

PERSEFONI SOFTWARE SUBSCRIPTION AGREEMENT

By executing an Order Form referencing or otherwise incorporating this Agreement, indicating your acceptance of this Agreement, or using any Persefoni offering, Customer accepts this Software Subscription Agreement (the “Agreement”) with [Persefoni AI Inc.] (“Persefoni”) and agrees to abide by its terms. Persefoni and Customer may be referred to herein collectively as the “Parties” or individually as a “Party.” The “Effective Date” of this Agreement is the date which is the earlier of (a) the effective date of the first Order Form referencing this Agreement or (b) Customer’s initial access to any Persefoni offering through any provisioning, registration, or order process.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **DEFINITIONS.**

- (a) “Aggregate Data” means deidentified data derived or aggregated from Customer Materials, and data related to the Use of the Subscription Services. Persefoni offers customers access to this bulk, anonymized data to help with benchmarking and similar comparative purposes.
- (b) “Authorized User” means an employee or contractor of Customer, or its wholly owned subsidiary, who Customer has authorized to use the Subscription Services.
- (c) “Customer” means that organization identified in an Order Form or similar form referencing or otherwise incorporating this Agreement.
- (d) “Customer Affiliate” means a legal entity that controls, is controlled by, or is under common control with Customer where “control” is defined as owning more than 50% of the voting shares of such entity.
- (e) “Customer Materials” means all information, data, content and other materials, in any form or medium, that (i) are submitted, posted, collected, transmitted to or otherwise provided by or on behalf of Customer through the Subscription Services, or (ii) result from Customer’s use of the Subscription Services, but excluding Aggregate Data and any information, data, data models, content or materials owned or controlled by Persefoni and made available through or in connection with the Subscription Services.
- (f) “Documentation” means the operator and user manuals, training materials, specifications, minimum system configuration requirements, compatible operating system list and other similar materials in hard copy or electronic form if and as provided by Persefoni to Customer (including any revised versions thereof) relating to the Subscription Services, which may be updated from time to time upon notice to Customer.
- (g) “Intellectual Property Rights” means patent rights (including, without limitation, patent applications and disclosures), inventions, copyrights, trade secrets, know-how, data and database rights, mask work rights, and any other intellectual property rights recognized in any country or jurisdiction in the world.
- (h) “Order Form” means a mutually executed order form or other mutually agreed upon ordering document which references this Agreement and sets forth the applicable Subscription Services and/or Professional Services to be provided by Persefoni.

- (i) “Persefoni IP” means the Subscription Services, the underlying software, algorithms, interfaces, technology, databases, tools, know-how, processes, and methods used to provide or deliver the Subscription Services or any Professional Services, Documentation and Aggregate Data, all improvements, modifications, or enhancements to, or derivative works of, the foregoing (regardless of inventorship or authorship), and all Intellectual Property Rights in and to any of the foregoing.
- (j) “Person” means any individual, corporation, partnership, trust, limited liability company, association, governmental authority, or other entity.
- (k) “Professional Services” means the professional or consulting services provided by Persefoni to Customer as set forth in an applicable Order Form.
- (l) “Subscription Services” means Persefoni’s SaaS platform, as may be more particularly described or identified in an applicable Order Form.
- (m) “Use” means to use and access the Subscription Services in accordance with this Agreement and the Documentation.

