

SCHEDULE A

DOMO SERVICES AGREEMENT (For Service Providers)

This Agreement governs your purchase of a license to and use of our services. The parties agree as follows:

IF YOU REGISTER FOR A FREE VERSION OF THE SERVICE OR A FREE TRIAL OF THE SERVICE, THE APPLICABLE PROVISIONS OF THIS AGREEMENT ALSO GOVERN YOUR USE OF THOSE SERVICES.

IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND YOUR AFFILIATES TO THESE TERMS AND CONDITIONS. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICE.

1. DEFINITIONS

1.1 "Affiliate" means any entity that, directly or indirectly, controls, is controlled by or is under common control with such entity (but only for so long as such control exists), where "control" means the ownership of more than 50% of the outstanding shares or securities representing the right to vote in the election of directors or other managing authority of such entity.

1.2 "Agreement" or "Contract" means this Domo Services Agreement, which incorporates and includes Schedule B hereto, and any Service Orders you enter into with us.

1.3 "Authorized User" means your employee, your Affiliate's employee, or a Permitted Third Party's employee for whom you create a unique user name and password under your account.

1.4 "Client Software" means software components to be installed on your, your Affiliates', Permitted Service Provider Customers', or your Authorized Users' computer systems or devices, including but not limited to Domo Workbench.

1.5 "Documentation" means our user documentation, in all forms, relating to the Service (e.g., user manuals, on-line help files, etc.).

1.6 "Permitted Service Provider Customer" means a customer of Service Provider who needs access to the Service in connection with the contractual relationship between Service Provider and such customer and who is not a competitor of Domo, but only so long as such customer relationship exists between Service Provider and such customer.

1.7 "Permitted Third Party" means an entity under contract with you or your Affiliates who needs to access the Service to perform its obligations to you or your Affiliates and who is not our competitor, and Permitted Service Provider Customers.

1.8 "Professional Services" means the professional services specified in a Service Order, potentially including but not limited to implementation and configuration services, consulting, and training.

1.9 "Service" means the service identified in the Service Order, as we may modify the service from time to time in our discretion, including any associated Client Software provided by us to you.

1.10 "Service Order" means an ordering document entered into between you and us specifying the services to be provided thereunder, including any addenda and supplements thereto. By entering into a Service Order under this Agreement, an Affiliate agrees to be bound by the terms of this Agreement as if it were an original party to the Agreement.

1.11 "Service Provider Data" means any data uploaded into the Service, or otherwise provided for processing by the Service, by or on behalf of you and your Affiliates in accordance with this Agreement.

1.12 "Subscription Fees" means the fees for the Service specified in the Service Order.

1.13 "Technical Support Services" means our then-current technical support services offering, as described at <http://www.domo.com/company/support-package>.

1.14 "We" or "Us" or "Our" means Domo, Inc., a Utah corporation, or its designated Affiliate as specified in a Service Order or invoice.

1.15 “You” or “Your” or “Service Provider” means the customer named on the Service Order, the person indicating acceptance of this Agreement, or if the person indicating acceptance of this Agreement is acting on behalf of a company or other legal entity, such company or legal entity.

2. FULL DOMO SERVICE; FREE VERSIONS AND FREE TRIALS

2.1 Full Domo Service. We offer various versions of our Service. The most comprehensive version of the Service requires payment for continued use of the Service. The version of the Service that requires payment is currently referred to as “Full Domo Service.”

2.2 Free Versions. Certain versions of the Service may be provided to you free-of-charge. The versions of the Service that do not require payment to be accessed are currently referred to as “Free Versions.”

2.3 Free Trials. From time to time, we may offer trials of the Full Domo Service for a specified period of time without payment or at a reduced rate (each, a “Free Trial”). If you register on our website or via a Service Order for a Free Trial, we will make the Service available to you under the Free Trial until the earlier of (a) the end of the Free Trial period for which you registered to use the Service, or (b) the start date of any Full Domo Service subscription ordered by you for such Service, or (c) termination by us in our sole discretion. ANY DATA YOU ENTER INTO THE SERVICE, AND ANY CONFIGURATION CHANGES MADE TO THE SERVICE BY OR FOR YOU, DURING YOUR FREE TRIAL WILL BE PERMANENTLY LOST UNLESS YOU PURCHASE A SUBSCRIPTION TO THE SAME SERVICE AS THOSE COVERED BY THE FREE TRIAL OR EXPORT SUCH DATA, BEFORE THE END OF THE FREE TRIAL PERIOD. YOU CANNOT TRANSFER DATA ENTERED OR CONFIGURATION CHANGES MADE DURING THE FREE TRIAL TO A FREE VERSION OF THE SERVICE, UNLESS THE DATA ENTERED OR CONFIGURATION CHANGES ARE TO FEATURES AVAILABLE IN THE FREE VERSIONS; THEREFORE, YOU MUST EXPORT YOUR DATA BEFORE THE END OF THE TRIAL PERIOD OR YOUR DATA WILL BE PERMANENTLY LOST. Please review the applicable Documentation for the Service during the Free Trial period so that you become familiar with the functionality and features of the Service before you make your purchase.

3. USE OF THE SERVICE

3.1 Use of the Service. Subject to the terms and conditions of this Agreement, we grant to you and your Affiliates a limited, worldwide, non-exclusive, non-transferable (except as explicitly permitted in this Agreement) right during the term of this Agreement to use the Service solely in connection with your internal business operations, and, solely to the extent required by the customer relationship between Service Provider and Permitted Service Provider Customers, to provide the Permitted Service Provider Customers with access to the Service for their internal business operations. Your and your Affiliates’ rights to use the Service are subject to any limitations on use of the Service based on the version of the Service you register for (e.g., applicable usage limits) and as set forth in the Service Order (collectively, the “Scope Limitations”) and your rights to use the Service are contingent upon your compliance with the Scope Limitations and this Agreement. As part of the Service, we may provide you and your Affiliates with Client Software, which you and your Affiliates may install on your computer system or other devices and use solely to upload Service Provider Data into the Service. You are solely responsible for your conduct (including by and between all users), the content of Service Provider Data, and all communications with others while using the Service. You acknowledge that we have no obligation to monitor any information on the Service, but we may remove or disable any information that you make publicly available on the Service at any time for any reason. We are not responsible for the availability, accuracy, appropriateness, or legality of Service Provider Data or any other information you may access using the Service.

3.2 Use of the Documentation. Subject to the terms and conditions of this Agreement, we grant to you and your Affiliates a limited, worldwide, non-exclusive, non-transferable (except as explicitly permitted in this Agreement) right during the term of this Agreement to reproduce, without modification, and internally use a reasonable number of copies of the Documentation solely in connection with use of the Service in accordance with this Agreement.

