

## End User Subscription Agreement

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

### **1. Scope; Subscription Service.**

**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.** 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”) and grants a worldwide, non-exclusive, non-transferable right, without the right to sublicense, for access and use by such Users solely for Customer’s 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; 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; (vi) include the Subscription Services in a service bureau or outsourcing offering; or (vii) use the Subscription Services for embodying into the non-Grazitti products or services without any signed agreement.

**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, Section 2.2, or Section 10 of this agreement. Any suspension by Grazitti of the Subscription Services under the preceding sentence will not relieve Customer of its payment obligations hereunder.

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

**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 Data.

**4. Professional Services.** From time to time, Customer may request, through provision of an executed Exhibit(s) in the form required by Grazitti, that Grazitti, or its duly authorized representative perform Professional Services. Customer shall be responsible for providing Grazitti’s representatives with access to qualified Customer employees and Customer-controlled software and hardware, and safe access to Customer’s systems/platforms, each as required to allow Grazitti to perform the Professional Services. Grazitti’s representatives will comply with reasonable written rules and regulations of Customer with respect to Customer’s systems/platforms, provided that such rules and regulations are provided to Grazitti sufficiently in advance of the scheduled start date of the Professional Services. All materials and information used or generated by Grazitti in the performance of Professional Services (“Professional Materials”), and all intellectual property rights therein, shall be the sole property of Grazitti. Grazitti grants to Customer a perpetual, worldwide, non-exclusive, non-transferable license, without the right to sublicense and solely for its own business operations, to use and have Users use the Professional Materials provided to Customer under this Agreement, subject to all of the provisions of this Agreement governing

Grazitti SearchUnify Components and Documentation, as applicable, and any applicable Schedules. The rights to any of Customer's pre-existing proprietary business information, or results of any compilation thereof, which are used in or result from Professional Services and Professional Materials, shall remain the sole property of Customer.

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

**5.1 Fees.** Customer will pay all fees set forth in the Orders and any fees invoiced pursuant to this Agreement. All fees are non-cancelable 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.

**5.2 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.

**5.3 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 disputes 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.

## **6. Agreement Term; Termination for Cause; Effect of Termination; Handling Confidential Information Upon Termination**

**6.1 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.

**6.2 Termination for Cause.** Either party may terminate this Agreement upon written notice if the other party materially breaches this Agreement and fails to cure such breach within thirty (30) days following receipt of written notice describing the breach.

**6.3 Effect of Termination.** Except as otherwise set forth herein, termination of this Agreement, any subscription, any Schedule or any Project Authorization shall not limit either party from pursuing other remedies available to it, including injunctive relief, nor shall such termination relieve Customer of its

obligation to pay all fees that have accrued or are otherwise owed by Customer under any Schedule. The following Sections of the Agreement will survive after termination of the Agreement: Section 2.1, Section 3, Section 4, section 5, section 6, Section 8, Section 9, Section 10 and Section 12. Unless this Agreement is terminated by Customer under Section 6.2, no refund shall be due from Grazitti for any unused prepaid fees.

**6.4 Handling Confidential Information Upon Termination.** Upon termination of this Agreement, any subscription, any Order or any Project Authorization, Customer shall (i) cease using the applicable Subscription Services, Documentation and related Confidential Information of Grazitti, and (ii) on request, certify to Grazitti within thirty (30) days that Customer has destroyed, or has returned to Grazitti, Documentation, related Confidential Information of Grazitti, and all copies thereof, whether or not modified or merged into other materials. Following termination of this Agreement, and subject to the Subscription Services, each party will return or destroy the other party's Confidential Information and within thirty (30) days following the other party's written request, the other party shall certify to the requesting party that it has destroyed or returned to the requesting party all Confidential Information of the requesting party, and all copies thereof, whether or not modified or merged into other materials.

## **7. General Warranty; Subscription Service Warranty; Disclaimer.**

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

**7.2 Subscription Services Warranty.** Grazitti warrants the Subscription Services 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.

**7.3 Disclaimer.** Grazitti does not warrant that (i) the Subscription Service will meet Customer's requirements, (ii) the Subscription Service will operate in combination with other hardware, software, systems or data not provided by Grazitti (except as expressly specified in the documentation), (iii) the operation of the Subscription Service will be secure, timely, uninterrupted or error-free, or (iv) all errors in the Subscription Service will be corrected. THE WARRANTIES STATED IN THIS SECTION 7 ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT AND QUALITY OF SERVICE. NO WARRANTIES SHALL ARISE UNDER THIS AGREEMENT FROM COURSE OF DEALING OR USAGE OF TRADE.

## **8. Indemnification.**

**8.1 Intellectual Property Indemnity.** 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.

**8.2 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.

**8.3 Procedure.** As a condition to the indemnifying Party's obligations under this Section 8, 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.

**9. Limitation of Liability.** EXCEPT FOR OBLIGATIONS OF INDEMNIFICATION DEFINED IN SECTION 8, 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. GRAZITTI DISCLAIMS ALL LIABILITY FOR ANY HARM OR DAMAGES CAUSED BY ANY THIRD-PARTY HOSTING PROVIDERS.

**10. Confidential Information.** Each Party (the "Recipient") understands that the Other Party (the "Discloser") may, during the Agreement Term and in connection with the Subscription Services, disclose

non-public information relating to the Discloser's business that is designated as confidential in writing during the time 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 Discloser (to the extent legally permitted) and reasonable assistance at the Discloser's cost to contest the Discloser. Immediately upon the written request by the Discloser at any time, the Recipient will return to the Discloser all Confidential Information and all documents or media containing any such Confidential Information and any and all copies or extracts thereof, save that where such 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.

**11. 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.

## **12. General Terms.**

**12.1 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.

**12.2 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.

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

- (a) This Agreement shall be governed by and construed in accordance with the laws of Singapore, without regard to conflict of law principles.
- (b) Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration administered by the Singapore International Arbitration Centre (“SIAC”) in accordance with the Arbitration Rules of the Singapore International Arbitration Centre (“SIAC Rules”) for the time being in force, which rules are deemed to be incorporated by reference in this clause. The seat of the arbitration shall be Singapore. The Tribunal shall consist of one arbitrator. The language of the arbitration shall be English. Each party will bear the expense of its own representative and common expenses will be divided equally.

**12.4 Entire Agreement.** This Agreement represents the Parties' entire understanding relating to the terms of the EUSA and supersedes any prior or contemporaneous agreements or understandings regarding the terms of the EUSA. In the event of a conflict between this Agreement and a contemporaneous or later-dated Order, the terms of the contemporaneous or later-dated Order will control.

**12.5 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.

**12.6 Severability.** In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force.

**12.7 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.