

## CUSTOMER TERMS OF USE

By accessing, downloading and/or using the Services or indicating your acceptance of this Agreement, you are agreeing to be bound by the terms and conditions of and become a party to this Agreement. If you do not agree to all of the terms of this Agreement, you must not and may not access, download or use the Services.

This Agreement, which includes the Privacy Statement, is entered into by and between Visier, Inc., a Delaware corporation with its address at 548 Market Street, #62284, San Francisco, CA 94104-5401 USA ("Visier") and the entity or person downloading and/or accessing the Services ("Customer"). If you are downloading and/or accessing the Services on behalf of your company, you represent that you are authorized to accept this Agreement on behalf of your company, and all references to "you" or "Customer" reference your company. The "Effective Date" of this Agreement is the date of Customer's initial access to the Services via download or other online provisioning. This Agreement governs Customer's access to and use of the Services. All updates, modifications, and enhancements to the Services and all Services subsequently downloaded or purchased by Customer are subject to the terms and conditions of this Agreement. Capitalized terms not otherwise defined herein have the meanings given to them in Section 13 (Definitions).

If you access, download and/or use the Services through the Atlassian Platform, you acknowledge and agree that: (a) this Agreement is between us and not with Atlassian, and that we are responsible for the Service, not Atlassian; (b) Atlassian has no obligation to furnish maintenance and support services or handle any warranty claims; (c) Atlassian is not responsible for addressing any claims that you have relating to the Services; (iv) Atlassian is a third party beneficiary of this Agreement as related to your use of the Services and Atlassian will have the right to enforce this Agreement as related to the Services against you; and (v) this Agreement is subject to Customer's agreement with Atlassian governing the use of the Atlassian Platform.

### 1. Eligibility

In order to use the Services, you must agree to this Agreement and represent and warrant that you are: (a) at least eighteen (18) years old and able to enter into contracts; and (b) your registration and use of the Services complies with any and all applicable laws and regulations.

### 2. Services

2.1. Use and Access Requirements. Subject to the terms of this Agreement and payment of all applicable fees, Visier shall make the Services and Documentation available to Customer's Authorized Users, solely for access and use by such Authorized Users during the Term for the internal business purposes of Customer and its Affiliates. Customer acknowledges that a high-speed Internet connection and a commonly available, up-to-date operating system and web browser are required for access to the Services. Customer is responsible to procure and maintain the networks, software and equipment necessary to connect Customer's network to the Internet and to access the Services. Customer's use of the Services cannot exceed any of the Services parameters set forth in this Agreement, the Atlassian Platform or as otherwise communicated by Visier.

2.2. Authorized Users. Customer is also responsible for: (i) maintaining the confidentiality of User IDs assigned to its Authorized Users and associated passwords; (ii) any and all activities that occur while operating under each such User ID; and (iii) compliance of its Authorized Users with the terms of this Agreement and the Acceptable Use Policy. Customer agrees to immediately notify Visier of any unauthorized use of a User ID or violation of the Acceptable Use Policy of which Customer becomes aware.

2.3. Data Control. To use the Services the Customer must make Customer Data to Visier via the Atlassian Platform for Processing. The Customer determines and controls in its sole discretion the selection of Customer Data for transmission to Visier. Customer is solely responsible for the authority, quality, accuracy, transfer, and completeness of the Customer Data. Visier will store, process and transfer Customer Data for the sole purpose of providing, maintaining, and supporting the Services as contemplated under this Agreement.

2.4. Application Content. The Services allow Authorized Users to represent information and insights using a variety of prebuilt and preformed visualizations. The complete set of visualizations that the Services can theoretically produce is called the Application Content. Specific availability of Application Content will vary for each customer as the Customer Data informing any given visualization is unique to that customer. Accordingly, Visier cannot and does not guarantee the availability of any specific Application Content in the Customer's own unique instance of the Services.

2.5. Benchmarking and Standardizations. The Services provides for Benchmarking and Standardizations as may be included in this Agreement or the Atlassian Platform. Benchmarking and Standardizations are proprietary to Visier and provided to Customer in a form and frequency determined by Visier in its sole discretion from time to time. By participating in Benchmarking and Standardizations, Customer agrees to Visier's production of Aggregate Data. Benchmarking and Standardizations may be provided in combination with third-party content sourced from relevant industry contributors. As Benchmarking and Standardizations are dependent on adequate data input in any individual

query, Visier does not guarantee the accuracy, completeness, timeliness, or availability of Benchmarking and Standardizations, as the same may be modified from time to time.

2.6. Feature Deprecation. Visier maintains a deprecation list of individual features and functionality scheduled for end-of-life on its website. Visier reserves the right to discontinue individual features and functionality without providing a similar replacement after an end-of-life period of not less than three (3) years by posting such individual feature to the deprecation list from time to time.

2.7. Data Privacy. Visier will implement and maintain technical and organizational measures to protect Personal Data as set out in Visier's Data Privacy Addendum. Visier will store, Process and transfer Customer Data for the sole purpose of providing, maintaining, and supporting the Services as contemplated under this Agreement.

2.8. Data Hosting. All data hosting associated with the provision of the Services, including without limitation the storage of Customer Data, will be provided from data centres located in the United States.

### 3. Restrictions

Customer, its Affiliates, and Authorized Users may not, and may not permit any person or entity to: (i) resell, transfer, make available, or allow the use of the Services, or any part thereof, directly or indirectly, to or by any person who is not an Authorized User or for the benefit of any third party other than an Affiliate of Customer, without the prior written approval of Visier; (ii) copy, reverse engineer or otherwise attempt to obtain the source code for any component of the software used to provide the Services, except and only to the extent these restrictions are expressly prohibited by applicable statutory law; (iii) alter, modify or adapt any component of the Services or any software used to provide the Services, including without limitation, translating or creating derivative works; (iv) introduce into or transmit through the Services any virus, worm, trap door, back door, or other harmful or malicious code, files, scripts, agents, or programs; (v) transmit or store infringing material in the Services; (vi) assign a User ID or make the Services available to any person who is less than 13 years old; (vii) use or permit, except with the express prior authorization of Visier and under supervision by Visier, the use of any security testing tools in order to probe, scan, or attempt to penetrate or ascertain the security of the Services; (viii) make any component of the Services available by loan, rental, service bureau, external time sharing or similar arrangement; (ix) access, attempt to access, or use the Services other than through a validly assigned User ID; (x) share a User ID with anyone other than the designated Authorized User; (xi) export or re-export the Services, Documentation, or any component or direct product thereof, except in compliance with all applicable export laws, restrictions, and regulations; or (xii) remove, overprint, deface, obfuscate, or change any notice of confidentiality, copyright, trademark, logo, legend, or other notices of ownership or other rights from the Services or Documentation.

### 4. Fees

4.1. Payment and Late Fees. In exchange for Customer's rights to use the Services and Documentation during the Term, Customer commits to pay all fees and charges applicable to the Term. All fees and charges are payable in accordance with the payment terms specified on the Atlassian Platform, as specified on an invoice to Customer, or within thirty (30) days of the invoice date if no payment terms are so specified. Payment amounts that are overdue, other than an amount subject to good faith dispute, will incur interest in an amount equal to one percent (1%) per month or the maximum allowed by law, whichever is less. Subject to the mandatory provisions of local law, all fees and charges are non-cancelable and non-refundable except as expressly provided in this Agreement. Unless otherwise specified on the Atlassian Platform, all fees and charges under this Agreement shall be in United States dollars and all references to "dollars," and "\$" shall mean United States dollars. Unless otherwise agreed upon by the parties in writing, Visier will charge the fees based on Customer's selected payment method, as specified on the Atlassian Platform. Customer is responsible for providing complete and accurate billing and contact information and must provide Visier prompt notice of any changes to such information.