3.3 Use Restrictions. Except as otherwise explicitly provided in this Agreement or as may be expressly permitted by applicable law, you will not, and will not permit or authorize your Affiliates or third parties to: (a) rent, lease, or, except as explicitly set forth in this Agreement, otherwise permit third parties to use the Service or Documentation; (b) use the Service to provide services to third parties as a service bureau, except for with respect to Permitted Service Provider Customers, or in any way that violates applicable law; (c) circumvent or disable any security or other technological features or measures of the Service, or attempt to probe, scan or test the vulnerability of a network or system, or to breach security or authentication measures; (d) upload or provide for processing any information or material that is illegal, defamatory, offensive, abusive, obscene, or that violates privacy or intellectual property rights of any third party; (e) use the Service to harm, threaten, or harass another person or organization; or (f) send, store, or distribute any viruses, worms, Trojan horses, or other disabling code or malware component harmful to a network or system. You will not copy, reproduce, modify, translate, enhance, decompile, disassemble, reverse engineer, or create derivative works of any Client Software or provide, disclose, or make any Client Software available to any third party, except that you may make one copy of Client Software solely for backup and archival purposes. You will neither alter nor remove any trademark, copyright notice, or other proprietary rights notice that may appear in any part of the Documentation or any Client Software and will include all such notices on any copies. You will ensure that your Affiliates and Permitted Third Parties comply with this Agreement. You will be directly and fully responsible to us for their conduct and any breach of this Agreement by them. We reserve the right to deactivate, change, or require you to change your user ID and any custom or vanity URLs, custom links, or vanity domains you may obtain through the Service at any time with reasonable notice.

3.4 Authorized Users Only. This Agreement restricts the use of the Service to Authorized Users, up to the number of users specified in the Service Order. An Authorized User account must not be shared among users. Additional Authorized Users may be added by paying the applicable fees to us at our then-current rate or as otherwise specified in a Service Order. The Authorized Users who are employees of Permitted Third Parties may access and use the Service solely to perform the Permitted Third Party’s contractual obligations to you subject to the use limitations set forth in this Agreement. As part of the registration process, you may be asked to identify your company and other Authorized Users who should be associated with your account. You will not misrepresent the identity or nature of the company or Authorized Users who should be associated with your account. We may reassign the domain name associated with your account and change the way you access the Service at any time with reasonable notice. You are responsible for maintaining the confidentiality of your login, password, and account and for all activities that occur under your login and account, including the activities of Authorized Users.

3.5 Protection against Unauthorized Use. You will, and will ensure that your Affiliates and Permitted Third Parties use reasonable efforts to prevent any unauthorized use of the Service or Documentation, and you will immediately notify us in writing of any unauthorized

use that comes to your attention. If there is unauthorized use by anyone who obtained access to the Service or Documentation directly or indirectly through you, your Affiliate, or a Permitted Third Party, you will take all steps reasonably necessary to terminate the unauthorized use. You will cooperate and assist with any actions taken by us to prevent or terminate unauthorized use of the Service or Documentation. We may, at our expense and no more than once every 12 months with reasonable notice, appoint our own personnel or an independent third party to verify that your use of the Service complies with the terms of this Agreement.

3.6 Beta Versions. From time to time, we may make available for you to try, at your sole discretion, certain functionality related to the Service, which is clearly designated as beta, pilot, limited release, non-production, or by a similar description (each, a "Beta Version"). Beta Versions are intended for evaluation purposes and not for production use, are not supported, and may be subject to additional terms. We may discontinue Beta Versions at any time in our sole discretion and may never make them generally available. We have no liability for any harm or damage arising out of or in connection with a Beta Version.

3.7 Reservation of Rights. We retain all right, title, and interest in and to the Service, Client Software and Documentation and all related intellectual property rights, including without limitation any modifications, updates, customizations, cards, apps, or other additions. Your rights to use the Service, Documentation, and Client Software are limited to those expressly set forth in this Agreement. We reserve all other rights in and to the Service, Client Software, and Documentation.

3.8 Service Availability. We perform and maintain regular database backups according to the retention policy appropriate for the particular system. We incorporate database and system maintenance operations and processes designed to address data consistency, indexing, and integrity requirements that also help improve query performance. We have implemented and will maintain commercially reasonable measures intended to avoid unplanned Service interruptions. We will use commercially reasonable efforts to notify you in advance of planned Service interruptions. In the event of an unplanned Service interruption, you may contact us for Technical Support Services, as described in this Agreement. The Service depends on the availability of the Service Provider Data from you and third-party data providers. You are responsible for making the Service Provider Data available that is necessary for us to provide the Service.

4. PROFESSIONAL SERVICES AND TECHNICAL SUPPORT SERVICES

4.1 Professional Services. You may contract with us to perform Professional Services. The specific details of the Professional Services to be performed will be determined on a per-project basis, and the details for each project will be described on the Service Order. Unless otherwise specified in the applicable Service Order, any unused portion of the Professional Services and training will expire and may not be carried over after 12 months from the Service Order effective date.

4.2 Changes to Professional Services. You may reasonably request in writing that revisions be made with respect to the Professional Services set forth in a Service Order. If your requested revisions materially increase the scope of the Professional Services or the effort required to perform the Professional Services under the Service Order, then we will deliver to you a written proposal reflecting our reasonable determination of the revised Professional Services, delivery schedule, and payment schedule, if any, that applies to the requested revisions. If you approve the proposal, then the parties will execute an amendment to the Service Order. Otherwise, the then-existing Service Order will remain in full force and effect, and we will have no obligation with respect to the relevant change requests.

4.3 Technical Support Services. We will provide you with the applicable Technical Support Services for the version of the Service to which you are subscribed so long as you are current in payment of the Subscription Fees (if applicable). You are responsible for providing support to Permitted Third Parties.

4.4 Your Responsibilities. You will provide assistance, cooperation, information, equipment, data, a suitable work environment, and resources reasonably necessary to enable us to perform the Professional Services and Technical Support Services. You acknowledge that our ability to provide Professional Services as described in the Service Order and Technical Support Services may be affected if you do not meet your responsibilities as set forth above.

4.5 Feedback and Other Content. The Service may permit you, your Affiliates, and Permitted Third Parties to submit feedback, user community contributions and comments, technical support information, suggestions, enhancement requests, recommendations, and messages relating to the use and operation of the Service. You grant to us a royalty-free, fully paid, non-exclusive, perpetual, irrevocable, worldwide, transferable license to display, use, copy, modify, publish, perform, translate, create derivative works from, sublicense, distribute, and otherwise exploit such content without restriction.

5. FEES AND PAYMENT

5.1 Fees and Payment Terms. Unless otherwise specified in a Service Order, the Subscription Fees for the initial subscription term and Professional Service fees set forth in the Service Order are due within 30 days after execution of the Service Order. After the initial subscription term, Subscription Fees will be invoiced annually at the then-current rate for the Service or as otherwise specified in a Service Order, at least 30 days in advance of the start of each renewal period. Fees for additional Service quantities and Professional Services will be invoiced at the time of order, unless otherwise agreed in writing by the parties. You will pay all amounts in full within 30 days after the invoice date. The charges in an invoice will be considered accepted by you unless we are notified of a good faith dispute in writing within 15 days of the date of the invoice. Unless expressly provided otherwise in a Service Order, all amounts payable under this Agreement are denominated in United States dollars, and you will pay all such amounts in United States dollars.

