

## **End User Subscription Agreement**

Grazitti Interactive (“Grazitti”) and Customer hereby agree as follows:

### **1. Scope; Procurement and Provisioning by Affiliates; Subscription Services Users.**

**1.1 Scope.** This End User Subscription Agreement (“EUSA”) applies to Customer’s use of the Grazitti SearchUnify subscription services and related online training and packaged post sales professional services offered by Grazitti (collectively, the “Subscription Services”) that are listed in one or more Grazitti subscription-based ordering documents signed by the Parties (each an “Order”). This End User Subscription Agreement and all executed Orders, any addenda and exhibits, are collectively referred to as the “Agreement”.

**1.2 Subscription Services Users.** During the Subscription Term set forth in each Order, Grazitti will make the Subscription Services available to Customer and its authorized affiliates, employees, agents or contractors (“Users”), for access and use by such Users solely for Customer’s internal business purposes in accordance with the terms of the Agreement. Customer is responsible for use of the Subscription Services by Users and Any Party who accesses the Subscription Services with Customer’s or a User’s account credentials.

### **2. Restrictions; Grazitti Use Policies; Usage Rights; Suspension.**

**2.1 Restrictions.** Customer will not, and will ensure that its Users do not, directly or indirectly (i) make the Subscription Services available to anyone other than Users or use the Subscription Services for the benefit of any unrelated third party; (ii) sell, resell, assign, pledge, transfer, license, sub-license, distribute, rent or lease the Subscription Services; (iii) reverse engineer or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Subscription Services or any software, documentation or data related to or provided with the Subscription Services; (iv) modify, translate or create derivative works based on the Subscription Services or remove any proprietary notices or labels from the Subscription Services; (v) use or access the Subscription Services to build or support, and/or assist a third party in building or supporting products or services competitive to the Subscription Services; or (vi) include the Subscription Services in a service bureau or outsourcing offering.

**2.2 Grazitti Use Policies.** Customer will ensure that its Users, use the Subscription Services only in compliance with this Agreement.

**2.3 Suspension.** Grazitti may immediately suspend Customer's account and access to the Subscription

Services if (i) Customer fails to make payment due within 30 business days after Grazitti has provided Customer with written notice of such failure; or (ii) Customer violates Section 2.1 (Restrictions), Section 2.2 (Grazitti Use Policies), or Section 9 (Confidential Information) of this agreement. Any suspension by Grazitti of the Subscription Services under the preceding sentence will not relieve Customer of its payment obligations here under.

### **3. Ownership: Subscription Services; Customer Data; Statistical Information.**

**3.1 Subscription Services.** Customer acknowledges that the Subscription Services are offered online on a subscription basis. Grazitti reserves all rights, title and interest in and to the Subscription Services, including any software or documents related to or provided with the Subscription Services and all intellectual property rights and derivatives, modifications, refinements or improvements thereto. From time to time, Customer or its Users may submit to Grazitti comments, questions, enhancement requests, suggestions, ideas, process descriptions or other information related to the Subscription Services (“Feedback”). Customer agrees that Grazitti has all rights to use and incorporate Feedback into the Subscription Services without restriction or payment to Customer. No rights are granted to Customer other than as expressly set forth herein.

**3.2 Customer Data.** Customer owns any data, information or material originated by Customer or that Customer provides in the course of using the Subscription Services, including information regarding Customer’s social networking connections, followers or other contacts activated through use of the Subscription Services (“Customer Data”). Customer will be solely responsible for (i) the accuracy, quality, content, legality and use of Customer Data, including the means by which Customer Data is acquired and transferred by Customer or its Users outside of the Subscription Services; and (ii) all applicable social networking terms and conditions related to procurement and use of Customer.

### **4. Fees; Taxes and Currency; Invoices.**

**4.1 Fees.** Customer will pay all fees set forth in the Orders and any fees invoiced pursuant to this Agreement. All fees are noncancelable and non-refundable, except as expressly specified in the Agreement. Any fees paid pursuant to an Order will not offset any fees due under any other Order.

**4.2 Taxes and Currency.** All fees are exclusive of, and Customer will be responsible for payment of, taxes, levies, duties or similar local, state, provincial, federal or foreign jurisdiction governmental assessments on the Subscription Services. Except as otherwise specified in an Order, all fees due hereunder will be paid in U.S. Dollars.

**4.3 Invoices.** All amounts are due and payable as specified in the Order. If no payment terms are specified in the applicable Order, payment terms are net 30 days from receipt of invoice. Unpaid invoices not the

subject of a written good faith dispute are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all reasonable expenses of collection.