4.2. Taxes. All fees and charges set forth on the Atlassian Platform are exclusive of any Taxes. Customer is responsible for paying all Taxes arising out of this Agreement, excluding only taxes based on Visier's net income. If Visier has the legal obligation to pay or collect Taxes for which Customer is responsible under this Section, the appropriate amount shall be invoiced to and paid by Customer unless Customer provides a valid tax exemption certificate authorized by the appropriate taxing authority.

4.3. Invoicing. Unless otherwise specified by Visier via the Atlassian Platform: (i) the first-year amount of all annually recurring fees and all one-time fees are invoiced on the Effective Date; and (ii) subsequent year annually recurring fees are invoiced no earlier than thirty (30) days prior to the start of each annual period of the applicable Term.

4.4. Free Services. From time to time, Visier may offer free Services that allows the Customer to use the Services and Documentation free of charge (the "Free Services"). Customer acknowledges and agrees that the features and functionality of the Free Services may be limited and differ from the Services and Documentation. Subject to Section 5.2 of this Agreement, Visier reserves the right to modify, suspend or terminate the Free Services, including without limitation modification of the terms of this Agreement applicable to such Free Services, in its sole and absolute discretion at any time without notice. It is the Customer's responsibility to regularly review the Atlassian Platform for any such updates, which will take effect in accordance with the notice posted on the Atlassian Platform or as otherwise communicated to you by Visier.

## 5. Term, Termination and Suspension

5.1. Agreement Term and Termination. This Agreement, including with respect to any Free Services, shall commence on the Effective Date and continue until expired or terminated in accordance with this Agreement (the "Term").

5.2. Termination with Notice. Customer may terminate this Agreement by uninstalling and ceasing use of the Services via the functionality provided by the Atlassian Platform. Visier may terminate this Agreement by providing a minimum of sixty (60) days' notice to the Customer, including via the Atlassian Platform if applicable.

5.3. Termination for Cause. In the event that a party breaches any material provision of this Agreement and such breach is not cured within thirty (30) days after receiving written notice of such breach from the other party, such other party shall have the right to either terminate this Agreement. This Agreement may also be terminated upon written notice by a party if the other party: (i) terminates or suspends its business activities; (ii) liquidates all or a substantial portion of its assets for the benefit of creditors, or becomes subject to direct control of a trustee, receiver or similar authority to effect such liquidation of assets; or (iii) becomes subject to any bankruptcy or insolvency proceeding under federal or state statutes to effect such liquidation of assets. In the event Customer terminates this Agreement for cause pursuant to this Section, if applicable, Customer shall receive a pro-rata refund of the pre-paid fees corresponding to the terminated portion of the affected term. In the event Visier terminates this Agreement for cause pursuant to this Section, the payment obligation for all fees and charges corresponding to the terminated portion of the affected term shall accelerate and become due and payable immediately, if applicable.

5.4. Suspension. Visier may suspend Customer's and its Affiliates' access to and use of the Services: (i) if Visier reasonably believes Customer is in breach of any obligation or restriction under this Agreement; and/or (ii) if any payment, other than an amount subject to good faith dispute, is due but unpaid and Customer has not corrected the delinquency within ten (10) days after Visier has provided Customer written notice of such delinquency. Services will resume within a reasonable time after the breach or delinquency has been corrected. Visier shall not be liable to Customer or to any Affiliate of Customer or other third party for any suspension of the Services pursuant to this Section.

## 6. Confidentiality

6.1. Nondisclosure and Permitted Use. Each party agrees that Confidential Information shall be maintained in confidence and not disclosed, used or duplicated, except as permitted in this Agreement. Recipient shall not copy or disclose Discloser's Confidential Information except to its Representatives who need to know the Confidential Information in order to perform under this Agreement. Recipient and its Representatives may use Confidential Information only in connection with performance under this Agreement. Recipient will protect Discloser's Confidential Information with the same, but not less than reasonable, standard of care it uses to protect its own Confidential Information. Each party shall promptly inform the other party of any unauthorized disclosure of, or access to, the other party's Confidential Information.

6.2. Deletion and Retention. Recipient will cease use of and return or destroy all copies or extracts of Discloser's Confidential Information within thirty (30) days of the expiration or termination of this Agreement, except that Recipient may retain portions of Confidential Information in accordance with its procedures implemented to comply with applicable law or regulation, litigation hold or audit logging requirements, provided that such Confidential Information remains subject to the terms of this Agreement and may not be used except for such compliance purposes. At the request of Discloser, Recipient will provide a certificate, signed by its authorized representative, acknowledging that Discloser's Confidential Information has been returned or destroyed in accordance with these terms.

6.3. Exclusions. The foregoing limitations on the disclosure and use of Confidential Information will not apply if the Confidential Information: (i) was already known to Recipient, other than under an obligation of confidentiality, at the time of disclosure by Discloser; (ii) was or becomes generally available to the public or otherwise part of the public domain, through no fault of Recipient or its Representatives; (iii) was lawfully received from a third party who rightfully acquired it and did not obtain or disclose it in violation of any confidentiality agreement or obligation; or (iv) was independently developed by Recipient without the use of, or reference to, the Confidential Information of Discloser.

6.4. Relief. A party's breach of its confidentiality obligations set out in this Section may cause the aggrieved party to suffer irreparable harm in an amount not easily ascertained. The parties agree that, upon any actual or threatened breach of a party's confidentiality obligations hereunder, the aggrieved party will be entitled to seek appropriate equitable relief in addition to whatever remedies it might have at law.

6.5. Lawful Disclosure. If Recipient is required by law to disclose Discloser's Confidential Information, Recipient may do so, but will first, if legally permissible, provide Discloser with prompt notice of such pending disclosure so that Discloser may seek to contest or limit such disclosure and Recipient will provide reasonable assistance to Discloser at Discloser's expense.

## 7. Intellectual Property Rights

7.1. No Implied Grant. Except as expressly set forth herein, this Agreement does not grant either party any rights, implied or otherwise, to the other party's content or the other party's intellectual property.

7.2. Intellectual Property Ownership. As between the parties, Customer owns all Intellectual Property Rights in and to the Customer Data. As between the parties, Visier owns all Intellectual Property Rights in and to the Services and Documentation. Without limiting the generality of the foregoing, Visier Materials are not "work made for hire" and all copyright in Visier Materials is intended by the parties to vest in Visier.

7.3. Feedback. If Customer provides Feedback to Visier, Customer hereby grants to Visier a royalty-free, worldwide, transferable, no-charge, sub-licensable, irrevocable, and perpetual license to use, disclose, reproduce, license, distribute and exploit the Feedback entirely without obligation or restriction of any kind on account of intellectual property rights or otherwise.

7.4. Limited Publicity Rights. Neither party may use the other party's name or logos without the other party's prior written consent; except that, during the applicable term, Visier shall have the right to describe Customer as a customer, to include Customer's name in customer lists, and to use Customer's name and logos to identify Customer as a customer in proposals and presentations to prospective clients, partners, and investors and on its website.

## 8. Indemnification

8.1. Customer's Indemnity. Customer, at its expense, will defend and indemnify Visier from and against all costs, liabilities and expenses (including reasonable attorney fees) arising from a Claim against Visier and/or its Affiliates: (a) arising from Customer's use of and access to the Services; (b) arising from Customer's violation of any term of this Agreement; or (c) alleging that Customer Data infringes or misappropriates a patent, trademark, trade secret or copyright or that Customer or its Affiliates have violated a law or regulation applicable to the collection, transfer or use of the Customer Data, including, but not limited to, damages assessed, awarded, and/or fined by a court of competent jurisdiction or agreed to in settlement.