5.2 Credit Card. If you use a credit card to set up an account or pay for the Service, you must be authorized to use the credit card information that you enter when you create the billing account. You authorize us to charge you for the Service plus a reasonable processing fee using your credit card and for any paid feature of the Service that you choose to sign up for or use under this Agreement. We may bill: (a) in advance; (b) at the time of purchase; (c) shortly after purchase; or (d) on a recurring basis for a subscription to the Service. If you set up a Free Trial using a credit card or if you paid the Subscription Fees using a credit card, you agree that we may automatically charge your credit card account the applicable Subscription Fee when the Free Trial ends or renew your subscription and charge your credit card account on the one-year anniversary of your last subscription date (the "Renewal Date"), unless you cancel your subscription before the end of the Free Trial or the Renewal Date (as applicable). We will automatically renew your subscription each year on the Renewal Date until you terminate your subscription or we no longer offer the Service to which you subscribed. We will notify you in advance of the difference for recurring Subscription Fees. We may charge you up to the amount you approve plus a reasonable processing fee. You must keep all information in your billing account current. You may change your payment method at any time. If you

tell us to stop using your payment method and we no longer receive payment from you for a Service that requires payment, we may terminate your access to that Service.

5.3 Late Payment. Any amount not subject to a good faith dispute and not paid when due will be subject to finance charges equal to 1.5% of the unpaid balance per month or the highest rate permitted by applicable usury law, whichever is less, determined and compounded monthly from the date due until the date paid. You will reimburse any costs or expenses (including, but not limited to, reasonable attorneys' fees) incurred by us to collect any amount that is not paid when due. Amounts due from you under this Agreement may not be withheld or offset by you against amounts due to you for any reason.

5.4 Taxes. The fees stated in a Service Order do not include local, state, federal, or foreign taxes (e.g., value-added, sales, or use taxes), or fees, duties, or other governmental charges resulting from this Agreement, excluding taxes on our net income or property ("Taxes"). You are responsible for paying all applicable Taxes. If we determine that we have the legal obligation to pay or collect Taxes, we will add such Taxes to the applicable invoice and you will pay such Taxes, unless you provide us with a valid tax exemption certificate from the appropriate taxing authority. If a taxing authority subsequently pursues us for unpaid Taxes for which you are responsible under this Agreement and which you did not pay to us, we may invoice you and you will pay such Taxes to us or directly to the taxing authority, plus all applicable interest, penalties and fees.

5.5 Future Functionality. Your purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by us regarding future functionality or features.

6. TERM AND TERMINATION

6.1 Term. This Agreement commences on the effective date specified in the Service Order and continues for the initial subscription term specified in the Service Order, unless this Agreement is terminated earlier in accordance with the terms of this Agreement. This Agreement automatically renews for additional successive one-year terms unless at least 30 days before the end of the then-current term either party provides written notice to the other party that it does not intend to renew.

6.2 Termination. Either party may terminate this Agreement if the other party does not cure its material breach of this Agreement within 30 days of receiving written notice of the material breach from the non-breaching party. A breach of this Agreement by your Affiliate, or a Permitted Third Party will be treated as a breach by you. Termination in accordance with this Subsection will take effect when the breaching party receives written notice of termination from the non-breaching party, which notice must not be delivered until the breaching party has failed to cure its material breach during the 30-day cure period. If you fail to timely pay any Subscription Fees or Professional Services Fees, we may, without limitation to any of our other rights or remedies, suspend performance of the Service, Professional Services, and Technical Support Services until we receive all amounts due, or may terminate this Agreement pursuant to this Subsection. We may terminate your license to use Free Versions at any time in our sole discretion.

6.3 Post-Termination Obligations. If this Agreement is terminated for any reason: (a) we have no obligation to provide or perform any Service, Professional Services, or Technical Support Services after the effective date of the termination; (b) you will immediately pay to us any Subscription Fees, Professional Services Fees, and other amounts that have accrued prior to the effective date of the termination; (c) any and all liabilities accrued prior to the effective date of the termination will survive; (d) you will provide us with a written certification signed by your authorized representative certifying that all use of the Service and Documentation by you, your Affiliates, and Permitted Third Parties has been discontinued and the Client Software has been de-installed from your and your Affiliates' computer systems; and (e) Sections and Subsections 1, 2, 3.7, 4.5, 5, 6.3, 7, 8.3, 9.4, 11, 12, and 14 will survive termination. If this Agreement is terminated by us for your uncured material breach or by you other than as a result of a material, uncured breach by us, you will pay to us the amounts due under the applicable Service Order for the remainder of the then-current term. If you terminate this Agreement for our uncured material breach, as your exclusive remedy, we will provide you a pro-rata refund of all prepaid but unused Subscription Fees for the remainder of the then-current term.

7. CONFIDENTIAL INFORMATION

7.1 Definition. "Confidential Information" means non-public business information, know-how, and trade secrets in any form, including information regarding our product plans, Beta Versions, Subscriber Data, and any other information a reasonable person should understand to be confidential, which is disclosed by or on behalf of either party or its Affiliates to the other party or its Affiliates, directly or indirectly, in writing, orally, or by inspection of tangible objects, and whether such information is disclosed before or after the Effective Date specified on the Service Order. "Confidential Information" excludes information that (a) is publicly known and made generally available in the public domain prior to the time of disclosure by the disclosing party through no action or inaction of the receiving party; (b) is already in the possession of the receiving party at the time of disclosure by the disclosing party, as shown by the receiving party's files and records; (c) is obtained by the receiving party from a third party without a breach of the third party's obligations of confidentiality; or (d) is independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information, as shown by documents and other competent evidence in the receiving party's possession.

7.2 Maintenance of Confidentiality. The party receiving Confidential Information hereunder agrees to take reasonable steps, at least substantially equivalent to the steps it takes to protect its own proprietary information, but not less than reasonable care, to prevent the unauthorized duplication or disclosure of the Confidential Information to third parties without the disclosing party's prior written consent. The receiving party may disclose the disclosing party's Confidential Information to the receiving party's employees, subcontractors, or agents who reasonably need to have access to such information to perform the receiving party's obligations under this Agreement, and who will treat such Confidential Information under the terms of this Agreement. Provided that such Permitted Third Party is bound by obligations of confidentiality and nonuse no less restrictive than the terms of this Agreement, you may disclose our Confidential Information to a Permitted Third Party solely to the extent required for such Permitted Third Party to be able to access and use the Service pursuant to this Agreement. Also, we may disclose this Agreement to actual and potential investors and funding sources and their representatives, in each case who agree to hold it in confidence. The receiving party may disclose the disclosing party's Confidential Information if required by law.

7.3 Return of Materials and Effect of Termination. Upon written request of the disclosing party, or in any event upon any termination or expiration of this Agreement, the receiving party will return to the disclosing party or destroy all materials, in any medium, to the extent containing or reflecting any of the disclosing party's Confidential Information. Following expiration or termination of this Agreement, we may purge your Service Provider Data and your Service environment from our systems. The obligations in this Section

7 survive for three years following expiration or termination of this Agreement, except that Confidential Information that constitutes a trade secret of the disclosing party will continue to be subject to the terms of this Section 7 for as long as such information remains a trade secret under applicable law.

8. DATA SECURITY

8.1 Data Security. We implement and maintain physical, electronic, and managerial procedures intended to protect against the loss, misuse, unauthorized access, alteration, or disclosure of Service Provider Data. These measures include encryption of Service Provider Data during transmission to the Service, and encryption of backups of Service Provider Data and authentication credentials at rest. We will notify you of any unauthorized access to, or use of, Service Provider Data that comes to our attention. If any unauthorized disclosure of Service Provider Data resulting from your use of the Service comes to our attention, we will work with you to investigate the cause of such unauthorized disclosure, and will work together in good faith to take the steps reasonably necessary to prevent any future reoccurrence and to comply with applicable data breach notification laws.

