

# Online Subscription Agreement

This Adtrib Subscription Agreement ("**Agreement**") is entered into by and between Adtrib Inc., d/b/a MaestroQA ("**Adtrib**") and the entity or person placing an order for or accessing any Services ("**Subscriber**" or "**you**"). By accepting this Agreement, either by accessing or using the Services, or authorizing or permitting any Permitted User to access or use the Services, you are agreeing to be bound to this Agreement. If you are entering into this Agreement on behalf of a company, you are agreeing to this Agreement on behalf of such company and you represent that you are authorized to accept this Agreement on behalf of your company, and all references to "you" or "Subscriber" are references to your company.

This Agreement permits Subscriber to access the Adtrib Services on a trial basis or in connection with a paid subscription pursuant to online registration or execution of an Order Form and sets forth the basic terms and conditions under which the Services will be delivered. This Agreement will govern Subscriber's trial use of or subscription to the Services as well as any future purchases made by Subscriber that reference this Agreement.

**IF YOU DO NOT AGREE TO THIS AGREEMENT, PLEASE DO NOT USE ANY SERVICES. FOR CLARITY, EACH PARTY EXPRESSLY AGREES THAT THIS AGREEMENT IS LEGALLY BINDING UPON IT. THIS AGREEMENT CONTAINS MANDATORY ARBITRATION PROVISIONS THAT REQUIRE THE USE OF ARBITRATION TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS. PLEASE READ IT CAREFULLY.**

## 1. Definitions

"**Adtrib Parties**" means Adtrib and any of its Affiliates, officers, directors, employees, Contractors, agents, service providers, suppliers or licensors.

"**Affiliate**" means any entity under the control of either Subscriber or Adtrib where "control" means ownership of or the right to control greater than 50% of the voting securities of such entity.

"**AUP**" means Adtrib's Acceptable Use Policy, available at <http://www.maestroqa.com/use> or a successor URL.

"**Contractor**" means an independent contractor or consultant of Subscriber or Adtrib, as applicable.

"**Customers**" means Subscriber's Customers, potential Customers, and other users of and visitors to the Subscriber Properties.

"**Effective Date**" means the date which is the earlier of (a) Subscriber's initial access to any Service (as defined below) through any online provisioning, registration or order process or (b) the effective date of the first Order Form referencing this Agreement.

"**Feedback**" means comments, questions, suggestions or other feedback relating to any Adtrib product or service.

"**Force Majeur Event**" means any unavailability caused by circumstances beyond Adtrib's reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving

Our employees), Internet service provider failure or delay, third party services, or acts undertaken by third parties, including without limitation, denial of service attack

"**Laws**" means all applicable local, state, federal and international laws, regulations and conventions, including, without limitation, those related to data privacy and data transfer, international communications, and the exportation of technical or personal data.

"**Order Form**" means any of Adtrib's service order forms executed or approved by Subscriber with respect to a subscription to Services.

"**Permitted User**" means an individual (including those of your Affiliates) who has been given access to your account as an agent and/or administrator as identified through a unique login. Permitted Users may include Subscriber's employees and Contractors and its Affiliates' employees and Contractors.

"**Sensitive Personal Information**" means any of the following: (i) credit, debit or other payment card data subject to the Payment Card Industry Data Security Standards ("**PCI DSS**"); (ii) patient, medical or other protected health information regulated by the Health Insurance Portability and Accountability Act ("**HIPAA**"); or (iii) any other personal data of an EU citizen deemed to be in a "special category" (as identified in EU General Data Protection Regulation or any successor directive or regulation).

"**Services**" means Adtrib's proprietary software-as-a-service solution(s), as may be developed, modified and improved from time to time, together with other products and services, including Professional Services, which may be offered by Adtrib and any Professional Services agreed upon by the parties.

"**Subscriber Data**" means any data of any type that is submitted to the Services by or on behalf of Subscriber (including from Third Party Platforms) and including, without limitation, data collected from Permitted Users, Subscriber Personnel, and Subscriber's customers or other third parties who interact with Subscriber Personnel.

"**Subscriber Personnel**" means the employees and Contractors of Subscriber, including customer support personnel.

"**Subscriber Properties**" means Subscriber's websites, apps, or other offerings owned and operated by (or for the benefit of) Subscriber through which Subscriber interacts with its Customers.