8.2. Indemnification Procedure. Visier will give Customer prompt written notice of a claim, provided, however, that failure of Visier to give prompt notice shall not relieve Customer from its obligations under this Agreement unless Customer's ability to defend or the defense is materially prejudiced by such failure. Upon receipt of notice of a claim from Visier, Customer shall, at its sole cost and expense, assume the defense thereof by representatives chosen by it. Visier shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim. Customer shall have the right to assert any defenses, causes of action or counterclaims arising from the subject of the claim available to Visier and shall also have the right to negotiate a settlement of the claim, subject only to Visier's prior written consent to the extent such settlement does not fully release Visier. Visier shall provide Customer with reasonable assistance, at Visier's expense.

## 9. Warranties

9.1. General Warranties. Each of Visier and Customer represents and warrants to the other that: (i) it has the full power and authority to enter into and perform this Agreement, to grant the rights granted by it under this Agreement, and to perform its obligations under this Agreement; and (ii) it will comply with all laws applicable to the performance of its obligations hereunder.

9.2. Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, CUSTOMER ACKNOWLEDGES AND AGREES THAT THE SERVICES ARE PROVIDED ON AN "AS IS," "AS AVAILABLE" BASIS, THE RISK OF ANY USE CUSTOMER MAKES OF THE SERVICES IS CUSTOMER'S OWN, AND NEITHER VISIER, NOR ITS AFFILIATES, EMPLOYEES, AGENTS, OR LICENSORS MAKE, AND VISIER, ITS AFFILIATES, EMPLOYEES, AGENTS, AND LICENSORS HEREBY SPECIFICALLY DISCLAIM, ANY REPRESENTATIONS, ENDORSEMENTS, GUARANTEES OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, TIMELINESS, QUALITY, ACCURACY OR NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS.

## 10. Limitations of Liability

10.1. Consequential Damages Waiver. TO THE FULLEST EXTENT PERMISSIBLE BY LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY LOST PROFITS, LOST SAVINGS OR LOST REVENUES, LOST GOODWILL, LOSS OF USE, LOST OR INACCURATE DATA, OR INTERRUPTION OF BUSINESS, WHETHER OR NOT CHARACTERIZED IN NEGLIGENCE, TORT, CONTRACT, OR OTHER THEORY OF LIABILITY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN SUCH DAMAGES.

10.2. Liability Cap. VISIER'S MAXIMUM AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE SUBJECT MATTER HEREOF, WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WILL NOT EXCEED THE GREATER OF: (A) \$100; AND (B) THE AMOUNT YOU HAVE PAID VISIER IN THE TWELVE (12) MONTHS PRIOR TO THE EARLIEST EVENT GIVING RISE TO LIABILITY.

10.3. Failure of Essential Purpose. The waivers and limitations in this Section 10 will survive and apply notwithstanding any finding of a failure of the essential purpose of any limited remedy.

## 11. Disclaimers

11.1. Use. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, CUSTOMER ACKNOWLEDGES AND AGREES THAT THE SERVICES ARE PROVIDED ON AN "AS IS," "AS AVAILABLE" BASIS, THE RISK OF ANY USE CUSTOMER MAKES OF THE SERVICES IS CUSTOMER'S OWN, AND NEITHER VISIER, NOR ITS AFFILIATES, EMPLOYEES, AGENTS, OR LICENSORS MAKE, AND VISIER, ITS AFFILIATES, EMPLOYEES, AGENTS, AND LICENSORS HEREBY SPECIFICALLY DISCLAIM, ANY REPRESENTATIONS, ENDORSEMENTS, GUARANTEES OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, TIMELINESS, QUALITY, ACCURACY OR NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. CUSTOMER'S DECISIONS BASED ON THE SERVICES ARE ENTIRELY CUSTOMER'S OWN AND VISIER ASSUMES NO RESPONSIBILITY FOR THE CONSEQUENCES RESULTING FROM CUSTOMER'S USE OF THE SERVICES, INCLUDING BUT NOT LIMITED TO, CONSEQUENCES BASED ON ERRORS OR OMISSIONS, THE ACCURACY OR REASONABLENESS OF SCIENTIFIC ASSUMPTIONS, STUDIES, OR CONCLUSIONS, OR THE PRESENCE OF BIAS.

11.2. Third-Party Systems. VISIER ASSUMES NO RESPONSIBILITY FOR: (I) THE RELIABILITY OR PERFORMANCE OF ANY SOURCE SYSTEM; (II) THE PROVISION BY CUSTOMER OF VALID, UP-TO-DATE, API KEYS FOR SOURCE SYSTEMS; (III) CUSTOMER'S CONFIGURATION OF VISIER'S ACCESS TO SOURCE SYSTEMS; (IV) ANY FEES ASSOCIATED WITH ENABLING OR SUPPORTING API ACCESS TO SOURCE SYSTEMS CHARGED BY THE PROVIDERS AND/OR LICENSORS OF THE SOURCE SYSTEMS AND ANY RELATED COSTS INCURRED BY CUSTOMER, IF APPLICABLE; OR (V) ANY COMPUTER NETWORKS, CONNECTIONS, OR OTHER SYSTEMS NOT OWNED OR OPERATED BY VISIER. IF THE SERVICES INCLUDE OR PERMIT THE INCLUSION OF THIRD-PARTY WEBSITES, VISIER ASSUMES NO RESPONSIBILITY FOR SUCH WEBSITES AND ANY USE MADE OF SUCH WEBSITES ARE AT CUSTOMER'S (AND THE AUTHORIZED USERS') OWN RISK, SUBJECT TO THE TERMS OF SUCH THIRD-PARTY WEBSITE. For clarity, the definition of Source System includes, without limitation, the Atlassian Platform.

11.3. Specific Compliance. CUSTOMER'S BUSINESS MAY REQUIRE CUSTOMER TO COMPLY WITH INDUSTRY-SPECIFIC LAWS, REGULATIONS, OR SECURITY STANDARDS THAT ARE SPECIALIZED AND WITH WHICH THE SERVICES ARE NOT DESIGNED OR INTENDED TO COMPLY WITH, INCLUDING BUT NOT LIMITED TO THE U.S. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) OR ANY EQUIVALENT OR SUCCESSOR LEGISLATION, FEDERAL INFORMATION SECURITY MANAGEMENT ACT (FISMA), GRAMM-LEACH-BLILEY ACT (GLBA), EUROPEAN BANKING AUTHORITY OUTSOURCING GUIDELINES, PAYMENT CARD INDUSTRY DATA SECURITY STANDARDS (PCI DSS), VARIOUS INTERNATIONAL ORGANIZATION FOR STANDARDIZATION (ISO) STANDARDS, OR SUCH SIMILAR INDUSTRY-SPECIFIC LAWS, REGULATIONS, OR STANDARDS. EXCEPT FOR COMPLIANCE WITH DATA PROTECTION LAWS APPLICABLE TO VISIER'S PROCESSING UNDER THIS AGREEMENT, THE SERVICES ARE NOT DESIGNED, RATED, VALIDATED, AUDITED, APPROVED OR OTHERWISE INTENDED TO COMPLY WITH INDUSTRY-SPECIFIC LAWS, REGULATIONS, OR SECURITY STANDARDS AND VISIER EXPRESSLY DISCLAIMS ANY AND ALL LIABILITY RELATED TO COMPLIANCE WITH INDUSTRY-SPECIFIC LAWS, REGULATIONS, OR SECURITY STANDARDS IN THE PROCESSING OF ANY DATA THAT IS SUBJECT TO SUCH LAWS, REGULATIONS, OR SECURITY STANDARDS. CUSTOMER IS SOLELY RESPONSIBLE FOR DETERMINING WHICH OF ITS DATA IS PROVIDED TO VISIER FOR PROCESSING AND FOR ENSURING THAT SUCH DATA IS NOT SUBJECT TO INDUSTRY-SPECIFIC LAWS, REGULATIONS, OR SECURITY STANDARDS IN ADVANCE OF TRANSFER TO VISIER.

