and replaces any prior or contemporaneous understandings and agreements, whether written or oral, with respect to the subject matter of this Agreement. If there is a conflict between the documents that make up this Agreement, the documents will control in the following order: the Komprise invoice, the Komprise Quote, this Agreement.
11. Survival. Sections 3, 4.9, 6, and 8 through 11 of this Agreement shall survive the expiration or termination of this Agreement for any reason.
12. Publicity. Komprise may include Customer's name and logo in its customer lists and on its website. Upon signing, Komprise may issue a high-level press release announcing the relationship and the manner in which Customer will use the Komprise solution. Komprise shall coordinate its efforts with appropriate communications personnel in Customer's organization to secure approval of the press release if necessary.
13. Export Regulations. Export laws and regulations of the United States and any other relevant local export laws and regulations apply to the SaaS Services. Customer agrees that such export control laws govern its use of the SaaS Services (including technical data) and any services deliverables provided under this Agreement, and Customer agrees to comply with all such export laws and regulations. Customer agrees that no data, information, software programs and/or materials resulting from services (or direct product thereof) will be exported, directly or indirectly, in violation of these laws.
14. No Third Party Beneficiaries. This Agreement is an agreement between the parties, and confers no rights upon either party's employees, agents, contractors, partners of customers or upon any other person or entity.
15. Independent Contractor. The parties have the status of independent contractors, and nothing in this Agreement nor the conduct of the parties will be deemed to place the parties in any other relationship. Except as provided in this Agreement,

neither party shall be responsible for the acts or omissions of the other party or the other party's personnel.

16. Statistical Information. Komprise may anonymously compile statistical information related to the performance of the Services for purposes of improving the SaaS service, provided that such information does not identify Customer's data or include Customer's name.
17. Governing Law. This Agreement shall be governed by the laws of the State of California, excluding its conflict of law principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.
18. Compliance with Laws. Komprise shall comply with all applicable local, state, national and foreign laws in connection with its delivery of the SaaS Services, including those laws related to data privacy, international communications, and the transmission of technical or personal data.
19. Dispute Resolution. Customer's satisfaction is an important objective to Komprise in performing its obligations under this Agreement. Except with respect to intellectual property rights, if a dispute arises between the parties relating to the interpretation or performance of this Agreement or the grounds for the termination hereof, the parties agree to hold a meeting within fifteen (15) days of written request by either party, attended by individuals with decision-making authority, regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute prior to pursuing other available remedies. If, within 15 days after such meeting, the parties have not succeeded in resolving the dispute, Customer and Komprise agree to resolve any claims relating to this Agreement or the SaaS Services through final and binding arbitration with a single arbitrator, except as set forth below. The [American Arbitration Association](#) (AAA) will administer the arbitration under its Commercial Arbitration Rules. The arbitration will be held in Santa Clara County, California in the English language. Each party shall bear its own costs and expenses and an equal share of the arbitrators' and administrative fees of arbitration. The prevailing party shall be entitled to an award of reasonable attorneys' fees.
20. Exception to Agreement to Arbitrate. Either party may bring a lawsuit in the federal or state courts of Santa Clara County, California solely for injunctive relief to stop unauthorized use or abuse of the Services or infringement of Intellectual Property Rights without first engaging in the informal dispute notice process described above. Both Customer and Komprise consent to venue and personal jurisdiction there.

Exhibit A

SaaS Support Services

Komprise SaaS Support Services

These service level terms set forth the Komprise policies and procedures with respect to SaaS Support Services

1. Problem Classifications and Definitions

Classification	Description
P1 – Critical	1) Service is completely unavailable or performance is so poor as to render the Service unusable 2) Data security breach or hack (whether actual or suspected) or attempt thereof 3) End user issue on the Customer Site relating to the Service that is a contractual Escalation Procedure or is reasonably determined by Customer to require immediate attention (including, without limitation, threat of imminent violence).
P2 – High	A major functionality of Service is unusable which results in limited functionality for a significant number of users
P3 – Medium	There is a loss of a function or resource of the Service that does not severely impact the Service on a Customer Site.
P4 – Low	All other problems with the Service on a Customer Site other than those listed above, including feature requests.

2. Support and Escalation Process

There are multiple ways to contact Komprise Support and initiate a support request:

- Komprise on-line support desk: <https://komprise.freshdesk.com> to either create a support ticket or chat with a Komprise support personnel.
- Use the chat in the Software to contact a Komprise support personnel.
- Call Komprise: 1-888-955-1290

All support communication will result in the generation of a support ticket with different levels of personnel escalation depending upon classification. This is a highly automated system that ensures that your issue is routed to the appropriate individual in the least amount of time possible, and so that issues can be tracked to completion. All issues should include an appropriate

classification and described above. If no classification is specified, Komprise will default the ticket to a P3 classification. When creating a support ticket please be sure to include a detailed description of the issue in the body of your message – the more detail provided the better we will be able to troubleshoot. This may include screenshots, error messages or logs, system and/or browser information, etc. if available and/or useful. Please reserve the **P1** classification for **critical** issues as described above. The P1 classification is escalated to multiple personnel, **regardless of time of day**.

3. Problem Escalation and Resolution Criteria

- 1. Company will use commercially reasonable efforts to resolve technical issues based on the response timeframes for each classification set forth below.

Classification	Response Time
P1 – Critical	60 minutes
P2 – High	2 hours
P3 – Medium	Next business day
P4 – Low	2 business days

- 2. Komprise provides 24X7 customer support with support offices in the US (west coast) and India.