2. **SUBSCRIPTION SERVICES; ACCESS AND USE.**

- (a) Subscription Services. Subject to the terms and conditions of this Agreement, Persefoni hereby grants Customer a limited, non-exclusive, non-transferable right to Use the Subscription Services during the Term in accordance with this Agreement.
- (b) Use Restrictions. Customer will not at any time and will not permit any Person (including, without limitation, Authorized Users) to, directly or indirectly: (i) use the Subscription Services in any manner beyond the scope of rights expressly granted in this Agreement; (ii) use the Subscription Service to harass any Person; cause damage or injury to any Person or property; publish any material that is false, defamatory, harassing or obscene; violate privacy rights; promote bigotry, racism, hatred or harm; send unsolicited bulk e-mail, junk mail, spam or chain letters; (iii) modify or create derivative works of the Subscription Services or Documentation, in whole or in part; (iv) reverse engineer, disassemble, decompile, decode or otherwise attempt to derive or gain improper access to any software component of the Subscription Services, in whole or in part; (v) frame, mirror, sell, resell, rent or lease use of the Subscription Services to any other Person, or otherwise allow any Person to use the Subscription Services for any purpose other than for the direct benefit of Customer in accordance with this Agreement; (vi) use the Subscription Services or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any Person, or that violates any applicable law; (vii) interfere with, or disrupt the integrity or performance of the Subscription Services, or any data or content contained therein or transmitted thereby; (viii) access or use Subscription Services for the purpose of measuring or monitoring its performance, functionality, availability or any other benchmarking purposes; (ix) perform or disclose any performance or vulnerability testing of the Services without Persefoni’s prior written approval, perform or disclose network discovery, port and service identification, vulnerability scanning, password cracking, remote access or penetration testing of the Subscription Service; (x) access or use the Subscription Service to measure, build or support, directly or indirectly, products or services competitive to Persefoni; (xi) access or search the Subscription Services (or download any data or content contained therein or transmitted

thereby) through the use of any engine, software, tool, agent, device or mechanism (including spiders, robots, crawlers or any other similar data mining tools) other than software or Subscription Services features provided by Persefoni for use expressly for such purposes, or (xii) use the Subscription Services for the benefit of or on behalf of any third party including but not limited to use as a consultant or service provider, unless expressly stated otherwise in an Order Form.

- (c) IEA and CEDA Factor Restrictions. Persefoni utilizes emission factors from the International Energy Agency (the “IEA Factors”) and Comprehensive Environmental Data Archive (the “CEDA Factors”) (collectively “Factors”) to calculate emissions and carbon footprint and to then communicate such analysis to Customer. Customer is permitted to further disclose the Factors disclosed to it by Persefoni in their sustainability reports to third parties for the purposes of emissions reporting and/or audits and only to the extent they are required to do so by the relevant entity to which they report and/or which audits them. Customer is not permitted to reproduce the Factors widely distributed internally or in reports issued to the public such as, but not limited to, its Annual Reports, but may publicly state that the Factors were used in the calculation of its analysis.
- (d) Authorized Users. Customer will not allow any Person other than Authorized Users to access or use the Subscription Services. Customer may permit Authorized Users to Use the Subscription Services, *provided* that (i) the Use does not exceed any limitations as specified in an Order Form; and (ii) Customer ensures each Authorized User complies with all applicable terms and conditions of this Agreement and Customer is responsible for acts or omissions by Authorized Users in connection with their use of the Subscription Services. Customer will, and will require all Authorized Users to, use all reasonable means to secure usernames and passwords, hardware and software used to access the Subscription Services in accordance with customary security protocols, and will promptly notify Persefoni if Customer knows or reasonably suspects that any username and/or password has been compromised. Each account for the Subscription Services may only be accessed and used by the specific Authorized User for whom such account is created. Accounts are for designated Authorized Users and cannot be shared or used by more than one Authorized User, but any account may be permanently reassigned to another Authorized User as needed. Customer is solely responsible for setting, auditing, updating, and removing the access level and permissions of each of their Authorized Users within the Subscription Service.
- (e) Third-Party Services. Certain features and functionalities within the Subscription Services may allow Customer and its Authorized Users to interface or interact with, access and/or use compatible third-party services, products, technology and content (collectively, “Third-Party Services”) through the Subscription Services. Customer is solely responsible for maintaining the Third-Party Services not provided by Persefoni and obtaining any associated licenses and consents necessary for Customer to use those Third-Party Services not provided by Persefoni in connection with the Subscription Services.
- (f) Reservation of Rights. Subject to the limited rights expressly granted hereunder, Persefoni reserves and, as between the Parties will solely own, the Persefoni IP and all rights, title and interest in and to the Persefoni IP. No rights are granted to Customer hereunder (whether by implication, estoppel, exhaustion or otherwise) other than as expressly set forth herein.
- (g) Feedback. Customer grants Persefoni a worldwide, perpetual, irrevocable, royalty-free license to use, distribute, disclose, and incorporate any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer or Authorized User relating to the Subscription

Services. Persefoni cannot publicly disclose Customer feedback as a marketing or communications effort without Customer's prior written consent.