11.4. High-Risk Applications. THE SERVICES ARE NOT DESIGNED OR INTENDED FOR USE IN ANY HIGH-RISK APPLICATION INCLUDING BUT NOT LIMITED TO: (I) THE DESIGN, CONSTRUCTION, OPERATION OR MAINTENANCE OF ANY NUCLEAR FACILITY; (II) NAVIGATING OR OPERATING AIRCRAFT; (III) ANY LIFE-SAVING, LIFE-SUPPORT OR LIFE-CRITICAL MEDICAL EQUIPMENT; OR (IV) ANY OTHER HIGH RISK OR LIFE-CRITICAL SITUATION. VISIER EXPRESSLY DISCLAIMS ANY AND ALL LIABILITY RELATED TO THE USE OF THE SERVICES IN ANY HIGH-RISK APPLICATION WHERE THE FAILURE OF THE SERVICES COULD CAUSE A LIFE-THREATENING SITUATION, INCLUDING BUT NOT LIMITED TO, MEDICAL, NUCLEAR, AVIATION, NAVIGATION, OR MILITARY APPLICATIONS. CUSTOMER IS SOLELY RESPONSIBLE FOR DETERMINING WHICH OF ITS DATA IS PROVIDED TO VISIER TO PROCESS.

## 12. General Provisions

12.1. Entire Agreement. This Agreement supersedes all prior oral or written negotiations and discussions of the parties and constitutes the entire agreement between the parties with respect to the subject matter hereof. No modification, amendment, supplement, or waiver of any of the provisions hereof shall be binding upon any party hereto unless made in writing and signed by a duly authorized representative of each party hereto. This Agreement shall be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision. Notwithstanding any language to the contrary therein nor any requirement of affirmative acceptance, no term, condition or provision of any purchase order, invoice, registration portal, 'click-through' form, or other administrative document or procedure issued by Customer or any third party to Visier in connection to this Agreement will be deemed to affect, modify, alter or expand the rights, duties or obligations of the parties hereunder, or otherwise modify this Agreement, regardless of any failure of Visier to refute or object to such term, condition or provision.

12.2. Binding Nature, Third Parties, Independent Contractors. This Agreement is binding on the parties hereto and their respective successors and permitted assigns, is solely for the benefit of the parties and their successors and permitted assigns, and does not confer any rights or remedies on any other person or entity. The parties agree that there are no third-party beneficiaries to this Agreement. The relationship established between the parties by this Agreement is that of independent contractors, and nothing contained in this Agreement shall be construed to: (i) give either party the power to direct and/or control the day-to-day activities of the other; (ii) constitute the parties as partners, joint venture partners, co-owners or otherwise as participants in a joint or common undertaking; or (iii) allow a party to create or assume any obligation on behalf of the other party for any purpose whatsoever, except as contemplated by this Agreement.

12.3. Assignment. A party may not, without the prior written consent of the other party, assign, make assignable, or otherwise transfer this Agreement or any portion thereof, nor any of its rights or obligations thereunder, by operation of law or otherwise, and any attempt to do so shall be null and void. Notwithstanding the foregoing, a party may assign this Agreement to its successor-in-interest without obtaining the other party's consent in connection with a merger, reorganization or sale of substantially all of the assets of such party. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their permitted successors and assigns.

12.4. Governing Law and Forum. The validity, interpretation and enforceability of this Agreement shall be governed by the laws of the State of California, USA without regard to its conflict of laws principles. The parties hereby submit to the nonexclusive, personal jurisdiction of the state and federal courts located in the County of Santa Clara, California.

12.5. UCITA and Severability. The application of the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act (UCITA) are expressly excluded. If any provision hereof shall for any reason be declared to be void or illegal, the enforceability of this Agreement or any other provision hereof shall not be affected. In addition, the parties agree that such void or illegal provision shall be construed in a manner designed to effectuate its purpose to the fullest extent enforceable under applicable law.

12.6. Headings. The headings in this Agreement are for reference purposes only and shall not affect the meaning or construction of the terms and conditions.

12.7. U.S. Federal Department. If Customer is a U.S. federal government department or agency or contracting on behalf of such department or agency, Visier provides the Services, including related software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Services include only those rights customarily provided to the public as defined in this Agreement and any use, modification, reproduction, license to, display, or disclosure of the Services by a U.S. federal government department or agency shall be governed solely by the terms and conditions of this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data - Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). The Services and Documentation are deemed to be 'commercial computer software' and 'commercial computer software documentation', respectively. If a government agency has a need for rights not conveyed under this Agreement, it must negotiate with Visier to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written addendum specifically conveying such rights must be included in any applicable contract or agreement.

12.8. Cumulative Remedies, Litigation Costs. Except where expressly stated otherwise, all remedies are cumulative and in addition to and not in lieu of any other remedy the party may have at law or in equity. In the event of any litigation of any controversy or dispute arising out of or in connection with this Agreement, its interpretations, its performance, or the like, the prevailing party shall be awarded reasonable attorneys' fees and/or costs.

12.9. Force Majeure. Neither party shall be responsible for any delay or failure in performance resulting from acts beyond its reasonable control to the extent that such acts could not have been prevented or avoided by the exercise of reasonable diligence by the affected party, including, without limitation, act of God, act of war or terrorism, riot, epidemic, fire, flood, or act of government.

12.10. No Waiver. No failure or delay on the part of any party in exercising any right hereunder, irrespective of the length of time for which such failure or delay shall continue, will operate as a waiver of, or impair, any such right. No single or partial exercise of any right hereunder shall preclude any other or further exercise thereof or the exercise of any other right. No waiver of any right hereunder will be effective unless given in writing.

12.11. Survival. Notwithstanding any expiration or termination of this Agreement, Sections 3, 4 through 13 (inclusive) of this Agreement shall survive such termination or expiration and remain in full force and effect.

### 13. Definitions

"Acceptable Use Policy" means the Visier Acceptable Use Policy available at Visier's Website, accessible as of the Effective Date at <https://www.visier.com/acceptable-use-policy>.

"Affiliate" means, with respect to a party, an entity under its direct or indirect Control or under common Control; but in any such case, such entity shall be deemed to be an Affiliate only so long as such Control exists.

"Aggregate Data" means the data and information generated by Visier through the aggregation and transformation of certain values calculated from, isolated from, or inferred from Customer Data by using anonymization, de-identification and other effective methods such that such data will not contain any data relating to an individual, natural person, consumer, household, or specific device that can be identified, directly or indirectly, from such data in combination with other information from other sources, including from publicly available sources. For the avoidance of doubt, Aggregate Data is neither Personal Data nor Customer Data and is proprietary to Visier.

"API" means application programming interface or such similarly credentialled automated data connection workflow configured by Customer.

"API Key" means the credentials, generally provided through a digital key, that provides authentication to a Source System.

"Application Content" means the prebuilt visual representations, metrics, and overlays made available through the Services, whether such representations are in graphic, written, or any other visual form. Customer Data informs, but does not create, Application Content.

"Atlassian" means Atlassian Pty Ltd.

"Atlassian Platform" means the marketplace platform provided by Atlassian Pty Ltd to Visier and other service providers and which includes, without limitation, the Jira application.

"Authorized User" means a director, officer, employee, subcontractor, agent, or advisor of Customer or its Affiliate who has been issued a valid User ID.

"Benchmarking and Standardizations" means Visier's proprietary benchmark and standardized information informed by Aggregate Data and made available through the Services.

"Claim" means any claim, suit, or action filed by a third party.