"**Site**" means app.maestroqa.com (and any successor URLs, mobile or localized versions and related domains and subdomains).

"**Taxes**" means any sales, use, GST, value-added, withholding, or similar taxes or levies, whether domestic or foreign, other than taxes based on the income of Adtrib.

"**Third-Party Platform**" means any software, software-as-a-service, data sources or other products or services not provided by Adtrib that are integrated with Services at your direction.

## 2. Adtrib Services

2.1 **Services Overview.** The Services enable Subscriber to monitor Subscriber Personnel performance. The Services are provided on a subscription basis beginning on the Effective Date and continuing for the term selected through online registration or as designated in an Order Form (each, a "**Subscription Term**"). Adtrib may also offer Professional Services (as defined in Section 10) related to certain Services. Subscriber will

purchase and Adtrib will provide the specific Services as specified in an Order Form or through online registration.

**2.2. Access to Services.** Subscriber and its Permitted Users may access and use the Services solely for Subscriber's benefit and in accordance with the terms and conditions of this Agreement, the online terms of service, the AUP, and any scope of use restrictions designated in any Order Form. Use of and access to the Services is permitted only by Permitted Users. If Subscriber is given passwords to access the Services on Adtrib's systems, Subscriber will require that all Permitted Users keep user ID and password information strictly confidential and not share such information with any unauthorized person. User IDs are granted to individual, named persons and may not be shared. If Subscriber is accessing the Services using credentials provided by a third party, then Subscriber will comply with all applicable terms and conditions of such third party regarding provisioning and use of such credentials. Subscriber will be responsible for any and all actions taken using Subscriber's accounts and passwords. If any Permitted User who has access to a user ID is no longer an employee or Contractor of Subscriber, then Subscriber will immediately delete such user ID and otherwise terminate such Permitted User's access to the Service.

**2.3 Service Availability.** Adtrib will (a) use commercially reasonable efforts to provide applicable standard customer support for the Services at no additional charge during regular New York City business hours; and (b) use commercially reasonable efforts to make the Service available 24 hours a day, 7 days a week, except (i) during planned downtime for upgrades and maintenance to the services (of which we will use commercially reasonable efforts to notify you in advance both through the Service) ("**Planned Downtime**"); and (i) for any Force Majeur Event.

**2.4. General Restrictions.** Subscriber remains responsible for compliance by Permitted Users with all of the terms and conditions of this Agreement and the AUP. Subscriber shall ensure that any use of the Services by such individuals is for the sole benefit of Subscriber.

**2.5. Trial Subscriptions.** If you register for a free trial for any of the Services (a "**Trial Subscription**"), we will make such Services available to you on a trial basis free of charge until the earlier of (a) the end of the free trial period for which you registered to use the applicable Service(s); (b) the start date of any subscription to such Service purchased by you for such Service(s); or (c) termination of the trial by Adtrib in its sole discretion (the "**Trial Period**"). ANY DATA YOU ENTER INTO THE SERVICES, AND ANY CONFIGURATIONS OR CUSTOMIZATIONS MADE TO THE SERVICES BY OR FOR YOU, DURING YOUR FREE TRIAL WILL BE PERMANENTLY LOST UNLESS YOU PURCHASE A SUBSCRIPTION TO THE SAME SERVICES AS COVERED BY THE TRIAL, PURCHASE THE APPLICABLE SERVICES, OR EXPORT SUCH SERVICE DATA, BEFORE THE END OF THE TRIAL PERIOD. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, ADTRIB WILL HAVE NO WARRANTY, INDEMNITY, SUPPORT, OR OTHER OBLIGATIONS WITH RESPECT TO TRIAL SUBSCRIPTIONS.

**2.6. Competition.** You may not access the Services if you are a direct competitor of Adtrib, except with Adtrib's prior written consent. You may not access the Services for competitive purposes.