- (h) Procurement for and by Affiliates. Customer may procure Subscription Services, Professional Services, and Persefoni's other related products, services, and technologies under this Agreement for its own account and on behalf of one or more Customer Affiliates only when explicitly noted on an Order Form associated with this Agreement. Customer is responsible for the acts and omissions of the Customer Affiliates under any Order Form pursuant to which the Customer Affiliate receives the benefit of the Subscription Services but is not a signatory. Additionally, with Persefoni's express written approval, Customer Affiliates may procure Subscription Services, Professional Services, and Persefoni's other related products, services, and technologies under this Agreement pursuant to an Order Form executed by such Customer Affiliate and Persefoni. Customer Affiliates who sign an Order Form will be deemed to be the Customer hereunder and solely responsible for its performance or non-performance thereunder.

3. **FEES AND PAYMENT.**

- (a) Fees. Customer will pay Persefoni the fees set forth in the relevant Order Form in accordance with the terms therein ("Fees") and without refund, offset, reduction or deduction. Fees in any Renewal Term will be increased by 5% or may otherwise change as provided by Persefoni upon at least sixty (60) days' prior notice to Customer (which may be via email). Except as otherwise provided in the relevant Order Form, Persefoni will issue annual invoices to Customer during the Term, and Customer will pay all undisputed amounts set forth on any such invoice no later than thirty (30) days after the date of such invoice. During the Term, Persefoni may assess whether Customer's use of Subscription Services deviates from its entitlement and adjust the Fees based on such use as necessary.
- (b) Payments. Payments due to Persefoni under this Agreement must be made in U.S. dollars by check, wire transfer of immediately available funds to an account designated by Persefoni or such other payment method mutually agreed by the Parties. Except as otherwise provided on an Order Form, all payments are non-cancellable and non-refundable and neither Party will have the right to set off, discount or otherwise reduce or refuse to pay any amounts specified or contracted for under this Agreement. If Customer fails to make any payment when due, late charges will accrue at the rate of 1.5% per month (for all non-disputed invoices) or, if lower, the highest rate permitted by applicable law and Persefoni may suspend Services until all payments are made in full. Customer will reimburse Persefoni for all reasonable costs and expenses incurred (including reasonable attorneys' fees) in collecting any late payments or interest.
- (c) Taxes. Customer is responsible for all applicable sales, use, value-added (VAT), ad valorem and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, multinational or local governmental regulatory authority on any amount payable by Customer to Persefoni hereunder, other than any taxes imposed on Persefoni's income. Without limiting the foregoing, if Customer is required to deduct or withhold any taxes from the amounts payable to Persefoni hereunder, Customer will pay an additional amount, so that Persefoni receives the amounts due to it hereunder in full, as if there were no withholding or deduction.
- (d) Purchase Order Number. If Customer requires a purchase order number to be included on Persefoni invoices and Customer does not provide a purchase order number before the Order Form is executed, the omission of the purchase order number on a Persefoni invoice will not constitute a

valid reason for delayed payment. Purchase order numbers can be sent to billing@persefoni.com for inclusion on Customer invoices.