"Confidential Information" means any business or technical information of Discloser or its Affiliates, whether provided in written, electronic, oral or any other form, that: (i) is clearly marked or identified as "confidential" or "proprietary" at the time of disclosure; (ii) Recipient knows or should reasonably understand is the confidential or proprietary information of Discloser or its Affiliates; or (iii) belongs to one of the following categories: Customer Data, Personal Data, Benchmarking and Standardizations, financial data, customer information, technical schematics, technical data, technical algorithms, product pricing, product roadmaps, product documentation, product software in source code, object code, or any other form, information about pending mergers or acquisitions, security procedures, and the terms of this Agreement.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a legally recognizable entity, whether through the ownership of more than fifty percent (50%) of the voting shares, by contract, or otherwise.

"Customer Data" means the electronic data transferred to Visier by Customer (or on Customer's behalf) via the Atlassian Platform for use with the Services.

"Data Privacy Addendum" means the Visier Data Privacy Addendum attached as Schedule A to this Agreement.

"Data Protection Law" means that legislation protecting the right to privacy of natural persons (including consumers and households) that is applicable to the Processing of Personal Data under this Agreement, but excluding industry-specific laws, regulations or security standards.

"Discloser" means the party disclosing, or on whose behalf its Representatives are disclosing, Confidential Information.

"Documentation" means administrative and user manuals for the Services published by Visier and made available to Customer, which may be updated from time to time by Visier, but excluding any sales and marketing materials and user forums.

"Feedback" means all suggestions, recommendations, enhancement requests and other feedback related to the design, function, or operation of Visier's products and/or services.

"Intellectual Property Rights" means all current and future worldwide rights under patent law, copyright law, trade secret law, trademark law, moral rights law, and all similar rights.

"Personal Data" means any information that is subject to applicable data protection laws and relates to an identified or identifiable natural person (data subject, consumer or household); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

"Privacy Statement" means the Visier privacy statement, located at: <https://www.visier.com/privacy/>

"Process" means (and its variants "Processes" and "Processing" similarly refer to) any operation or set of operations performed on Personal Data, whether or not by automated means, such as collection, recording, organization,

structuring, storage, adaptation, alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

"Recipient" means the party receiving, or on whose behalf its Representatives are receiving, Confidential Information.

"Representatives" means, with respect to a party, the directors, officers, employees, subcontractors, and agents (including, without limitation, attorneys, accountants, and auditors) of the party and its Affiliates.

"Services" means those software-as-a-service services which the Customer downloads, accesses and/or uses from the Atlassian Platform, and includes without limitation Aggregate Data, Application Content and Benchmarking and Standardizations and in any form, including as an application.

"Source System" means a third-party system configured by Customer to transfer data to Visier for use with the Services.

"Taxes" means all taxes, duties, VAT or similar charges imposed by any government or other authority, including without limitation federal, state, provincial, dominion, foreign, and local sales, use, withholding, and excise taxes.

"User ID" means a unique user login identifier for access to the Services.

"Visier's Website" means <https://www.visier.com> with such included navigation as may be required in context.



## Schedule A

### Visier Data Privacy Addendum

This Visier Data Privacy Addendum (“DPA”) is applicable to the Processing of Personal Data by Visier for the purpose of providing the Services under the Agreement. This DPA is made part of the Agreement. If there is any conflict between this DPA and any other part of the Agreement, this DPA will control with respect to matters within its scope. Except as set forth in this DPA, this DPA will be effective upon execution by the parties to the Agreement (the “Effective Date”) and will automatically terminate upon termination of the Agreement. Should a party execute this DPA as “Customer” that is not party to the Agreement, this DPA will be void and not legally binding.

#### 1. Definitions

- 1.1. “Agreement” means collectively the Master Software as a Service Agreement (“MSA”), the Order(s), and all amendments, addendums and supplements thereto including, without limitation, this DPA, entered into by and between Visier and Customer for the provision of Services.
- 1.2. “Data Protection Law” means legislation protecting the right to privacy of natural persons (including consumers and households) that is applicable to the Processing of Personal Data under the Agreement.
- 1.3. “Data Subject” means the identified or identifiable person who is the subject of Personal Data.
- 1.4. “EEA” means the European Economic Area and its member states.
- 1.5. “EEA/UK/Swiss/California Data” means any Personal Data collected about individuals located in the EEA, United Kingdom, Switzerland or California, respectively.
- 1.6. “Personal Data” means any information that is subject to Data Protection Law and relates to an identified or identifiable natural person (Data Subject, consumer or household); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.
- 1.7. “Personal Data Breach” means a breach of security leading to the accidental or unlawful destruction, loss, alteration or unauthorized disclosure of or access to Personal Data that Visier Processes in the course of providing the Services.
- 1.8. “Process” means (and its variants “Processes” and “Processing” similarly refer to) any operation or set of operations performed on Personal Data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation, alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.
- 1.9. “Standard Contractual Clauses” means the standard contractual clauses for the transfer of Personal Data to third countries adopted by the European Commission, Commission Implementing Decision 2021/914 of 4 June 2021.
- 1.10. “Subprocessors” means (i) Visier’s Affiliates; and (ii) third-party subprocessors retained by Visier in connection with the provision of the Services.
- 1.11. “Supervisory Authority” means a competent body in the jurisdiction charged with the enforcement of Data Protection Law.
- 1.12. “UK Addendum” means the UK Addendum to the EU Commission Standard Contractual Clauses issued by the UK Information Commissioner’s Office under s. 119A(1) of the Data Protection Act 2018.
- 1.13. All other capitalized terms used but not defined in this DPA have the meanings ascribed to them in the Agreement.

#### 2. Roles, Scope of Processing, and Customer Instructions

- 2.1. Roles and Responsibilities. Customer shall determine the purposes and means of Processing with respect to Personal Data transferred to Visier in connection with the Services. Visier shall act as the processor or service provider only with respect to such Personal Data. Each party will comply with the obligations applicable to it under Data Protection Law as those obligations relate to this DPA and the Agreement.

- 2.2. Scope of Processing. The subject matter of the Processing is the performance of the Services. Visier's Processing will be carried out for the term of the Agreement. Schedule 1 to this DPA sets out further details about the Processing conducted by Visier. Customer can directly access and control end user access to its Personal Data stored in the Services.
- 2.3. Customer Instructions.
  - a. Visier will Process Personal Data in accordance with Customer's instructions. The Agreement and this DPA will be considered Customer's complete and final set of instructions to Visier pertaining to the Processing of Personal Data. Additional instructions outside the scope of this DPA (if any) require prior written agreement between Visier and Customer. The foregoing notwithstanding, Visier may Process the Personal Data if required under Data Protection Law, provided that Visier will first inform Customer of such required Processing unless prohibited by Data Protection Law. Both parties are responsible to store copies of all written instructions along with a copy of the Agreement and this DPA.
  - b. Customer will ensure that its instructions at all times comply with Data Protection Law and acknowledges that Visier is not responsible to determine: (i) which laws or regulations are applicable to Customer's business; (ii) whether Visier's Processing of Personal Data will meet the requirements of such laws; or (iii) whether Customer's instruction(s) comply with applicable law. Visier will inform Customer if it becomes aware or reasonably believes that Customer's instructions infringe Data Protection Law.
3. Processing of Personal Data
  - 3.1. Visier will maintain technical and organizational measures designed for the protection of the security, confidentiality and integrity of the Personal Data. These measures take into account the state of the art, the costs of implementation and the nature, scope, context and purpose of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons and demonstrates Visier's implementation of appropriate technical and organizational measures. In addition, these measures take into account the sensitivity of the Personal Data in respect of the harm to the Data Subject that might result from unauthorized or unlawful Processing, loss, destruction of, or damage to, the Personal Data, including, but not limited to measures designed to:
    - a. prevent the use of Personal Data for any purpose other than Processing in accordance with the Agreement and this DPA or as otherwise instructed by Customer;
    - b. prevent the disclosure of Personal Data to third parties except to the extent permitted under the Agreement and this DPA, or as otherwise instructed by Customer, or in compliance with a legal obligation to disclose;
    - c. prevent unauthorized access, duplication, modification and/or deletion of Personal Data during electronic transmission and storage;
    - d. limit access to Personal Data to personnel who are trained in data protection and confidentiality requirements and bound to uphold Visier's data protection and confidentiality obligations;
    - e. limit access to Personal Data on a "need to know" basis and ensuring that all such persons to whom Visier discloses the Personal Data are aware of and compliant with these obligations; and
    - f. logically separate Personal Data from the Personal Data of Visier's other customers.
  - 3.2. Visier has appointed a data protection officer who is responsible for overseeing the management of data protection within Visier.
  - 3.3. Except as otherwise permitted or required under Data Protection Law, Visier will not: (a) retain, use or disclose Personal Data for any purpose other than providing the Services specified in the Agreement or as otherwise permitted or required by the Agreement or Data Protection Law; nor (b) retain, use, or disclose Personal Data except where permitted under the Agreement.
  - 3.4. Upon request, Visier will assist Customer as reasonably necessary for Customer to meet its obligations to the competent Supervisory Authority in connection with the Processing of Personal Data hereunder. Additional Customer requests that fall outside the scope of such reasonable assistance will require the prior written agreement of Visier and Customer, including agreement on any additional fees related to such requests.