## 3. Subscriber Data

**3.1. Rights in Subscriber Data.** As between the parties, you hereby agree that with regard to Subscriber Data, Subscriber shall be deemed to be the controller and Adtrib shall be

deemed to be the data processor. Subscriber will retain all right, title and interest (including any and all intellectual property rights) in and to the Subscriber Data provided to Adtrib. Subject to the terms of this Agreement, Subscriber hereby grants to Adtrib a non-exclusive, worldwide, royalty-free right to use, copy, store, transmit, modify, create derivative works of and display the Subscriber Data solely to the extent necessary to provide the Services to Subscriber. Subscriber agrees that the third party service providers that are utilized by Adtrib to assist in providing the Services shall have the right to access Subscriber's account and the Subscriber Data to the extent necessary to provide or improve the Services.

**3.2. Location of Subscriber Data.** Unless otherwise specifically agreed, Subscriber Data may be hosted by Adtrib or its respective third party service providers in the United States, or other locations around the world.

**3.3. Storage of Subscriber Data.** Adtrib does not provide an archiving service. Adtrib agrees only that it will not intentionally delete any Subscriber Data from any Service prior to termination of Subscriber's applicable Subscription Term. Adtrib expressly disclaims all other obligations with respect to storage.

**3.4. Subscriber Obligations.**

a) In General. Subscriber is solely responsible for the accuracy, content and legality of all Subscriber Data. Subscriber represents and warrants to Adtrib that Subscriber has all necessary rights, consents and permissions to collect, share and use all Subscriber Data as contemplated in this Agreement (including granting Adtrib the rights in Section 3.1 (Rights in Subscriber Data)) and that no Subscriber Data will violate or infringe (a) any third party intellectual property, publicity, privacy or other rights, (b) any Laws, or (c) any terms of service, privacy policies or other agreements governing the Subscriber Properties or Subscriber's accounts with any Third-Party Platforms. Subscriber further represents and warrants that all Subscriber Data complies with the AUP. Subscriber will be fully responsible for any Subscriber Data submitted to the Services by any Permitted User or Subscriber Personnel or accessed by Adtrib through a Third-Party Platform on Subscriber's behalf as if it was submitted by Subscriber. Subscriber understands that it is solely responsible for being familiar and in compliance with any laws of any jurisdictions applicable to its Customers and Subscriber Personnel that may prohibit Subscriber from using the Services.

b) No Sensitive Personal Information. Subscriber specifically agrees not to use the Services to collect, store, process or transmit any Sensitive Personal Information. Subscriber acknowledges that Adtrib is not a Business Associate or subcontractor (as those terms are defined in HIPAA) or a payment card processor and that the Services are neither HIPAA nor PCI DSS compliant. Adtrib will have no liability under this Agreement for Sensitive Personal Information, notwithstanding anything to the contrary herein.

c) Compliance with Laws. Subscriber agrees to comply with all applicable Laws in its use of the Services.

**3.5. Indemnification by Subscriber.** Subscriber will indemnify, defend and hold harmless the Adtrib Parties from and against any and all claims, costs, damages, losses, liabilities and expenses (including reasonable attorneys' fees and costs) arising out of or in connection with any claim arising from or relating to any Subscriber Data or breach or alleged breach by Subscriber of Section 3.4 (Subscriber Obligations). This indemnification obligation is subject to Subscriber receiving (a) prompt written notice of such claim (but in any event notice in sufficient time for Subscriber to respond without prejudice); (b) the

exclusive right to control and direct the investigation, defense, or settlement of such claim; and (c) all necessary cooperation of Adtrib at Subscriber's expense. Notwithstanding the foregoing sentence, (a) Adtrib may participate in the defense of any claim by counsel of its own choosing, at its cost and expense and (b) Subscriber will not settle any claim without Adtrib's prior written consent, unless the settlement fully and unconditionally releases Adtrib and does not require Adtrib to pay any amount, take any action, or admit any liability.

**3.6. Aggregated Anonymous Data.** Notwithstanding anything to the contrary herein, Subscriber agrees that Adtrib may obtain and aggregate technical and other data about Subscriber's use of the Services that is non-personally identifiable with respect to Subscriber ("**Aggregated Anonymous Data**"), and Adtrib may use the Aggregated Anonymous Data to analyze, improve, support and operate the Services and otherwise for any business purpose during and after the term of this Agreement, including without limitation to generate industry benchmark or best practice guidance, recommendations or similar reports for distribution to and consumption by Subscriber and other Adtrib Subscribers. For clarity, this Section 3.6 does not give Adtrib the right to identify Subscriber as the source of any Aggregated Anonymous Data.