4. **CONFIDENTIAL INFORMATION.**

- (a) As used herein, “Confidential Information” means any information that one Party (the “Disclosing Party”) provides to the other Party (the “Receiving Party”) in connection with this Agreement, whether orally or in writing, that is designated as confidential or that reasonably should be considered confidential given the nature of the information and/or the circumstances of disclosure. For clarity, the Subscription Services and the Documentation will be deemed Confidential Information of Persefoni and Customer Materials will be deemed Confidential Material of Customer. However, Confidential Information will not include any information or materials that: (i) were, at the date of disclosure, or have subsequently become, generally known or available to the public through no act or failure to act by the Receiving Party; (ii) were rightfully known by the Receiving Party prior to receiving such information or materials from the Disclosing Party; (iii) are rightfully acquired by the Receiving Party from a third party who has the right to disclose such information or materials without breach of any confidentiality or non-use obligation to the Disclosing Party; or (iv) are independently developed by or for the Receiving Party without use of or access to any Confidential Information of the Disclosing Party.
- (b) The Receiving Party will maintain the Disclosing Party’s Confidential Information in strict confidence and will not use the Confidential Information of the Disclosing Party except as necessary to perform its obligations or exercise its rights under this Agreement; *provided* that Persefoni may use and modify Confidential Information of Customer in deidentified form for purposes of developing and deriving Aggregate Data. The Receiving Party will not disclose or cause to be disclosed any Confidential Information of the Disclosing Party, except (i) to those employees, representatives, or contractors of the Receiving Party who have a bona fide need to know such Confidential Information to perform under this Agreement and who are bound by written agreements with use and nondisclosure restrictions at least as protective as those set forth in this Agreement, or (ii) as such disclosure may be required by the order or requirement of a court, administrative agency or other governmental body, subject to the Receiving Party providing to the Disclosing Party reasonable written notice to allow the Disclosing Party to seek a protective order or otherwise contest the disclosure.
- (c) Each Party's obligations of non-disclosure about Confidential Information are effective as of the Effective Date and will survive the termination or expiration of this Agreement.
- (d) The terms and conditions of this Agreement will constitute Confidential Information of each Party but may be disclosed on a confidential basis to a Party’s advisors, attorneys, actual or bona fide potential acquirers, investors or other sources of funding (and their respective advisors and attorneys) for due diligence purposes.

5. **SUPPORT AND SERVICE LEVELS.**

- (a) Support. Persefoni will provide Customer with technical support for the Subscription Services in accordance with the support terms set forth in Exhibit A, Service Levels and Support. Subject to

the terms and conditions of this Agreement, Persefoni will make the Subscription Services available in accordance with the service levels set forth in Exhibit A.

- (b) Security. Persefoni shall maintain commercially reasonable administrative, physical, and technical safeguards designed for the protection, confidentiality, and integrity of Customer Materials. For the Subscription Service, Persefoni may perform an annual third-party audit in accordance with the Statement on Standards for Attestation Engagements No. 18 (SSAE 18) and the International Standards for Assurance Engagements No. 3402 (ISAE 3402) and obtain a SOC 2 Type II report. Additionally, Persefoni may perform an annual ISO 27001 audit (or similar security standard) for the Subscription Service, under the International Organization for Standardization (ISO) 27001 standard. Customer may once during every twelve (12) month period, receive a copy of: (a) Persefoni's final SOC 2 Type II report and (b) Persefoni's final ISO 27001 certificate provided it submits a written request for the same in each case.

Without limiting Persefoni's applicable obligations under this Agreement, a) except for information related to the creation of Customer's account (including, without limitation, Authorized User's names and email addresses), Persefoni does not require personal information or personal data for use or operation of the Subscription Services. Customer agrees that it will not include in Customer Materials or otherwise provide Persefoni with any personal information or personal data other than that strictly necessary (e.g. email address) to establish the creation and administration of access to Subscription Services, and b) Persefoni is not responsible for any Customer Materials which are delayed, lost, altered, intercepted, or stored during the transmission of any data whatsoever across networks not owned and/or operated by Persefoni, including, but not limited to, the Internet and Customer's local network.

- (c) Updates. During the Term, Persefoni may update the Subscription Services to reflect changes in, among other things, laws, regulations, rules, technology, industry practices, patterns of system use, and availability of Third-Party Services. Persefoni updates to the Subscription Services will not materially reduce the level of performance, functionality, security, or availability of the Subscription Services. Customer agrees that unless otherwise expressly agreed in a relevant Order Form, its agreement to the Subscription Service is not contingent or dependent in any way on the delivery of any future feature or functionality or on any oral or written public or private comments made by Persefoni regarding future features or functionality.

6. **CUSTOMER MATERIALS.**

- (a) Persefoni acknowledges that, as between Customer and Persefoni and except as set forth in Section 6(b), Customer owns and retains all right, title and interest in and to all Customer Materials.
- (b) Customer hereby grants Persefoni a non-exclusive, worldwide, royalty-free right and license to use, host, reproduce, copy, transmit, sub-license, index, store, display, and modify the Customer Materials: (i) to the extent necessary to perform its obligations or enforce its rights under this Agreement; (ii) where required or authorized by law; (iii) to develop, host, modify, improve, support, customize, operate, and provide the Subscription Services, Professional Services and Persefoni's other related products, services, and technologies during the Term, and (iv) to publish, display, and distribute any deidentified information (i.e. information where Customer is not capable of being identified) derived from Customer usage of the Subscription Services (such as but not limited to, statistical and performance information, web browser, screen resolution, and mobile device-type information).