8.2 Data Transmission. You acknowledge that use of the Service involves transmission of Service Provider Data and other communications over the Internet and other networks, and that such transmissions could potentially be accessed by unauthorized parties. You must protect your Authorized User login names and passwords from access or use by unauthorized parties, and are solely responsible for any failure to do so. You must promptly notify us of any suspected security breach at security@domo.com.

8.3 Service Provider Data. Service Provider Data is your property. You grant us a non-exclusive, worldwide, royalty-free license to use, copy, transmit, sub-license, index, store, aggregate, and display Service Provider Data as required to provide or perform the Service, Technical Support Services, account management services, and Professional Services.

9. WARRANTIES AND DISCLAIMER

9.1 Mutual Warranties. Each party represents and warrants to the other that: (a) this Agreement constitutes a valid and binding agreement enforceable against such party in accordance with its terms; and (b) no authorization or approval from any third party is required in connection with such party's execution and delivery of the Service Order, or performance of this Agreement.

9.2 Our Warranty. We warrant that the Service as delivered to you will materially conform to the specifications set forth in the applicable Service Order, during the term of the Service Order. You must notify us of a claim under this warranty within 30 days of the date on which the condition giving rise to the claim first appears. We further warrant that we will perform Professional Services in a professional and workmanlike manner in accordance with the Service Order. To the extent permitted by law, your sole and exclusive remedy arising out of or in connection with a breach of warranty is limited to correction of the non-conforming Service or re-performance of the Professional Service, as applicable, or if correction or re-performance is not commercially reasonable, termination of the applicable Service Order and a refund of any prepaid unused fees for the applicable Service or Professional Services.

9.3 Sensitive Personal Data. Unless we specifically agree otherwise in writing, you represent and warrant that you will not upload into the Service, or otherwise provide for processing by the Service, any Sensitive Personal Data. "Sensitive Personal Data" is as defined under applicable privacy or data protection laws relating to this term or any similar term (such as "sensitive personal information"), or where no such laws apply, means an individual's financial account information, sexual orientation, medical or health information, personal information of children protected under child protection laws, and social security, national identity, and similar personal identifiers. You further represent and warrant that you will comply with all applicable laws, regulations, self-regulatory guidelines, and your privacy policy with respect to the collection, transfer, and use of any personally identifiable information in connection with the Service, including proper disclosure and receipt of all required consents from each individual to transfer such personally identifiable information to us.

9.4 Disclaimer. EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES STATED IN THIS SECTION, NEITHER PARTY MAKES ANY ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER. WE EXPRESSLY DISCLAIM ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, TITLE, AND NON-INFRINGEMENT. WE DO NOT WARRANT AGAINST INTERFERENCE WITH THE ENJOYMENT OF THE SERVICE OR DOCUMENTATION. WE DO NOT WARRANT THAT THE SERVICE OR DOCUMENTATION IS ERROR-FREE OR THAT OPERATION OR USE OF THE SERVICE OR DOCUMENTATION WILL BE SECURE OR UNINTERRUPTED. WE EXERCISE NO CONTROL OVER AND EXPRESSLY DISCLAIM ANY LIABILITY ARISING OUT OF OR BASED UPON THE RESULTS OF USE OF THE SERVICE OR DOCUMENTATION.

9.5 High-Risk Activities. THE SERVICE IS NOT DESIGNED OR LICENSED FOR USE IN HAZARDOUS ENVIRONMENTS REQUIRING FAILSAFE CONTROLS, INCLUDING WITHOUT LIMITATION OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATIONS SYSTEMS, AIR TRAFFIC CONTROL, OR LIFE SUPPORT OR WEAPONS SYSTEMS, IN WHICH THE FAILURE OF THE SERVICE OR SOFTWARE COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE. WE SPECIFICALLY DISCLAIM ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR SUCH HIGH-RISK ACTIVITIES.

10. INTELLECTUAL PROPERTY INFRINGEMENT INDEMNIFICATION

10.1 Defense of Infringement Claims. We will, at our expense, either defend you from or settle any claim, proceeding, or suit brought by a third party ("Claim") against you alleging that your use of the Service infringes or misappropriates any patent, copyright, trade secret, trademark, or other intellectual property right. You must (a) give us prompt written notice of the Claim; (b) grant us full and complete control over the defense and settlement of the Claim; (c) provide assistance in connection with the defense and settlement of the Claim as we may reasonably request; and (d) comply with any settlement or court order made in connection with the Claim. You will not defend or settle any Claim under this Subsection 10.1 without our prior written consent. You may participate in the defense of the Claim at your own expense and with counsel of your own choosing, subject to our sole control over the defense and settlement of the Claim as provided above.

10.2 Indemnification of Infringement Claims. We will indemnify you and your Affiliates from and pay: (a) all damages, costs, and attorneys' fees finally awarded against you and your Affiliates in any Claim under Subsection 10.1; (b) all out-of-pocket costs, including reasonable attorneys' fees reasonably incurred by you in connection with the defense of a Claim under Subsection 10.1 (other than attorneys' fees and costs incurred without our consent after we have accepted defense of the Claim and expenses incurred pursuant to

the last sentence of Subsection 10.1); and (c) all amounts that we agree to pay to any third party to settle any Claim under Subsection 10.1.

10.3 Exclusions from Obligations. We have no obligation under this Section 10 for any infringement or misappropriation to the extent that it arises out of or is based upon (a) use of the Service in combination with other products or services; (b) any aspect of the Service configured specifically for you to comply with designs, requirements, or specifications required by or provided by or on your behalf; (c) use of the Service by you, any Affiliate, or any Permitted Third Party outside the scope of the rights granted in this Agreement; (d) failure of you, any Affiliate, or any Permitted Third Party to use the Service in accordance with instructions provided by us; or (e) any modification of the Service not made or authorized in writing by us.

10.4 Infringement Remedies. In the defense or settlement of any infringement Claim, we may, at our sole option and expense: (a) procure for you a license to continue using the Service; (b) replace or modify the allegedly infringing technology to avoid the infringement; or (c) if the foregoing are not commercially feasible in our sole judgment, then terminate your license and access to the Service and refund any prepaid, unused Service fees as of the date of termination. This Section 10 states our sole and exclusive liability, and your sole and exclusive remedy, for the actual or alleged infringement or misappropriation of any third-party intellectual property right by the Service.

11. INDEMNIFICATION

Reserved.

12. LIMITATIONS OF LIABILITY

12.1 Disclaimer of Indirect Damages. TO THE EXTENT PERMITTED BY LAW, NEITHER PARTY WILL, UNDER ANY CIRCUMSTANCES, BE LIABLE TO THE OTHER PARTY OR TO ANY THIRD PARTY FOR INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR EXEMPLARY DAMAGES, OR FOR LOST PROFITS OR LOSS OF BUSINESS ARISING OUT OF OR RELATED TO THIS AGREEMENT, EVEN IF THE PARTY IS APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING.