**3.7. EU-U.S. Privacy Shield.** This Section 3.7 applies only if Subscriber has entered into this Agreement with Adtrib, Inc. as set forth above. Adtrib, Inc. participates in the EU-U.S. Privacy Shield framework. For more information, please see Adtrib's EU-U.S. Privacy Shield Statement, available at <https://www.maestroqa.com/privacyShield> or a successor URL.

## 4. Security

Adtrib agrees to use commercially reasonable administrative, physical, technical and organizational measures designed to prevent unauthorized access, use, alteration or disclosure of Subscriber Data. However unauthorized third-party access or other causes beyond Adtrib's control.

## 5. Third-Party Platforms

The Services may support integrations with certain Third-Party Platforms. In order for the Services to communicate with such Third-Party Platforms, Subscriber may be required to input credentials in order for the Services to access and receive relevant information from such Third-Party Platforms. By enabling use of the Services with any Third-Party Platform, Subscriber authorizes Adtrib to access Subscriber's accounts with such Third-Party Platform for the purposes described in this Agreement. Subscriber is solely responsible for complying with any relevant terms and conditions of the Third-Party Platforms and maintaining appropriate accounts in good standing with the providers of the Third-Party Platforms. Subscriber acknowledges and agrees that Adtrib has no responsibility or liability for any Third-Party Platform or any Subscriber Data exported to or from a Third-Party Platform. Adtrib does not guarantee that the Services will maintain integrations with any Third-Party Platform and Adtrib may disable integrations of the Services with any Third-Party Platform at any time with or without notice to Subscriber. For clarity, this Agreement governs Subscriber's use of and access to the Services, even if accessed through an integration with a Third-Party Platform.

## 6. Ownership



6.1. **Adtrib Technology.** This is a subscription agreement for access to and use of the Services. Subscriber acknowledges that it is obtaining only a limited right to the Services and that no ownership rights are being conveyed to Subscriber under this Agreement. Subscriber agrees that Adtrib or its suppliers retain all right, title and interest (including all patent, copyright, trademark, trade secret and other intellectual property rights) in and to the Services, professional services deliverables and any and all related and underlying technology and documentation and any derivative works, modifications or improvements of any of the foregoing, including as may incorporate Feedback (collectively, "**Adtrib Technology**"). Except as expressly set forth in this Agreement, no rights in any Adtrib Technology are granted to Subscriber. Further, Subscriber acknowledges that the Services are offered as an on-line, hosted solution, and that Subscriber has no right to obtain a copy of any of the Services.

6.2. **Feedback.** Subscriber, from time to time, may submit Feedback to Adtrib. Adtrib may freely use or exploit Feedback in connection with any of its products or services.

## 7. Subscription Term, Fees & Payment

7.1. **Subscription Term and Renewals.** Unless otherwise specified in an Order Form, each Subscription Term will automatically renew for additional twelve month periods unless either party gives the other written notice of termination at least thirty (30) days prior to expiration of the then-current Subscription Term.

7.2. **Fees and Payment .** All fees agreed upon in an Order Form or through online registration will be paid by Subscriber within thirty (30) days of invoice, unless (a) Subscriber is paying via Credit Card (as defined below) or (b) otherwise specified in an applicable Order Form. Payments shall be made in US dollars, in full, without set-off, counterclaim or deduction. Except as expressly set forth in Section 9 (Warranty Disclaimer) and Section 12 (Indemnification), all fees are non-refundable. The rates accepted through online registration or in any Order Form are valid for the Subscription Term and thereafter may be subject to adjustment. Subscriber is responsible for paying all Taxes, and all Taxes are excluded from any fees set forth through online registration or through any applicable Order Form. If Subscriber is required by Law to withhold any Taxes from Subscriber's payment, the fees payable by Subscriber will be increased as necessary so that after making any required withholdings, Adtrib receives and retains (free from any liability for payment of Taxes) an amount equal to the amount it would have received had no such withholdings been made. Any late payments will be subject to a service charge equal to 1.5% per month of the amount due or the maximum amount allowed by law, whichever is less.