- 3.5. Taking into account the nature of the Processing, Visier will assist Customer by appropriate technical and organizational measures, insofar as this is possible, in fulfillment of Customer's obligations to respond to the requests of Data Subjects to exercise their rights under Data Protection Law. Visier will promptly forward to Customer the request of a Data Subject where the Data Subject applies directly to Visier to exercise such rights.
- 3.6. Schedule 1 hereto describes the Personal Data and its Processing via the Services. The Services do not require and the Customer will not submit Personal Data in contravention of the criteria described in Schedule 1.

#### 4. Conflicts of Law

- 4.1. The parties will promptly inform each other and cooperate in good faith to find a mutually agreeable resolution, which may include additions or modifications to this DPA or the Agreement executed in writing by the duly authorized representatives of both parties, in the event that a change in Data Protection Law, or ruling, finding, or decision of a competent judicial body or Supervisory Authority:
  - a. prevents either of the parties from performing their obligations under this DPA in compliance with Data Protection Law;
  - b. means that the Processing of any Personal Data by Visier is no longer compliant with Data Protection Law; and/or
  - c. requires further actions to be carried out or documents to be executed by either party in order to comply with Data Protection Law.

#### 5. Notifications

In the event of a Personal Data Breach, Visier will notify Customer without undue delay. Visier will provide commercially reasonable cooperation to assist Customer in Customer's obligations under Data Protection Law respecting notifications in the event of a Personal Data Breach by making available to Customer such information about a Personal Data Breach as Visier can disclose, taking into account the nature of the Services, the information available to Visier, and any restrictions on disclosing the information, such as obligations of confidentiality.

#### 6. Audit

- 6.1. Customer hereby directs Visier to audit its technical and organizational measures described in this DPA at least annually by retaining qualified independent third party auditors at Visier's selection and expense and to produce an audit report detailing its findings in the form of a SOC2 Type II (or equivalent) audit report (the "Audit Report").
- 6.2. Upon Customer's request, and subject to the confidentiality obligations set forth in the Agreement, Visier will make available to Customer the Audit Report so that Customer can reasonably verify Visier's compliance with its obligations under this DPA. The Audit Report forms part of Visier's Confidential Information in accordance with the confidentiality provisions of the Agreement.
- 6.3. Where Customer is required by Data Protection Law to verify compliance under this DPA by means other than Customer's instructions in Section 6.1 and subsequent to a review of the Audit Report, Customer may conduct, no more than once per year (unless otherwise mandated by Data Protection Law), an audit of the architecture and procedures relevant to the protection of Personal Data. Such audit will be conducted at Customer's expense by Customer or Customer's independent, third-party auditor reasonably acceptable to Visier that executes a nondisclosure agreement acceptable to Visier prior to any audit, in accordance with Visier's then-available audit timetable. Customer acknowledges and agrees that: (a) Visier will only provide existing documents as evidence in support of the audit; (b) the audit cannot interfere with individual rights and data protection requirements under Data Protection Law; and (c) if interviews are required, Visier will have sole discretion to select its personnel to be interviewed. Customer shall schedule each audit with Visier at least ninety (90) days in advance unless a shorter period is required by Data Protection Law, or mandated by an applicable Supervisory Authority, in which event the parties will adhere to the shorter period. Before the commencement of any audit, Customer and Visier shall mutually agree upon the scope, timing, and duration of the audit in addition to the fees to be paid by Customer. Customer shall promptly provide Visier with information regarding any non-compliance discovered during an audit. If Visier and Customer, after making good faith efforts, are unable to agree upon the scope, timing, and duration of the audit and the fees

to be paid by Customer, then Customer may terminate this DPA and the Agreement upon thirty (30) days' prior written notice to Visier.

- 6.4. The information available to Customer or any person acting on Customer's behalf by operation of this Section 6: (a) is intended to allow Customer to assess Visier's compliance with those processor obligations required under Data Protection Law, including audits and inspections, and to comply with Customer's obligations in respect of data protection impact assessments and prior consultation mandated by Data Protection Law; and (b) shall be considered Visier Confidential Information in accordance with the confidentiality provisions of the Agreement.

7. Authorized and Compelled Disclosure

Visier may disclose Personal Data to its security auditors to the extent necessary to support the security-related investigations and audits described in this DPA, provided that such security auditors are bound to confidentiality and security obligations consistent with those required by this DPA and the Agreement. Visier may also disclose Personal Data to the extent necessary to comply with a legal obligation to disclose, provided that, Visier will first, if legally permissible, provide Customer with notice of such pending disclosure so that Customer may seek to contest or limit such disclosure.

8. Customer Affiliates

Customer acknowledges and agrees that it is entering into this DPA to enable the provision of the Services by Visier as set forth under the Agreement. Customer shall be responsible to direct, make, and receive all communications on behalf of its Affiliates. Visier and Affiliates will not engage in direct communication unless Customer is prohibited by Data Protection Law from communicating on Affiliate's behalf. Save where prohibited by Data Protection Law, Customer shall have the sole entitlement to exercise any right or seek any remedy on behalf of its Affiliates.

9. Data Transfer Adequacy Mechanisms

- 9.1. Customer acknowledges and agrees that Visier may Process Personal Data, including by using Subprocessors, in accordance with this DPA outside of the country in which Customer is located, as permitted by Data Protection Law. Where Visier's Processing of EEA/UK/Swiss Data is to take place in a third country outside of the EEA, United Kingdom or Switzerland, Visier makes available the following transfer mechanisms, presented in order of precedence:

- a. transfer to a third country deemed by the European Commission or its UK or Swiss equivalent (or competent authority) to have an adequate level of protection for the rights and freedoms of Data Subjects in relation to the Processing of Personal Data; and
- b. the Standard Contractual Clauses as the same may apply to EEA, UK or Swiss Data as set out in this Section 9.