12.2 Cap on Liability. TO THE EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES WILL EITHER PARTY'S TOTAL LIABILITY OF ALL KINDS ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, EXCEED TWENTY-FIVE THOUSAND (\$25,000), EXCEPT THAT, IN THE EVENT OF A SECURITY BREACH (AS DEFINED UNDER SCHEDULE B) CAUSED BY CONTRACTOR'S WILFUL BREACH OF SECTION 20 OF SCHEDULE B, DOMO'S TOTAL AGGREGATE LIABILITY SHALL BE INCREASED TO, AND SHALL NOT EXCEED, REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, ONE MILLION DOLLARS (\$1,000,000). HOWEVER, THE ABOVE LIMITATIONS WILL NOT LIMIT YOUR OBLIGATION TO PAY ANY FEES UNDER THIS AGREEMENT OR ANY SERVICE ORDER, OR LIMIT YOUR LIABILITY FOR YOUR VIOLATION OF THE SERVICE USE RESTRICTIONS PROVIDED IN THIS AGREEMENT OR FOR YOUR INFRINGEMENT OR MISAPPROPRIATION OF OUR INTELLECTUAL PROPERTY RIGHTS.

12.3 Independent Allocations of Risk. EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS OF THIS AGREEMENT BETWEEN THE PARTIES. THIS ALLOCATION IS REFLECTED IN THE PRICING OFFERED BY US TO YOU AND IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS AGREEMENT. THE LIMITATIONS IN THIS SECTION WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY IN THIS AGREEMENT.

13. THIRD-PARTY PRODUCTS

13.1 Third-Party Products. Any third-party product that we provide as identified in an applicable Service Order or that is made available in connection with the Service (e.g., a Non-Domo App) is provided pursuant to the terms of the applicable third-party agreement, and your use of any such third-party product constitutes your agreement to comply with the terms of the applicable third-party agreement. We assume no responsibility for, and specifically disclaim any liability or obligation with respect to, any third-party product.

13.2 Non-Domo Apps. "Non-Domo App" means a software application developed by a third party or by you that interoperates with the Service and that may be listed in the Domo Appstore. We do not warrant or support Non-Domo Apps, regardless of whether the Non-Domo App is certified by us. If you install or enable a Non-Domo App for use with the Service, you grant us permission to allow the provider of that Non-Domo App to access Service Provider Data as required for the interoperation of that Non-Domo App with the Service. We are not responsible for any disclosure, modification, or deletion of Service Provider Data by the Non-Domo provider resulting from access by a Non-Domo App. If we believe a Non-Domo App violates our policies, this Agreement, applicable law, or the rights of any third party, we may disable the Non-Domo App and suspend use of the Non-Domo App until the potential violation is resolved.

14. MISCELLANEOUS

14.1 Insurance. Each party, at its sole cost and expense, will maintain during the term of this Agreement insurance in the type and amount required by law and consistent with standard industry practices based on its business and the scope of this Agreement. Upon request of the other party, a party shall provide evidence of its insurance coverage.

14.2 Access by Competitors. You may not access the Service if you are our direct competitor, except with our prior written consent. In addition, you may not access the Service for purposes of monitoring its availability, performance, or functionality, or for any other benchmarking or competitive purpose.

14.3 Patent Marking. The Service is protected by one or more claims of patents in the U.S. and elsewhere. Please see the following link for details on these patents: <https://www.domo.com/company/patents>.

14.4 U.S. Government Use. If the Service is licensed under a United States government contract, you acknowledge that the Service is a "commercial item" as defined in 48 CFR 2.101, consisting of "commercial computer software" and "commercial computer software documentation," as such terms are defined in FAR Section 2.101 and Section 252.227-7014 of the Defense Federal Acquisition Regulation Supplement (48 CFR 252.227-7014) and used in 48 CFR 12.212 or 48 CFR 227.7202-1, as applicable. You also acknowledge that the Service is "commercial computer software" as defined in 48 CFR 252.227-7014(a)(1). United States government agencies and entities and others acquiring under a United States government contract will have only those rights, and will be subject to all restrictions, set forth in this Agreement.

14.5 Anti-Corruption. You have not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of our employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If you learn of any violation of the above restriction, you will use reasonable efforts to promptly notify our Legal Department at legal@domo.com.

14.6 Relationship. We will be and act as an independent contractor (and not as the agent or representative of you) in the performance of this Agreement.

14.7 Publicity. We may only use your name, trademarks, and service marks to the extent necessary to fulfill our obligations under this Agreement or as otherwise explicitly authorized in this Agreement or a Service Order. We reserve the right to use your name and trademark as a reference for marketing and promotional purposes on our website and in other communications with our existing and prospective customers. If you do not want to be listed as reference for the Service, you may send an email to legal@domo.com stating that you do not wish to be identified as a reference.

14.8 Assignment and Delegation. You may not assign any of your rights or delegate any of your obligations under this Agreement (in whole or in part) without our prior written consent, except in connection with a change of control, merger, or by operation of law. Your assignment or delegation will not relieve you of your obligations under this Agreement nor release you of your liability under this Agreement. We may voluntarily, involuntarily, or by operation of law assign any of our rights or delegate any of our obligations under this Agreement without your consent. Any purported assignment or delegation in violation of this Subsection will be null and void. Subject to this Subsection, this Agreement will bind and inure to the benefit of each party's respective permitted successors and permitted assigns.

14.9 Subcontractors. We may use subcontractors or other third parties in carrying out our obligations under this Agreement and any Service Order. We remain responsible to you for the performance of the services that are subcontracted under this Agreement.

14.10 Notices. Any notice required or permitted to be given in accordance with this Agreement will be effective if it is in writing and sent by certified or registered mail, or overnight courier, return receipt requested, to the appropriate party at the address set forth in the Service Order and with the appropriate postage affixed. Either party may change its address for receipt of notice by notice to the other party in accordance with this Subsection. Notices are deemed given two business days following the date of mailing or one business day following delivery to a courier.

14.11 Force Majeure. Neither party will be liable for, or be considered to be in breach of or default under this Agreement on account of, any delay or failure to perform as required by this Agreement as a result of any cause or condition beyond its reasonable control, so long as that party uses all commercially reasonable efforts to avoid or remove the causes of non-performance.

14.12 Governing Law. This Agreement will be interpreted, construed, and enforced in all respects in accordance with the local laws of the State of Utah, U.S.A., without reference to its choice of law rules and not including the provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods.

14.13 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement, including, without limitation, your Affiliates, Permitted Third Parties, or Authorized Users.

14.14 Waiver and Modifications. Failure, neglect, or delay by a party to enforce the provisions of this Agreement or its rights or remedies at any time, will not be construed as a waiver of the party's rights under this Agreement and will not in any way affect the validity of the whole or any part of this Agreement or prejudice the party's right to take subsequent action. Exercise or enforcement by either party of any right or remedy under this Agreement will not preclude the enforcement by the party of any other right or remedy under this Agreement or that the party is entitled by law to enforce.

14.15 Severability. If any part of this Agreement is found to be illegal, unenforceable, or invalid, the remaining portions of this Agreement will remain in full force and effect. If any material limitation or restriction on the use of the Service under this Agreement is found to be illegal, unenforceable, or invalid, your right to use the Service will immediately terminate.

14.16 Headings. Headings are used in this Agreement for reference only and will not be considered when interpreting this Agreement.

14.17 Counterparts. The Service Order may be executed in any number of identical counterparts, notwithstanding that the parties have not signed the same counterpart, with the same effect as if the parties had signed the same document. All counterparts will be construed as and constitute the same agreement. The Service Order may also be executed and delivered by facsimile or electronically and such execution and delivery will have the same force and effect of an original document with original signatures.