7.3. **Subscription Modification.** If Subscriber chooses to upgrade its service or increase the number of support personnel graded during the Subscription Term, any incremental fees will be prorated over the remaining period of such Subscription Term in the amount and pursuant to the invoicing schedule set forth through online registration or through any applicable Order Form. No refunds or credits for Subscription fees or payments will be provided if Subscriber elects to downgrade its service. If there is a decrease in support personnel, credits can be applied to following renewal cycle based on the discrepancy between upfront payment and actual usage of the current term. Downgrading service may cause loss of content, features, or capacity of the service as available to Subscriber and Adtrib does not accept any liability for such loss.

**7.4. Payment Via Credit Card.** If you are purchasing the Services via credit card, debit card or other payment card ("**Credit Card**") the following terms apply :

- a. Recurring Billing Authorization. By providing Credit Card information and agreeing to purchase any Services, Subscriber hereby authorizes Adtrib (or its designee) to automatically charge Subscriber's Credit Card on the same date of each calendar month (or the closest prior date, if there are fewer days in a particular month) during the Subscription Term for all fees accrued as of that date (if any) in accordance with online registration or the applicable Order Form, information entered into the online billing portal, or usage in the account. Subscriber acknowledges and agrees that the amount billed and charged each month may vary depending on Subscriber's Subscription terms.
- b. Foreign Transaction Fees. Subscriber acknowledges that for certain Credit Cards, the issuer of Subscriber's Credit Card may charge a foreign transaction fee or other charges.
- c. Invalid Payment. If a payment is not successfully settled due to expiration of a Credit Card, insufficient funds, or otherwise, Subscriber remains responsible for any amounts not remitted to Adtrib and Adtrib may, in its sole discretion, either (i) invoice Subscriber directly for the deficient amount; (ii) continue billing the Credit Card once it has been updated by Subscriber (if applicable); or (iii) terminate this Agreement.
- d. Termination of Recurring Billing. In addition to any termination rights set forth in this Agreement, Subscriber may terminate the Subscription Term by sending Adtrib notice of non-renewal to team@maestroqa.com with termination effective at the end of the current Subscription Term. As set forth in Section 2.5 (Trial Subscriptions), if Subscriber does not enter into a paid Subscription Term following a Trial Period, this Agreement and Subscriber's right to access and use the Services will terminate at the end of the Trial Period and Subscriber's Credit Card will not be charged.
- e. Payment of Outstanding Fees. Upon any termination or expiration of the Subscription Term, Adtrib will charge Subscriber's Credit Card (or invoice Subscriber directly) for any outstanding fees for Subscriber's use of the Services during the Subscription Term, after which Adtrib will not charge Subscriber's Credit Card for any additional fees.

**7.5. Suspension of Service.** If Subscriber's account is thirty (30) days or more overdue, in addition to any of its other rights or remedies (including but not limited to any termination rights set forth herein), Adtrib reserves the right to suspend Subscriber's access to the Services without liability to Subscriber until such amounts are paid in full. Adtrib also reserves the right to suspend Subscriber's access to the Services without liability to Subscriber if Subscriber's or any of its Permitted Users' use of the Services is in violation of the AUP.

## 8. Term and Termination

**8.1. Term.** This Agreement is effective as of the Effective Date and expires on the date of expiration or termination of all Trial and Subscription Terms.

**8.2. Termination for Cause.** Either party may terminate this Agreement (including all related Order Forms) if the other party (a) fails to cure any material breach of this Agreement (including a failure to pay fees) within thirty (30) days after written notice; (b) ceases operation without a successor; or (c) seeks protection under any bankruptcy,

receivership, trust deed, creditors' arrangement, composition, or comparable proceeding, or if any such proceeding is instituted against that party (and not dismissed within sixty (60) days thereafter).

**8.3. Effect of Termination.** Upon any expiration or termination of this Agreement, Subscriber will immediately cease any and all use of and access to all Services (including any and all related Adtrib Technology) and delete (or, at Adtrib's request, return), any Adtrib passwords or access codes and any other Adtrib Confidential Information in its possession. Provided this Agreement was not terminated for Subscriber's breach, Subscriber may retain and use internally copies of all reports exported from any Service prior to termination.