- (c) Customer represents and warrants that (i) it has obtained and will obtain and continue to have, during the Term, all necessary rights, authority and licenses for the access to and use of the Customer Materials (including any personal data provided or otherwise collected pursuant to Customer's privacy policy) as contemplated by this Agreement, and (ii) Persefoni's use of the Customer Materials in accordance with this Agreement will not violate any applicable laws or regulations or cause a breach of any agreement or obligations between Customer and any third party.
- (d) Retrieval of Customer Material. During the Order Form term, Customer can access Customer Material at any time. Customer may export and retrieve its Customer Material in a standard format.

7. REPRESENTATIONS AND WARRANTIES AND DISCLAIMER.

- (a) Each Party hereby represents and warrants to the other Party that: (i) it is duly organized, validly existing and in good standing under its jurisdiction of organization and has the right to enter into this Agreement and (ii) the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby are within the corporate powers of such Party and have been duly authorized by all necessary corporate action on the part of such Party, and constitute a valid and binding agreement of such Party.
- (b) Persefoni warrants that Professional Services will be performed in a good and workmanlike manner consistent with applicable industry standards. This warranty will be in effect for a period of thirty (30) days from the completion of any Professional Services. As Customer's sole and exclusive remedy and Persefoni's entire liability for any breach of the foregoing warranty, Persefoni will promptly re-perform any Professional Services that fail to meet this limited warranty.
- (c) EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE SUBSCRIPTION SERVICES, PROFESSIONAL SERVICES AND OTHER PERSEFONI IP ARE PROVIDED ON AN "AS IS" BASIS, AND PERSEFONI MAKES NO WARRANTIES OR REPRESENTATIONS TO CUSTOMER, ITS AUTHORIZED USERS OR TO ANY OTHER PARTY REGARDING THE PERSEFONI IP, THE SUBSCRIPTION SERVICES, PROFESSIONAL SERVICES OR ANY OTHER SERVICES OR MATERIALS PROVIDED HEREUNDER. PERSEFONI IS NOT RESPONSIBLE FOR ANY ISSUES RELATED TO THE PERFORMANCE, OPERATION OR SECURITY OF THE SERVICES THAT ARISE FROM CUSTOMER MATERIALS OR THIRD PARTY SERVICES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, PERSEFONI HEREBY DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. WITHOUT LIMITING THE FOREGOING, PERSEFONI HEREBY DISCLAIMS ANY WARRANTY THAT USE OF THE SUBSCRIPTION SERVICES OR PROFESSIONAL SERVICES WILL BE ERROR-FREE, BUG-FREE OR UNINTERRUPTED.

8. INDEMNIFICATION.

- (a) Persefoni Indemnification. Subject to Section 8(b), Persefoni will defend Customer against any claim, suit or proceeding brought by a third party ("**Claims**") alleging that Customer's Use of the

Subscription Services infringes or misappropriates such third party's Intellectual Property Rights and will indemnify and hold harmless Customer against any damages and costs awarded against Customer or agreed in settlement by Persefoni (including reasonable attorneys' fees) resulting from such Claim.