- 9.2. For transfers of EEA Data, Module 2 (Controller to Processor) of the Standard Contractual Clauses are hereby signed, dated, and entered into (and incorporated into this DPA by this reference) by and between Visier and Customer as of the date of this DPA. The parties agree that the Standard Contractual Clauses are completed as follows:

- a. optional clauses not expressly identified in this Section 9.2 of the DPA as accepted by the parties are not included;
- b. the parties agree that for purposes of Clause 9 of the Standard Contractual Clauses, Option 2 (General Written Authorisation) will apply and the process for provisioning new Subprocessors, including the time period for prior notice, will be as described in Section 10 of this DPA; and Customer's acceptance of any Subprocessor pursuant to Section 10 of this DPA will constitute an instruction that Visier may transfer Personal Data to such Subprocessor;
- c. the parties agree that any audits permitted under the Standard Contractual Clauses shall be carried out in accordance with Section 6 of this DPA;
- d. Visier will return and/or erase Personal Data pursuant to Clause 8.5 of the Standard Contractual Clauses as set forth in Section 11 of this DPA;
- e. for the purposes of Clause 13 of the Standard Contractual Clauses, the Supervisory Authority with responsibility for ensuring compliance by Customer with Data Protection Law will be: (i) where

Customer is established in an EU Member State, the supervisory authority in the Member State in which Customer is established; (ii) where Customer is not established in an EU Member State, but falls within the territorial scope of application Data Protection Law and has appointed a representative in an EU Member State, the Supervisory Authority of the Member State in which the representative is located; and (iii) where Customer is not established in an EU Member State, but falls within the scope of Data Protection Law without however having to appoint a representative the Supervisory Authority of one of the Member States in which the Data Subjects whose Personal Data is transferred by Customer under the Standard Contractual Clauses are located;

- f. for the purposes of Clauses 17 and 18 of the Standard Contractual Clauses, the parties agree that the Standard Contractual Clauses shall be governed by the law of the EU Member State in which Customer is established, and that any dispute arising from the Standard Contractual Clauses shall be resolved by the courts of the EU Member State in which Customer is established;
  - g. for the purposes of Annex I.A:
    - i. Visier will be deemed the 'data importer' (in the role of data processor) and Customer will be deemed the 'data exporter' (in the role of data controller);
    - ii. the "contact person" for each party will be deemed to be the person(s) entitled to receive legal notices under the Agreement; and
    - iii. the "activities relevant to the data transferred under" the Standard Contractual Clauses are as follows: (1) Customer transfers Personal Data in accordance with the Agreement to Visier to receive the Services, and (2) Visier Processes Personal Data in accordance with the Agreement to provide the Services;
  - h. for the purposes of Annex I.B, the information set out in Schedule 1 of this DPA is deemed to complete the descriptions of transfer;
  - i. for the purposes of Annex II, the technical and organizational measures set out in Schedule 2 of this DPA are deemed to complete the technical and organizational security measures; and
  - j. in the event of a conflict between this DPA and the Standard Contractual Clauses, the Standard Contractual Clauses shall prevail.
- 9.3. For transfers of UK Data, the parties agree that the Standard Contractual Clauses will be completed as set out in Schedule 3 of this DPA.
- 9.4. For transfers of Swiss Data, the parties agree that the Standard Contractual Clauses will be completed as set out in Schedule 3 of this DPA.
- 9.5. The parties may from time to time agree to other mechanisms for the transfer of EEA/UK/Swiss Data so long as such mechanism remains lawful in accordance with the law of the European Union, the United Kingdom or Switzerland, as applicable. If the mechanism used by the parties for transfers of EEA/UK/Swiss Data should become invalid, the parties will promptly put in place an alternative mechanism for the transfer of EEA/UK/Swiss Data. Customer is responsible for restricting access by its Authorized Users to Personal Data contained in the Services based on geographical location of the user. Accordingly, nothing in the Agreement or this DPA shall be interpreted as creating an obligation on Visier to ascertain the geographic location of any Authorized User or to restrict access to the Services by Customer's Authorized Users based on geographical location.
- 9.6. For transfers of California Data, the parties agree that the terms set out in Part C of Schedule 3 of this DPA shall apply.
10. Subprocessing
- 10.1. Customer provides its general authorization for Visier to engage Subprocessors in connection with the provision of the Services. Visier will ensure that: (a) Subprocessors are engaged by Visier solely for the purpose of providing the Services; (b) Subprocessors are bound to data protection obligations that meet the requirements of Data Protection Law, this DPA and the Agreement; (c) a vendor management program is maintained to assess and validate each Subprocessor's capability to meet the data protection obligations of

Data Protection Law, this DPA and the Agreement; and (d) if any Subprocessor fails to fulfill its obligations, Visier will remain liable to Customer for such failure as if it were Visier's own.

- 10.2. If Customer opts in to receive Subprocessor notifications by subscribing to such notifications on Visier's Website, Visier will provide reasonable notice to Customer prior to authorizing any new Subprocessor or removing any Subprocessor, which notice will specify Customer's period to object to the authorization of such new Subprocessor and the process for such objection. The parties will work together in good faith to validate and address the Customer's objection.
- 10.3. Visier maintains its current list of Subprocessors at Visier's Website, which list may be updated from time to time by Visier in accordance with this Section 10.

11. Deletion of Personal Data

Upon expiration or termination of the Agreement, Customer instructs Visier to delete all Personal Data within thirty (30) days of such expiration or termination in accordance with the provisions of the Agreement.

12. Remediation

If Visier determines that it can no longer meet one or more of its obligations under this DPA, Visier will promptly notify Customer and take reasonable and appropriate steps to cease Processing the Personal Data and remediate any unauthorized Processing as soon as practicable. If Visier notifies Customer that it will not be able to remediate within a reasonable period of time, Customer may terminate the Agreement or suspend Visier's continued Processing of Personal Data, without penalty, immediately upon written notice to Visier.

13. Limitation of Liability

The liability of a party under this DPA will be subject to the exclusions and limitations of liability set out in the MSA. Any liability to an Affiliate shall be assessed in aggregate for all claims with a party and not apply on an individual or several basis.

14. Construction and Execution

- 14.1. If a court or other body of competent jurisdiction declares any term of this DPA invalid or unenforceable, then the remaining terms shall continue in full force and effect. The headings in this DPA are for reference purposes only and shall not affect the meaning or construction of the terms and conditions.
- 14.2. This DPA may be executed by the parties in separate counterparts, each of which when so executed and delivered shall be deemed an original and all such counterparts shall together constitute one and the same agreement.
- 14.3. This DPA shall survive termination or expiration of the Agreement for a period of thirty (30) days, or for so long as Visier is required to or retains Personal Data in accordance with Data Protection Law, the Agreement and this DPA.

## SCHEDULE 1

### Description of Personal Data and Processing

#### List of Parties

Data exporter(s):

- Name: the Customer entity identified in the Agreement on the Atlassian Platform
- Address: the Customer's address specified on the Atlassian Platform
- Contact person's name, position and contact details: the Customer's contact specified on the Atlassian Platform
- Activities relevant to the data transferred under the Standard Contractual Clauses: the data exporter is customer of the data importer and utilizing the data importer's services as described in more detail in the Agreement
- Role (controller/processor): controller

Data importer:

- Name: Visier, Inc.
- Address: 548 Market Street, #62284, San Francisco, CA 94104-5401
- Contact person's name, position and contact details: Visier's contact specified on the Atlassian Platform
- Activities relevant to the data transferred under the Standard Contractual Clauses: the data exporter is customer of the data importer and utilizing the data importer's services as described in more detail in the Agreement
- Role (controller/processor): processor

#### Data Subject Categories

Unless otherwise provided by Customer, the categories of data subjects are Authorized Users, current and former employees, independent contractors, and job applicants of Customer and, if desired by Customer, its affiliated or related entities.

#### Personal Data Categories Processed and Transferred

Customer, in its sole discretion and control, is responsible for determining the Personal Data elements provided to Visier for Processing by the Services, which may include sensitive data, transferred at a frequency to be determined by the Customer.