**8.4. Subscriber Data Upon Termination.** Upon request by Subscriber made within thirty (30) days after expiration or termination of this Agreement, Adtrib will make Subscriber Data available to Subscriber for export or download. After such 30-day period, Subscriber will have no further access to any Subscriber Data input into any Service, and Adtrib may delete any Subscriber Data. Except where an exclusive remedy is specified, the exercise of either party of any remedy under this Agreement, including termination, will be without prejudice to any other remedies it may have under this Agreement, by law or otherwise.

**8.5. Survival.** The following Sections will survive any expiration or termination of this Agreement: 2.4 (General Restrictions), 2.5 (Trial Subscriptions), 3.3 (Storage of Subscriber Data), 3.5 (Indemnification by Subscriber) 3.6 (Aggregated Anonymous Data), 6 (Ownership), 7.2 (Fees and Payment), 7.4 (Payment Via Credit Card), 8 (Term and Termination), 9 (Warranty Disclaimer), 11 (Limitation of Remedies and Damages), 12 (Indemnification), 13 (Confidential Information) and 15 (General Terms).

## 9. Warranty Disclaimer

**Warranty Disclaimer.** TO THE FULLEST EXTENT PERMITTED BY LAW, ALL SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE". NEITHER ADTRIB NOR ANY ADTRIB PARTY MAKES ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. ADTRIB DOES NOT WARRANT THAT SUBSCRIBER'S USE OF THE SERVICES WILL BE SECURE, UNINTERRUPTED, FREE FROM VIRUS OR OTHER MALICIOUS CODE OR ERROR-FREE, NOR DOES ADTRIB WARRANT THAT IT WILL REVIEW THE SUBSCRIBER DATA FOR ACCURACY OR THAT IT WILL PRESERVE OR MAINTAIN THE SUBSCRIBER DATA WITHOUT LOSS OR CORRUPTION. ADTRIB SHALL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES OR OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS, THIRD-PARTY PLATFORMS OR OTHER SYSTEMS OUTSIDE THE REASONABLE CONTROL OF ADTRIB. SUBSCRIBER MAY HAVE OTHER STATUTORY RIGHTS, BUT THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, SHALL BE LIMITED TO THE SHORTEST PERIOD PERMITTED BY LAW.

## 10. Professional Services

If agreed between the parties, Adtrib will provide the professional consulting services ("**Professional Services**") set forth in an Order Form referencing this Agreement and executed by both parties describing the work to be performed, fees and any applicable milestones, dependencies and other technical specifications or related information. Unless



Professional Services are provided on a fixed-fee basis, Subscriber will pay Adtrib at the per-hour rates set forth in the Order Form for any excess services. Subscriber will reimburse Adtrib for reasonable travel and lodging expenses as incurred. Subscriber may use anything delivered as part of the Professional Services in support of authorized use of the Services and subject to the terms regarding Subscriber's rights to use the Service set forth in Section 2 (Adtrib Services) and any applicable Order Form, but Adtrib will retain all right, title and interest in and to any such work product or deliverables and any derivative, enhancement or modification thereof created by Adtrib (or its agents).

## 11. Limitation of Remedies and Damages

11.1. **Consequential Damages Waiver.** EXCEPT FOR EXCLUDED CLAIMS (DEFINED BELOW), NEITHER THE ADTRIB PARTIES NOR SUBSCRIBER SHALL HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY LOSS OF USE, LOST DATA, LOST PROFITS, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, RELIANCE, OR CONSEQUENTIAL DAMAGES OF ANY KIND, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES OR PERSONAL INJURY OR DEATH, WHICH MEANS THAT SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO SUBSCRIBER. IN THESE JURISDICTIONS, LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