## **5. Agreement Term; Termination for Cause, Effect of Termination; Survival.**

**5.1 Agreement Term.** The Agreement will commence on the Effective Date and will remain in effect until the Subscription Term in all Orders has expired or has otherwise been terminated (the “Agreement Term”). Notwithstanding the foregoing, if immediately following the expiration of the Subscription Term in any Order, the Parties are negotiating a renewal of such Order, the Agreement Term will remain in effect for a reasonable period of time to allow the parties to effect such renewal. Nothing contained herein will extend the Subscription Term set forth in any Order.

**5.2 Survival.** The following Sections of the Agreement will survive termination of the Agreement: Section 2.1 (Restrictions), Section 3 (Ownership: Subscription Services; Customer Data; Statistical Information), Section 4 (Fees; Taxes and Currency; Invoices), Section 8 (Limitation of Liability), Section 9 (Confidential Information) and Section 11 (General Terms).

## **6. Warranties; Warranty Remedies; Warranties Disclaimer.**

**6.1 General Warranty.** Each Party represents and warrants to the other Party that it has the power and authority to enter into the Agreement.

**6.2 Subscription Services Warranty.** Grazitti warrants the Subscription Services, under normal use, will (i) perform materially in accordance with the applicable documentation provided by Grazitti; and (ii) be provided in a manner consistent with generally accepted industry standards.

## **7. Indemnification.**

**7.1 Grazitti.** Grazitti will defend Customer against any claim brought against Customer by a third party alleging the Subscription Services as provided by Grazitti directly infringe the intellectual property rights of the claimant and will pay Customer for finally-awarded damages and costs and Grazitti-approved settlements of the claim. Grazitti’s obligations to defend or indemnify will not apply to the extent that a claim is based on (i) Customer Data, Customer’s or a third party’s technology, software, materials, data or business processes; (ii) a combination of the Subscription Services with non-Grazitti products or services; or (iii) any use of the Subscription Services not in compliance with this Agreement. Grazitti may, in its discretion and at no cost to Customer, (a) modify the Subscription Services to avoid infringement; or (b) terminate Customer’s subscriptions for the affected Subscription Services and refund Customer any related prepaid fees for the remainder of the Subscription Term.

**7.2 Customer.** Customer will defend Grazitti against any claim brought against Grazitti by a third party alleging (i) Customer Data infringes the intellectual property, privacy or other rights of the claimant; or (ii) Customer's use of the Subscription Services, other than as authorized in this Agreement, violates applicable law or regulations, or infringes the claimant's intellectual property rights, and will pay Grazitti for finally-awarded damages and costs and Customer-approved settlements of the claim.

**7.3 Procedure.** As a condition to the indemnifying Party's obligations under this Section 7, the Party seeking indemnification must (i) promptly give written notice of the claim to the indemnifying Party; (ii) give the indemnifying Party sole control of the defense and settlement of the claim (provided that the indemnifying Party may not settle any claim unless it unconditionally releases the indemnified Party of all liability); and (iii) provide the indemnifying Party, at the indemnifying Party's cost, all reasonable assistance. THIS SECTION STATES THE INDEMNIFIED PARTY'S SOLE REMEDY, TO THE EXCLUSION OF ALL OTHER REMEDIES (IN CONTRACT, TORT OR OTHERWISE), AND THE INDEMNIFYING PARTY'S TOTAL LIABILITY, REGARDING THE CLAIMS AND LIABILITIES ADDRESSED BY THIS SECTION 7.

**8. Limitation of Liability.** NO PARTY WILL BE LIABLE UNDER ANY CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY (i) FOR ERROR OR INTERRUPTION OF USE, INACCURACY OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICE OR TECHNOLOGY, OR LOSS OF BUSINESS OR DATA; (ii) FOR ANY INDIRECT, EXEMPLARY, LOST PROFITS, LOST REVENUE, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (iii) FOR ANY MATTER BEYOND ITS REASONABLE CONTROL, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE; OR (iv) EXCEPT FOR CUSTOMER PAYMENT OBLIGATIONS, FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE CUMULATIVE FEES INVOICED TO CUSTOMER UNDER THE AGREEMENT IN THE 12 MONTHS PRECEDING THE DATE THE CLAIM AROSE. THE FOREGOING LIMITATION WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