14.18 Partner Transactions. If you order our services from a Domo reseller or other authorized partner, the terms of this Agreement apply to your receipt and use of the services. If you do not accept the terms of this Agreement, then you must not use, or must immediately cease using, the relevant services.

14.19 Entire Agreement. This Agreement and all exhibits contain the entire agreement of the parties with respect to the subject matter of this Agreement and supersede all previous communications, representations, understandings, and agreements, either oral or written, between the parties with respect to said subject matter, including any prior Nondisclosure Agreement between the parties or their Affiliates. If there is a conflict between the terms of this Agreement and a Service Order, the terms of the Service Order will control. No usage of trade or other regular practice or method of dealing between the parties will be used to modify, interpret, supplement, or alter the terms of this Agreement. Neither party will be bound by, and specifically objects to, any term, condition, or other provision that is different from or in addition to this Agreement (whether or not it would materially alter this Agreement) that is proffered by the other party in any acceptance, confirmation, invoice, purchase order, receipt, correspondence, or otherwise, unless each party mutually and expressly agrees to such provision in writing.

SERVICE ORDER

-PLATFORM WITH PUBLISH-



SCHEDULE B

Notwithstanding anything to the contrary in the Service Order or the Contract, the Contract is hereby amended to include the following terms. In the event of any conflict between the terms of this Schedule B and the Contract, the terms of this Schedule B will govern and control. Capitalized terms used by not otherwise defined shall have the meaning set forth in Schedule A.

1. NON-NEGOTIABLE TERMS: The following terms are required by certain state and federal laws and policies and are therefore non-negotiable for Contract purposes.

- a. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** This Contract shall be governed solely by the laws of the State of Utah. Any action or proceeding arising from this Contract shall be brought in a court of competent jurisdiction in the State of Utah. Exclusive venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
- b. **LAWS:** Contractor and all goods and services delivered under this Contract will comply with all applicable federal and state of Utah laws, including applicable licensure and certification requirements.
- c. **SOVEREIGN IMMUNITY:** DTS and the State of Utah do not waive any protection, right, defense or immunity under the Governmental Immunity Act of Utah, Utah Code §§ 63G-7-101 to 904, as amended, the Eleventh Amendment to the Constitution of the United States, or otherwise, from any claim or from the jurisdiction of any court.

If a claim must be brought in a federal forum, then it must be brought and adjudicated exclusively within the United States District Court for the District of Utah. This paragraph only applies to a claim brought against DTS or the State of Utah to the extent Congress has abrogated the State of Utah's sovereign immunity and this paragraph is not consent by DTS or the State of Utah to be sued in federal court.

- d. **PUBLIC INFORMATION:** This Contract and any purchase orders, invoices, pricing lists, and the response are public records available for disclosure in accordance with the State of Utah's Government Records Access and Management Act (GRAMA, Utah Code 63G-2-101 et seq.), except to the extent classified as protected in accordance with UCA 63G-2-309. GRAMA takes precedence over any statements of confidentiality or similar notations. Neither DTS nor the State of Utah will inform Contractor of any request for a copy of this Contract, including any purchase orders, invoices, pricing lists, or the Response.
- e. **CREDITING DTS IN PUBLICITY:** Any publicity given to this Contract shall identify DTS as the managing agency and shall not be released without prior written approval from DTS.
- f. **SALES TAX EXEMPTION:** Goods and Services purchased by DTS are being paid from DTS's funds and used in the exercise of DTS's essential function as a State of Utah governmental entity. DTS will provide Contractor with a copy of its sales tax exemption number upon request.
- g. **SEVERABILITY:** A declaration or order by any court that any provision of this Contract is illegal and void shall not affect the legality and enforceability of any other provision of this Contract, unless the provisions are mutually dependent.
- h. **AMENDMENTS:** This Contract may only be amended by the mutual written agreement of the parties, attached to this Contract. Automatic renewals are prohibited and are deemed void.
- i. **DEBARMENT:** Contractor certifies that it is not presently nor has ever been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any government department or agency, whether international, national, state, or local. Contractor must notify DTS within thirty (30) days if debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any contract by any governmental entity.
- j. **NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW:** This Contract may be terminated in whole or in part at the sole discretion of DTS upon thirty days written notice, if DTS determines that (a) a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this Contract; or (b) that a change in available funds affects DTS's ability to pay under this Contract. A change of available funds includes, but is not limited to, a change in Federal or State funding, whether as a result of a legislative act or an order of the President, the Governor, or Executive Director.

DTS will reimburse Contractor for the Goods or Services properly ordered and delivered until the effective date of said notice. DTS is not liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of the notice.

- k. **ENTIRE AGREEMENT:** The Service Order and the Contract, as amended by this Schedule A, is the entire agreement between the parties, and supersedes any prior and contemporaneous agreements and understandings between the parties, whether oral or written.
- l. **WAIVER:** The waiver by either party of any provision, term, covenant, or condition of this Contract shall not be deemed to be a waiver of any other provision, term, covenant, or condition of this Contract nor any subsequent breach of the same or any other provision, term, covenant, or condition of this Contract. DTS's approval, acceptance, or payment for any Goods or Services required under this Contract shall not be construed to operate as a waiver by DTS of any right under this Contract or of any cause of action arising out of the performance or nonperformance of this Contract.
- m. **CHANGES IN SCOPE:** Any changes in the scope of work to be performed under this Contract shall be in the form of a written amendment to this Contract, mutually agreed to and signed by both parties, specifying any such changes, fee adjustments, any adjustment in time of performance, or any other significant factors arising from the changes in the scope of work.
- n. **TRAVEL COSTS:** Unless otherwise agreed to in the contract, all travel costs associated with the delivery of Service will be paid in accordance with the Utah Administrative Code R25-7. Invoices containing travel costs outside of these rates will be returned to the Contractor for correction.