- (b) Exclusions. Persefoni's obligations under Section 8(a) will not apply if the underlying third party claim arises from or as a result of: (i) Customer's breach of this Agreement, negligence, willful misconduct or fraud; (ii) any Customer Materials; (iii) Customer's failure to use any enhancements, modifications, or updates to the Subscription Services that have been provided by Persefoni; (iv) modifications to the Subscription Services by anyone other than Persefoni; or (v) combinations of the Subscription Services with software, data or materials not provided by Persefoni.
- (c) IP Remedies. If Persefoni reasonably believes the Subscription Services (or any component thereof) could infringe any third party's Intellectual Property Rights, Persefoni may, at its sole option and expense use commercially reasonable efforts to: (i) modify or replace the Subscription Services, or any component or part thereof, to make it non-infringing; or (ii) procure the right for Customer to continue use. If Persefoni determines that neither alternative is commercially practicable, Persefoni may terminate this Agreement, in its entirety or with respect to the affected component, by providing written notice to Customer. The rights and remedies set forth in this Section 8 shall constitute Customer's sole and exclusive remedy for any infringement or misappropriation of Intellectual Property Rights in connection with the Subscription Services.
- (d) Customer Indemnification. Subject to Section 8(e), Customer will defend Persefoni against Claims arising from (i) any Customer Materials, including, without limitation, (A) any Claim that the Customer Materials infringe, misappropriate or otherwise violate any third party's Intellectual Property Rights or privacy or other rights; or (B) any Claim that the use, provision, transmission, display or storage of Customer Materials violates any applicable law, rule or regulation; (ii) any of Customer's products or services; and (iii) use of the Subscription Services by Customer or its Authorized Users in a manner that is not in accordance with this Agreement or the Documentation, including, without limitation, any breach of the license restrictions in Section 2(b), and in each case, will indemnify and hold harmless Persefoni against any damages and costs awarded against Persefoni or agreed in settlement by Customer (including reasonable attorneys' fees) resulting from such Claim.
- (e) Indemnification Procedures. The Party seeking defense and indemnity (the "Indemnified Party") will promptly notify the other Party (the "Indemnifying Party") of the claim for which indemnity is being sought and will reasonably cooperate with the Indemnifying Party in the defense and/or settlement thereof. The Indemnifying Party will have the sole right to conduct the defense of any claim for which the Indemnifying Party is responsible hereunder (*provided* that the Indemnifying Party may not settle any claim without the Indemnified Party's prior written approval unless the settlement is for a monetary amount, unconditionally releases the Indemnified Party from all liability without prejudice, does not require any admission by the Indemnified Party, and does not place restrictions upon the Indemnified Party's business, products or services). The Indemnified Party may participate in the defense or settlement of any such claim at its own expense and with its own choice of counsel or, if the Indemnifying Party refuses to fulfill its obligation of defense, the Indemnified Party may defend itself and seek reimbursement from the Indemnifying Party.

9. **LIMITATIONS OF LIABILITY.**

- (a) Exclusion of Damages. EXCEPT FOR: (I) ANY INFRINGEMENT BY ONE PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, (II) FRAUD OR WILFUL MISCONDUCT BY EITHER PARTY, OR (III) BREACH OF CUSTOMER'S PAYMENT OBLIGATIONS, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF INCOME, SALES, DATA, PROFITS, REVENUE OR BUSINESS INTERRUPTION, GOODWILL, REPUTATION OR THE COST OF SUBSTITUTE SERVICES OR OTHER ECONOMIC LOSS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE PERSEFONI IP OR THE PROVISION OF THE SUBSCRIPTION SERVICES AND PROFESSIONAL SERVICES, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED ON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, AND WHETHER OR NOT SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.
- (b) Total Liability. IN NO EVENT WILL EITHER PARTY'S TOTAL LIABILITY TO THE OTHER IN CONNECTION WITH THIS AGREEMENT EXCEED THE FEES PAID OR PAYABLE BY CUSTOMER TO PERSEFONI IN THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY ON WHICH THE CLAIM OR LIABILITY IS BASED, AND WHETHER OR NOT A PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE, BUT WILL NOT LIMIT CUSTOMERS' OBLIGATIONS UNDER SECTION 3.

10. **TERM AND TERMINATION.**

- (a) Term. This Agreement begins on the Effective Date and continues until the later of: (i) the last date specified in any Order Form or (ii) Customer access to the Subscription Services has been terminated. All Orders will automatically renew for additional periods of one (1) year terms unless either Party provides the other with at least thirty (30) days' written notice of its intent not to renew any relevant Order Form prior to the end of the then-current Order Form term.
- (b) Termination. Either Party may terminate this Agreement, effective on written notice to the other Party, if the other Party materially breaches this Agreement, and such breach remains uncured thirty (30) days after the non-breaching Party provides the breaching Party with written notice of such breach.
- (c) Survival. This Section 10(c) and Sections 1, 2(b), 2(c), 2(e), 3, 4, 6, 7, 8, 9, 10(d) and 12 survive any termination or expiration of this Agreement.
- (d) Effect of Termination. Upon expiration or termination of this Agreement: (i) the rights granted pursuant to Section 2(a) will terminate and Customer must cease use of Subscription Services and Professional Services immediately; (ii) each Party will return or destroy, at the requesting Parties' sole option, all Confidential Information in its possession or control, including permanent removal of such Confidential Information (consistent with customary industry practice for data destruction) from any storage devices or other hosting environments that are in its possession or under its control, and at the requesting Parties' request, certify in writing that the Confidential Information has been returned, destroyed or, in the case of electronic communications, deleted, and (iii) Persefoni will, upon written request, delete Customer Materials from the Subscription Service production environment. No expiration or termination will affect Customer's obligation to pay all