**9. Confidential Information.** Each Party (the "Recipient") understands that the other Party (the "Disclosure") may, during the Agreement Term and in connection with the Subscription Services, disclose non-public information relating to the Disclosure's business that is designated as confidential or reasonably should be understood to be confidential given the nature of the information and circumstances of disclosure ("Confidential Information"). The Recipient agrees (i) to take reasonable precautions to protect such Confidential Information; and (ii) not to use or divulge to any third person any such Confidential Information except as set forth herein and to those of its employees and contractors who need access for purposes consistent with this Agreement and who are bound to confidentiality terms with Recipient containing protections no less stringent than those herein. If the Recipient is required by law or court order to disclose Confidential Information, it will give prior written notice to the Disclosure (to the extent legally permitted) and reasonable assistance at the Disclosure's cost to contest the

disclosure. Immediately upon the written request by the Disclosing Party at any time, the Receiving Party will return to the Disclosing Party all Proprietary or Confidential Information and all documents or media containing any such Proprietary or Confidential Information and any and all copies or extracts thereof, save that where such Proprietary or Confidential Information is a form incapable of return or has been copied or transcribed into another document, it shall be destroyed or erased, as appropriate.

**10. Data Security.** Grazitti will comply with all applicable privacy and data security laws and regulations governing its processing and storage of Customer Data if applicable. During the Agreement Term, Grazitti shall maintain and conform to a security program in accordance with industry standards that is designed to ensure the security of Customer Data and protect against unauthorized disclosure or access of Customer Data. Such security program shall include the implementation of appropriate administrative, technical and physical safeguards.

### **11. General Terms.**

**11.1 Notice.** Grazitti may give general notices for Subscription Services applicable to all customers by means of a notice on the Subscription Services web portal. Specific notices applicable to Users of the Subscription Services, technical support, system security and other account notices will be given by electronic mail to Customer's e-mail address on record in Grazitti's account information. All legal or dispute-related notices will be sent by first class mail or express delivery, if to Grazitti, attention Legal Department and if to Customer, to Customer's account representative and address on record in Grazitti's account information or such other addresses as either Party may designate in writing from time to time.

**11.2 Force Majeure.** Neither Party will be responsible for failure or delay of performance if caused by an act of nature, war, hostility or sabotage; an electrical, internet, or telecommunication outage that is not caused by the obligated Party; government restrictions (including the denial or cancellation of any export or other license); or other event outside the reasonable control of the obligated Party. Each Party will use reasonable efforts to mitigate the effect of a force majeure event. If such event continues for more than 30 days, either Party may cancel unperformed Subscription Services upon written notice.

### **11.3 Governing Law and Dispute Resolution.**

(a) This Agreement shall be governed by and construed in accordance with the laws of India, without regard to conflict of law principles.

(b) Any dispute, difference or controversy arising out of or in connection with this contract, including any question regarding its existence, operation, termination, validity or breach between the Parties which cannot be amicably resolved through negotiations within thirty (30) days from the first date that a Party notifies the other of such dispute arising out of or in connection with this Agreement, shall first be referred to mediation at the Indian Institute of Arbitration & Mediation (IIAM) and in accordance with its then

current Mediation Rules and as per the Arbitration & Conciliation Act, 1996. If the mediation is abandoned by the mediator or is otherwise concluded without the dispute or difference being resolved, then such dispute difference or controversy shall be referred to and determined by arbitration as per the Arbitration & Conciliation Act, 1996 by IIAM in accordance with its Arbitration Rules. The arbitration and mediation, including the rendering or the award, will be conducted in Panchkula, Haryana unless the parties otherwise agree. Each party will bear the expense of its own representative and common expenses will be divided equally.

**11.4 Entire Agreement.** This Agreement represents the Parties' entire understanding relating to the Subscription Services and supersedes any prior or contemporaneous agreements or understandings regarding the Subscription Services.

**11.5 Standard Terms of Customer.** No terms, provisions or conditions of any purchase Order, acknowledgement or other business form Customer may use in connection with the acquisition of Subscription Services will affect the rights, duties or obligations of the Parties hereunder, or otherwise modify this Agreement, regardless of any failure of Grazitti to object to such terms, provisions or conditions.

**11.6 Assignment.** No joint venture, partnership, employment, or agency relationship exists between Grazitti and Customer as a result of the Agreement or use of the Subscription Services. This Agreement and any rights or obligations hereunder may not be assigned, sub-licensed or otherwise transferred by the Parties without the prior written approval of the non-assigning Party, except that either Party may assign or transfer this Agreement in connection with a merger or acquisition of all or substantially all of the assets of the assigning company (other than to a direct competitor of the non-assigning Party and provided that the assignee agrees in writing to be bound by all terms and conditions of this Agreement) by providing the non-assigning Party with prompt written notice of assignment. Any purported assignment in violation of this section will be void.