SERVICE ORDER

-PLATFORM WITH PUBLISH-

2. **CRIMINAL BACKGROUND SCREENING:** Upon DTS's written request, each employee of Contractor and Subcontractor who will have access to State Data must submit to a Federal Criminal Background Check to be performed by DTS and must successfully complete such Federal Criminal Background Check, in accordance with DTS Policy 2000-0014 Background Investigations. Contractor or the applicable employee shall provide DTS with sufficient personal information (at Contractor's expense) so that a Federal Criminal Background Check may be completed by DTS, at DTS's expense. DTS will provide Contractor with forms which must be filled out by Contractor and returned to DTS. Contractor represents that it has performed Domo standard background checks on all Contractor employees who will have access to State Data. DTS will conduct a Federal Criminal Background Check based upon the fingerprints and personal information provided and use this same information to complete a Name Check in the Utah Criminal Justice Information System (UCJIS). DTS may revoke Access to Secure State Facilities, Data, and Technology granted in the event of any negative results. Contractor and the employee or subcontractor shall immediately notify DTS if Contractor becomes aware of a conviction for a felony of any Contractor employee that has Access to Secure State Facilities, State Data or Technology occurs during the term of the Agreement Period. DTS will determine in its discretion if such person's Access to Secure State Facilities, State Data, or Technology shall remain in effect. Felony and misdemeanor are defined by the laws of the State of Utah, regardless of where the conviction occurred.
3. **INDEMNITY AND LIABILITY**
 - a. **Indemnity Clause:** Contractor shall fully indemnify, defend, and save harmless DTS and the State of Utah from all claims, losses, suits, actions, damages, and reasonable costs of every name and description arising out of all third party claims based on Contractor's performance of this Contract caused by any negligence or intentional misconduct of Contractor, its agents, employees, officers, partners, and Subcontractors, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss, or damage due to the fault of DTS. DTS must (a) give Contractor prompt written notice of the claim; (b) grant Contractor full and complete control over the defense and settlement of the claim; (c) provide assistance in connection with the defense and settlement of the claim as Contractor may reasonably request; and (d) comply with any settlement or court order made in connection with the claim. DTS will not defend or settle any claim under this subsection without Contractor's prior written consent. Any limitations of the Contractor's liability will not apply to injuries to persons, including death, or to damages to real property.
 - b. **Governmental Immunity Act:** In accordance with the Constitution of the State of Utah and the Governmental Immunity Act of Utah ("the Act", Utah Code §§63G-7-101 to 904, as amended), DTS and the State of Utah have no liability for the operations, acts, or omissions of the Contractor or any third party. Any indemnity obligations of DTS or the State of Utah are subject to the Constitution of the State of Utah and the Act and limited to claims that arise from and to the extent caused by the negligent acts or omissions of DTS in the performance of DTS's obligations under this Contract.
4. **SECURE PROTECTION AND HANDLING OF STATE DATA:** If Contractor is given access to State Data, the protection of State Data shall be an integral part of the business activities of Contractor, and Contractor shall ensure that there is no inappropriate or unauthorized use of State Data by Contractor or its Subcontractors. Contractor shall safeguard the confidentiality, integrity, and availability of the State Data in compliance the conditions outlined below. DTS reserves the right to verify Contractor's adherence to the following conditions to ensure they are met:
 - a. **Network Security:** Contractor shall maintain network security that, at a minimum, includes: network firewall provisioning, intrusion detection, and annual third-party penetration testing. Contractor shall maintain network security and ensure that Contractor network security policies conform to one of the following:
 - 1) Those standards the State of Utah applies to its own network, found outlined in *DTS Policy 5000-0002 Enterprise Information Security Policy*;
 - 2) Current standards set forth and maintained by the National Institute of Standards and Technology, includes those at: <http://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-53r4.pdf>; or
 - 3) Any generally recognized comparable standard that Contractor then applies to its own network and pre-approved by DTS in writing.
 - b. **State Data Security:** Contractor shall protect and maintain the security of State Data with protection that is at least as good as or better than that maintained by the State of Utah as identified in DTS Policy 5000-0002 or a generally recognized comparable standard in accordance with subsection (a)(3) above. These security measures included but are not limited to maintaining secure environments that are patched and up to date with all appropriate security updates as designated (ex. Microsoft Notification). DTS reserves the right to determine if Contractor's level of protection meets the State's security requirements.
 - c. **State Data Transmission:** Contractor shall ensure all transmission or exchange of system application data with DTS and State of Utah and/or any other parties expressly designated by the State of Utah, shall take place via secure means (ex. HTTPS or FTPS).
 - d. **State Data Storage:** All State Data will be stored and maintained in data centers in the United States. No State Data will be processed or transferred by Contractor or its Subcontractors on or to any portable or laptop computing device or portable storage medium, except for devices that are used and kept only at Contractor's United States data centers, unless such medium is part of the Contractor's designated backup and recovery process.
 - e. **Access:** Contractor shall permit its employees and Subcontractors to remotely access non-State Data only as required to provide technical support.
 - f. **State Data Encryption:** Contractor shall store all data provided to Contractor, including State, as well as any backups made of that data, in encrypted form using no less than 128 bit key and include all data as part of a designated backup and recovery process.
 - g. **Password Protection:** Any portable or laptop computer that has access to DTS or State of Utah network, or stores any non-public State of Utah data shall be equipped with strong and secure password protection.
 - h. **Reserved.**



SERVICE ORDER

-PLATFORM WITH PUBLISH-

- i. **State Data Re-Use:** All State Data exchanged shall be used expressly and solely for the purpose of providing the Services enumerated in this Contract. No State Data of any kind may be transmitted, exchanged, or provided to other contractors or third parties except Contractor's hosting provider and otherwise on a case-by-case basis as specifically agreed to in writing by DTS.
 - j. **State Data Destruction:** Upon expiration or termination of this Contract, Contractor shall erase, destroy, and render unreadable all State Data from all non-state computer systems and backups, and certify in writing that these actions have been completed within 60 days of the expiration or termination of this Contract or within 30 days of the request of DTS, whichever shall come first, unless DTS provides Contractor with a written directive. DTS's written directive may require that certain data be preserved as required pursuant to applicable law.
 - k. **Services Shall Be Performed Within United States:** ALL OF THE SERVICES RELATED TO STATE DATA SHALL BE PERFORMED WITHIN THE BORDERS AND JURISDICTION OF THE UNITED STATES.
 - l. **User Support:** Contractor may provide technical user support on a 24/7 basis using a Follow the Sun model or such other support as Contractor generally makes available to its customers, unless otherwise prohibited by this Contract.
5. **SECURITY INCIDENT OR DATA BREACH NOTIFICATION:** Contractor shall immediately inform DTS of any Security Incident or Data Breach. It is within DTS's discretion to determine whether any attempted unauthorized access is a Security Incident or a Data Breach.
- a. **Incident Response:** Contractor may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement and seeking external expertise as mutually agreed upon, defined by law or contained in this Contract. Discussing Security Incidents with DTS should be handled on an urgent as-needed basis, as part of Contractor's communication and mitigation processes, defined by law or contained in this Contract.
 - b. **Security Incident Reporting Requirements:** Contractor shall promptly report a Security Incident to DTS.
 - c. **Breach Reporting Requirements:** As required by Utah Code 13-44-202 or any other law, Contractor shall immediately (I.E. WITHIN 48 hours of discovery) notify DTS of a Data Breach that affects the security of State Data.
6. **DATA BREACH RESPONSIBILITIES:** Contractor shall comply with all laws applicable to Contractor that require the notification of individuals in the event of a Data Breach or other events requiring notification in accordance with *DTS Policy 5000-0002 Enterprise Information Security Policy*. In the event of a Data Breach or other event requiring notification by Contractor under applicable law (Utah Code § 13-44-101 thru 301 et al), Contractor shall: (a) cooperate with DTS by sharing information relevant to the Data Breach; (b) promptly implement necessary remedial measures, if necessary; and (c) document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in relation to the Data Breach. If the Data Breach requires public notification, all communication shall be coordinated with DTS.
7. **OWNERSHIP, PROTECTION, AND USE OF RECORDS:** DTS and the State of Utah shall own exclusive title to all information and data gathered, reports developed, and conclusions reached by DTS in performance of this Contract that are outputs of State Data. Contractor may not use, except in meeting its obligations under this Contract, information gathered, reports developed, or conclusions reached by DTS that are outputs of State Data without the express written consent of DTS.
8. **OWNERSHIP, PROTECTION, AND USE OF DATA:** DTS and the State of Utah shall own and retain unlimited rights to use, disclose, or duplicate all State Data (copyrighted or otherwise) developed, derived, documented, stored, or furnished under this Contract. Contractor, and any Subcontractors under its control, expressly agrees not to use Non-Public Data without prior written permission from DTS and appropriate officials of the State of Utah.
9. **OWNERSHIP, PROTECTION, AND USE OF CONFIDENTIAL FEDERAL, UTAH, OR LOCAL GOVERNMENT INTERNAL BUSINESS PROCESSES AND PROCEDURES:** In the event that DTS provides Contractor with Confidential Information that comprises confidential federal or state business processes, policies, procedures, or practices, pursuant to this Contract, Contractor shall hold such information in confidence, in accordance with applicable laws and industry standards of confidentiality, and agrees not to copy, reproduce, sell, assign, license, market, transfer, or otherwise dispose of, give, or disclose such information to third parties (except Subcontractors in performing under this Contract) or use such information for any purpose whatsoever other than the performance of this Contract. The improper use or disclosure by any party of protected internal federal or state business processes, policies, procedures, or practices is prohibited. Confidential federal or state business processes, policies, procedures, or practices shall not be divulged by Contractor or its Subcontractors, except for the performance of this Contract, unless prior written consent has been obtained in advance from DTS.
10. **OWNERSHIP, PROTECTION, AND RETURN OF DOCUMENTS AND DATA UPON CONTRACT TERMINATION OR COMPLETION:** DTS shall have the right to access the Service for purposes of downloading the State Data uploaded to the Service for a period of thirty (30) days after termination or expiration of this Contract, and without restriction or limitation to their future use.].
11. **CONTRACTOR'S INSURANCE RESPONSIBILITY:** The Contractor shall maintain the following insurance coverage:
- a. Workers' compensation insurance during the term of this Contract for all its employees and any Subcontractor employees related to this Contract. Workers' compensation insurance shall cover full liability under the workers' compensation laws of the jurisdiction in which the work is performed at the statutory limits required by said jurisdiction.
 - b. Commercial general liability [CGL] insurance from an insurance company authorized to do business in the State of Utah. The limits of the CGL insurance policy will be no less than one million dollars (\$1,000,000.00) per person per occurrence and three million dollars (\$3,000,000.00) aggregate.
 - c. Commercial automobile liability [CAL] insurance from an insurance company authorized to do business in the State of Utah. The CAL insurance policy must cover bodily injury and property damage liability and be applicable to all vehicles used in your performance of