Fees that may have become due or otherwise accrued through the effective date of expiration or termination or entitle Customer to any refund.

11. PROMOTION.

As specified in an Order Form, the Parties may work together in good faith to promote its relationship as well as climate-related initiatives. To the extent we work together, and in connection with any mutually agreed initiatives, Customer grants Persefoni a non-exclusive, royalty-free, fully-paid license to use and display Customer's name, marks or logos according to any usage guidelines or other limitations Customer provides.

12. GENERAL.

- (a) Entire Agreement. This Agreement, including its exhibits and associated Order Form(s), is the complete and exclusive agreement between the parties with respect to its subject matter and supersedes all prior or contemporaneous agreements, communications, and understandings, both written and oral, with respect to its subject matter. The Parties agree that any terms of conditions stated in a Customer purchase order or other document related to this Agreement (excluding an Order Form) is void. This Agreement may be amended or modified only by a written document executed by duly authorized representatives of the parties. In the event of any conflict or inconsistency between an Order Form and this Agreement, the Order Form will control.
- (b) Freedom of Action. Nothing in this Agreement will be deemed to restrict or limit Persefoni's right to perform similar services for any other Party or to assign any employees or subcontractors to perform similar services for any other Party; provided that Persefoni complies with its obligations respect to Customer's Confidential Information.
- (c) Customer Contact Information. Customer shall provide in the Subscription Service accurate, current, and complete information on Customer's legal business name, address, email address and phone number, and maintain and promptly update this information if it should change. The Customer shall provide both contact information for legal notices and service notices related to the Subscription Service.
- (d) Legal Notices. All legal notices required or permitted under this Agreement will be in writing, will reference this Agreement, and will be sent to the relevant address set forth below or to such other address as may be specified by the relevant Party to the other Party in accordance with this Section 12(d). Such notices shall be deemed given: (i) when delivered personally; (ii) one (1) business day after deposit with a nationally recognized express courier, with written confirmation of receipt; or (iii) three (3) business days after having been sent by registered or certified mail, return receipt requested, postage prepaid.

Persefoni AI Inc.
Legal Department
Attention: General Counsel
2415 West Broadway Rd., #41022
Mesa, AZ 85274-3042
United States of America
legal@persefoni.com