Personal Data transferred to Visier may include, and Customer may submit, directly identifying, indirectly identifying, and device identifying information to the Services, the extent of which submission is determined and controlled by the Customer in its sole discretion. Examples of permissible Personal Data include:

- Full or partial name, employee ID number, birthdate, age, and employee photo.
- Work location, including region, country, state or province, city, site, and zip or postal code.
- Home location, including region, country, state or province, city, and zip code or postal code.
- Employment information, such as compensation, tenure, department, and completed training courses.
- Recruitment information, such as the date of application, the job applied for, and the offer date.
- Health data related to workers' compensation claims.
- Organizational Network Analysis (ONA) data.
- Employee engagement results.
- Gender, nationality, and racial or ethnic origin.
- Trade union membership.

The Services do not require, and Customer should not submit the following categories of Personal Data to the Services, and Visier reserves the right to refuse the submission of any such Personal Data to the Services:

- National identifiers; for example, social security numbers and social insurance numbers.
- Government-issued IDs; for example, drivers' license numbers and passport numbers.

- Credit card numbers and other payment processing information.
- Bank account numbers and other financial account information.
- COVID-19 temperature checks and/or test results from employer-mandated employee testing, which is generally considered to be part of, or stored in, a medical file.
- Any information about an individual who is under the age of 13 or such greater age as may be prohibited by data protection laws or regulations in the jurisdiction where the individual resides—in some countries, the age minimums are as high as 15.

### **Sensitive Data Transferred (if applicable) and Applied Safeguards**

Customers may elect to transfer limited categories of sensitive Personal Data, such as health data related to workers' compensation claims; gender, nationality, and racial or ethnic origin; and trade union membership. Visier does not require Customers to submit such Personal Data to the Services. If a Customer elects to submit such Personal Data, the Customer represents and warrants that the Customer has provided all required notices, and obtained and documented all necessary consents as are necessary to transfer such sensitive Personal Data to Visier. Further, Visier implements safeguards for sensitive Personal Data, including:

- Access restrictions for staff, limiting access to those persons who have a need to know information;
- Encrypted storage for Personal Data stored in Visier data centers;
- Keeping a record of (logging) access to Personal Data;
- Submission of Personal Data to the Services is controlled or configured by the Customer, enabling the Customer to control whether sensitive Personal Data is transferred; and
- Specialized data privacy training for all staff who are authorized to Customer-submitted Personal Data.

### **Frequency of Transfers**

Transfers to Visier are configured by the Customer. The Services contain technical options with which Customers can configure transfers to occur on a one-off, occasional, or continuous basis.

### **Nature, Processing Scope and Purpose**

Visier provides workforce analytics and planning solutions and Processes Personal Data only to the extent reasonably necessary for the provision of its contracted Services (including without limitation, communication to authorized users of its contracted Services, storage of Personal Data in data centers, and transmission of Personal Data between data centers and to authorized users) or otherwise in accordance with the authorized instructions of Customer (including those instructions set forth in the Agreement and this DPA).

### **Personal Data Storage and Retention**

Personal Data is stored in encrypted disk storage areas in data centers, using multi-tenant architecture. Personal Data is retained as determined by Customer for the purpose of providing the contracted Services and deleted in accordance with Section 11 of this DPA.

### **Transfers to Subprocessors**

For transfers to Subprocessors, the subject matter, nature, and duration of Processing are determined to the extent reasonably necessary for the provision of Visier's contracted Services, as provided for in this DPA and the Agreement, further details of which are available at Visier's Website.



## SCHEDULE 2

### Visier Security Standards

#### Description of the technical and organisational security measures implemented by Visier

Visier will maintain technical and organisational security measures for protection of the security, confidentiality and integrity of the Personal Data, which consider the sensitivity of the Personal Data in respect of the harm to the data subject that might result from unauthorized or unlawful Processing, loss, destruction of, or damage to the Personal Data, as described in Section 3 of this DPA, the Agreement, as same may be applicable to the Processing of Personal Data in Visier's provision of the Services to Customer.

## SCHEDULE 3

### Standard Contractual Clauses and Jurisdiction-Specific Terms

The Standard Contractual Clauses are available at: [https://ec.europa.eu/info/law/law-topic/data-protection/international-dimension-data-protection/standard-contractual-clauses-scc\\_en](https://ec.europa.eu/info/law/law-topic/data-protection/international-dimension-data-protection/standard-contractual-clauses-scc_en)

#### A. Transfers of UK Data

For transfers of UK Data, the parties agree that the UK Addendum is hereby deemed signed, dated, and entered into (and incorporated into this DPA by reference) by and between Visier and Customer as of the date of this DPA, and the Standard Contractual Clauses as completed in accordance with Section 9.2 of this DPA are hereby deemed amended as specified by the UK Addendum in respect of the transfer of such UK Data and are completed as follows:

1. for the purposes of Clause 13 of the Standard Contractual Clauses, the Supervisory Authority with responsibility for ensuring compliance by Customer with Data Protection Law will be the UK Information Commissioner;
2. for the purposes of Table 1 of the UK Addendum, the Start Date is the Effective Date of the Standard Contractual Clauses and the information set out in Schedule 1 of this DPA is deemed to complete the parties, the parties' details and the key contacts;
3. for the purposes of Table 2 of the UK Addendum, the Standard Contractual Clauses, completed as set out in Section 9.2 of this DPA, shall apply to transfers of UK Data;
4. for the purposes of Table 3 of the UK Addendum, the information set out in Schedule 1 of this DPA is deemed to complete Annexes 1A and 1B, the information set out in Schedule 2 of this DPA is deemed to complete Annex II and Option 2 (General Authorization) is deemed to complete Annex III;
5. for the purposes of Table 4 of the UK Addendum, neither party may end the UK Addendum as set out in Section 19 of Part 2 of the UK Addendum; and
6. in the event of a conflict between the UK Addendum and the Standard Contractual Clauses, the UK Addendum shall prevail.

#### B. Transfers of Swiss Data

For transfers of Swiss Data, the parties agree that the Standard Contractual Clauses as completed in accordance with Section 9.2 of this DPA are hereby deemed amended as specified by the Statement of the Swiss Federal Data Protection and Information Commissioner ("FDPIC") of August 27, 2021 in respect of the transfer of such Swiss Data and are completed as follows:

1. for the purposes of Clause 13 of the Standard Contractual Clauses, the Supervisory Authority with responsibility for ensuring compliance by Customer with Data Protection Law will be the FDPIC;
2. for the purposes of Clauses 17 and 18 of the Standard Contractual Clauses, the parties agree that the Standard Contractual Clauses shall be governed by the law of the EU Member State in which Customer is established, and that any dispute arising from the Standard Contractual Clauses shall be resolved by the courts of the EU Member State in which Customer is established, provided that data subjects in Switzerland may also bring legal proceedings in their place of habitual residence in Switzerland, in accordance with Clause 18(c); and
3. for the purposes of Annex I.B, the information set out in Schedule 1 of this DPA is deemed to complete the descriptions of transfer.

#### C. Transfers of California Data

For transfers of California Data, the parties acknowledge and agree that:

1. Visier is a service provider under the California Consumer Privacy Act;

2. the Processing of Personal Data authorized by Customer as set out in Section 2.3 of this DPA is integral to and encompassed by Visier's provision of the Services and the direct business relationship between the parties;
3. notwithstanding anything to the contrary in the Agreement, Visier's access to Personal Data does not constitute part of the consideration exchanged by the parties in respect of the Agreement; and
4. except as otherwise permitted or required under Data Protection Law, Visier will not sell California Data.

Visier certifies that it understands the restrictions set out in Section 4 of this Part C and Section 3.3 of the DPA and will comply with them.