SERVICE ORDER

-PLATFORM WITH PUBLISH-

Services under this Agreement whether owned, non-owned, leased, or hired. The minimum liability limit must be \$1 million per occurrence, combined single limit. The CAL insurance policy is required if Contractor will use a vehicle in the performance of this Contract.

d. Reserved.

Certificate of Insurance, showing up-to-date coverage, shall be on provided to DTS following execution of the Contract.

Contractor's failure to maintain this insurance requirement during the term of this Contract will be grounds for immediate termination.

12. CONFLICT OF TERMS: Contractor terms and conditions are attached as Schedule A to the Service Order. No other terms and conditions will apply to this Contract, including terms listed or referenced on a Contractor's website, quotation/sales order, purchase orders, or invoice. In the event of any conflict in the Contract terms and conditions, the order of precedence is: (a) This Schedule B; ; and (b) Contractor Terms and Conditions set forth in Schedule A. Schedule B will be given precedence over any provisions including, limitation of liability, indemnification, standard of care, insurance, or warranty, and will not be nullified by or exception created by more specific terms elsewhere in this Contract.

13. SURVIVORSHIP: The contractual provisions under this Schedule B that will remain in effect after expiration or termination of this Contract are: (a) Contract Jurisdiction, Choice of Law, and Venue; (b) Secure Protection and Handling of State Data; (c) Data Breach Responsibilities; (d) Ownership, Protection, and Use of Records; and (e) Ownership, Protection, and Use of Confidential Federal, Utah, or Local Government Internal Business Processes; (f) Ownership, Protection, and Return of Documents and Data Upon Contract Termination or Completion; (g) Conflict of Terms; and (h) any other terms that by their nature would survive the expiration, completion, or termination of this contract.

14. RELEVANT STATE AND FEDERAL LAWS

- a. **Conflict of Interest with State Employees:** Contractor shall comply and cooperate in good faith with all conflict of interest and ethic laws applicable to Contractor, including, as applicable, Section 63G-6a-2404, Utah Procurement Code, as amended.
- b. **Procurement Ethics:** Contractor understands that a person who is interested in any way in the sale of any supplies, services, products, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan, or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State of Utah, or who in any official capacity participates in the procurement of such supplies, services, products, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63G-6a-2304.5, Utah Procurement Code, as amended).
- c. **Contact Information:** Per Utah Code §§63G-6a-110 and 35A-2-203, the State shall make Contractor's contact information available to the State of Utah Department of Workforce Services. The State of Utah Department of Workforce Services may post information regarding Contractor's job vacancies on its website.
- d. **Employment Practices:** Contractor shall abide by the following employment laws: (i) Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; (ii) Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; (iii) 45 CFR 90 which prohibits discrimination on the basis of age; (iv) Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities; and (v) Utah's Executive Order, 2019-1 dated February 5, 2019, which prohibits unlawful harassment in the work place. Contractor shall abide by any other laws, regulations, or orders that prohibit the discrimination of any kind of any of Contractor's employees.
- e. **Compliance with Accessibility Standards:** If applicable to Contractor in performing under this Contract, Contractor shall comply with the Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973. Contractor shall comply with Utah Administrative Code R895-14-3(3), which states that contractors developing new websites or applications for State agencies are required to meet accessibility guidelines subject to rule R895 and correct any items that do not meet these guidelines at no cost to the agency.

15. DEFINITIONS

- a. "Access to Secure State Facilities, Data, or Technology" means Contractor will (a) enter upon secure premises controlled, held, leased, or occupied by State of Utah; (b) maintain, develop, or have access to any deployed hardware, software, firmware, or any other technology, that is in use by State of Utah; or (c) have access to or receive any State Data or confidential information.
- b. "Contractor" means Domo as defined in the Service Order.
- c. "Data Breach" means the unauthorized access or acquisition of State Data that compromises the security, confidentiality, or integrity of State Data.
- d. "DTS" means Service Provider as defined in the Service Order.
- e. "Non-Public Data" means State Data that is not subject to distribution to the public. Access is restricted because it includes information that is protected by state or federal law. Non-Public Data includes, but is not limited to, a person's name; government-issued identification numbers (e.g., Social Security, driver's license, passport); financial account information; or Protected Health Information.
- f. "Security Incident" means the attempted unauthorized access to State Data that may result in the use, disclosure, or theft of State Data.



SERVICE ORDER

-PLATFORM WITH PUBLISH-

- g. "State Data" means all confidential information and Non-Public Data that is created, controlled, maintained, owned, or in any way originating with the State of Utah that is uploaded to the Service.
- h. "State of Utah" means the State of Utah, in its entirety, including its institutions, agencies, departments, divisions, authorities and instrumentalities, boards, commissions, elected or appointed officers, employees, agents, and authorized volunteers.
- i. "Subcontractors" includes contractors, manufacturers, distributors, suppliers, or consultants, at any tier, that are under the direct or indirect control or responsibility of Contractor, including a person or entity that is, or will be, providing goods or performing services pursuant to this Contract.