- (e) Service Notices. All service notices from Persefoni to Customer describing planned outages and service interruptions, modification of features, new features or similar will be delivered via email to address(es) maintained by the Customer within the Subscription Service.
- (f) Waiver. Either Party's failure to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision. No waiver of any provision of this Agreement will be effective unless it is in writing and signed by the Party granting the waiver.
- (g) Severability. If any provision of this Agreement is held invalid, illegal, or unenforceable, that provision will be enforced to the maximum extent permitted by law, given the fundamental intentions of the parties, and the remaining provisions of this Agreement will remain in full force and effect.
- (h) Governing Law; Jurisdiction. This Agreement will be governed by and construed in accordance with the laws of the State of New York without giving effect to any principles of conflict of laws that would lead to the application of the laws of another jurisdiction. Any legal action or proceeding arising under this Agreement will be brought exclusively in the federal or state courts located in New York, New York and the parties irrevocably consent to the personal jurisdiction and venue therein.
- (i) Assignment. Neither Party may assign or transfer this Agreement, by operation of law or otherwise, without the other Party's prior written consent. Any attempt to assign or transfer this Agreement without such consent will be void. Notwithstanding the foregoing, either Party may assign or transfer this Agreement to a third party that succeeds to all or substantially all the assigning Party's business and assets relating to the subject matter of this Agreement, whether by sale, merger, operation of law or otherwise. Subject to the foregoing, this Agreement is binding upon and will inure to the benefit of each of the Parties and their respective successors and permitted assigns.
- (j) Equitable Relief. Each Party agrees that a breach or threatened breach by such Party of any of its obligations under Section 4 or, in the case of Customer, Section 2(b), would cause the other Party irreparable harm and significant damages for which there may be no adequate remedy under law and that, in the event of such breach or threatened breach, the other Party will have the right to seek immediate equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from any court. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.
- (k) Force Majeure. Neither Party will be responsible for any failure or delay in the performance of its obligations under this Agreement (except for any payment obligations) due to causes beyond its reasonable control, which may include, without limitation, labor disputes, strikes, lockouts, criminal acts of third parties, shortages of or inability to obtain energy, raw materials or supplies, denial of service or other malicious attacks, telecommunications failure or degradation, failure of the Internet, pandemics, epidemics, public health emergencies, governmental orders and acts (including government imposed travel restrictions and quarantines), material changes in law, war, terrorism, riot, civil unrest, fire, explosion, flood, earthquake, tornado, natural disaster, or acts of God.
- (l) Subcontracting. Persefoni may use subcontractors, and other third-party providers ("Subcontractors") in connection with the performance of its own obligations hereunder as it deems

appropriate; provided that the Persefoni remains responsible for the performance of each such Subcontractor.

- (m) Export Regulation. Each Party will comply with all federal laws, regulations and rules that prohibit or restrict the export or re-export of the Subscription Services, or any Customer Materials, outside the United States (“Export Rules”) as applicable to them, and will complete all undertakings required by Export Rules, including obtaining any necessary export license or other governmental approval.
- (n) U.S. Government End Users. The Subscription Services and Documentation are “commercial computer software” and “commercial computer software documentation,” respectively, as such terms are used in FAR 12.212 and other relevant government procurement regulations. Any use, duplication, or disclosure of the Subscription Services or its Documentation by or on behalf of the U.S. government is subject to restrictions as set forth in this Agreement.
- (o) Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing in this Agreement shall be construed to establish any partnership, joint venture or agency relationship between the Parties. Neither Party will have the power or authority to bind the other or incur any obligations on the other’s behalf without the other Party’s prior written consent.
- (p) No Third-Party Beneficiaries. No provision of this Agreement is intended to confer any rights, benefits, remedies, obligations, or liabilities hereunder upon any Person other than the Parties and their respective successors and assigns.
- (q) Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signature to this Agreement transmitted electronically shall have the same authority, effect, and enforceability as an original signature.

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EXHIBIT A

SERVICE LEVELS AND SUPPORT

1. **Service Levels**. Persefoni will make the Subscription Services available no less than 99.5% of the time during the Term twenty-four (24) hours a day, seven (7) days a week, except for excused downtime, which, for purposes of this Agreement, means (i) planned downtime (with reasonable advance notice to Customer) of the Subscription Services; (ii) emergency downtime of the Subscription Services (with reasonable notice to Customer as the circumstances permit); and (iii) any unavailability of the Subscription Services caused by a force majeure event (“Uptime Availability”). Customer may, immediately upon notice to Persefoni, elect to terminate without liability, charge or penalty if the Subscription Service fails to comply with the Uptime Availability for three (3) consecutive months or any three (3) months over the course of a six-month period.
2. **Planned Downtime**. Persefoni may perform scheduled system maintenance between the hours of 6:00 pm and 7:00 am on weeknights (Eastern time zone) and all-day on weekends.
3. **Support**. Persefoni will provide reasonable technical support to Customer by electronic mail in connection with its Use of the Subscription Services on weekdays during the hours of 9:00 a.m. to 5:00 p.m. Pacific Time, with the exception of U.S. federal holidays (“Support Hours”), subject to the following conditions: (i) prior to initiating any support request, Customer (and its own personnel responsible for information technology support) will have first attempted to resolve the issue generating the need for such support; and (ii) Customer will reasonably cooperate with Persefoni support staff as needed to resolve the issue.

Customer may initiate a help-desk ticket during Support Hours by emailing support@persefoni.com