11.2. **Liability Cap.** THE ADTRIB PARTIES' ENTIRE LIABILITY TO SUBSCRIBER, ANY OF ITS AFFILIATES, OR ANY THIRD PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE SERVICES SHALL NOT EXCEED THE AMOUNT ACTUALLY PAID BY SUBSCRIBER TO ADTRIB DURING THE PRIOR TWELVE (12) MONTHS UNDER THIS AGREEMENT. SUBSCRIBER ACKNOWLEDGES AND AGREES THAT THE ESSENTIAL PURPOSE OF THIS SECTION 11.2 IS TO ALLOCATE THE RISKS UNDER THIS AGREEMENT BETWEEN THE PARTIES AND LIMIT POTENTIAL LIABILITY GIVEN THE SUBSCRIPTION CHARGES WHICH WOULD HAVE BEEN SUBSTANTIALLY HIGHER IF WE WERE TO ASSUME ANY FURTHER LIABILITY OTHER THAN AS SET FORTH HEREIN. WE HAVE RELIED ON THESE LIMITATIONS IN DETERMINING WHETHER TO PROVIDE YOU WITH THE RIGHTS TO ACCESS AND USE THE SERVICES. THE LIMITATION OF LIABILITY PROVIDED FOR HEREIN WILL APPLY IN AGGREGATE TO SUBSCRIBER AND ITS AFFILIATES AND SHALL NOT BE CUMULATIVE.

11.3. **Excluded Claims.** "Excluded Claims" means any claim arising (a) from Subscriber's breach of Section 2.4 (General Restrictions); (b) under Section 3.4 (Subscriber Obligations) or 3.5 (Indemnification by Subscriber); or (c) from a party's breach of its obligations in Section 13 (Confidential Information) (but excluding claims arising from operation or non-operation of any Service).

11.4. **Nature of Claims and Failure of Essential Purpose.** The parties agree that the waivers and limitations specified in this Section 11 apply regardless of the form of action, whether in contract, tort (including negligence), strict liability or otherwise and will survive and apply even if any limited remedy specified in this Agreement is found to have failed of its essential purpose.

11.5. Any claims or damages that Subscriber may have against Subscriber shall only be enforceable against Adtrib and not any of its officers, directors, representatives or agents.

## 12. Indemnification

**12.1 Adtrib Indemnification.** Subject to Section 12.2, Adtrib will defend Subscriber from and against any third party claim alleging the Services infringe a U.S. patent, U.S. copyright, or U.S. trademark and will indemnify and hold harmless Subscriber from and against any damages and costs finally awarded against Subscriber or agreed in settlement by Adtrib (including reasonable attorneys' fees) resulting from such claim, provided that Adtrib will have received from Subscriber: (a) prompt written notice of such claim (but in any event notice in sufficient time for Adtrib to respond without prejudice); (b) the exclusive right to control and direct the investigation, defense and settlement (if applicable) of such claim; and (c) all reasonable necessary cooperation of Subscriber. If Subscriber's use of a Service is (or in Adtrib's opinion is likely to be) enjoined, if required by settlement or if Adtrib determines such actions are reasonably necessary to avoid material liability, Adtrib may, in its sole discretion: (a) substitute substantially functionally similar products or services; (b) procure for Subscriber the right to continue using such Service; or if (a) and (b) are not commercially reasonable, (c) terminate this Agreement and refund to Subscriber the fees paid by Subscriber for the portion of the Subscription Term that was paid by Subscriber but not rendered by Adtrib. The foregoing indemnification obligation of Adtrib will not apply: (a) if such Service is modified by any party other than Adtrib, but solely to the extent the alleged infringement is caused by such modification; (b) if such Service is combined with products or processes not provided by Adtrib, but solely to the extent the alleged infringement is caused by such combination; (c) to any unauthorized use of such Service; (d) to any action arising as a result of Subscriber Data or any third-party deliverables or components contained within such Service; (e) to the extent the alleged infringement is not caused by the particular technology or implementation of the Service but instead by features common to any similar product or service; or (f) if Subscriber settles or makes any admissions with respect to a claim without Adtrib's prior written consent. THIS SECTION 12 SETS FORTH ADTRIB'S AND ITS SUPPLIERS' SOLE LIABILITY AND SUBSCRIBER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT.

**12.2 Subscriber Indemnification.** Subscriber will indemnify and hold Adtrib harmless against any claim (i) arising from or related to use of a Service by Subscriber, Subscriber Personnel and other Permitted Users in breach of this Agreement; and (ii) Subscriber's breach of any representations, warranties or obligations set forth in this Agreement.

## 13. Confidential Information

Each party (a "**Receiving Party**") agrees that all, inventions, know-how, business, technical and financial information it obtains from the disclosing party ("**Disclosing Party**") constitute the confidential property of the Disclosing Party ("**Confidential Information**"), provided that it is identified as confidential at the time of disclosure or should be reasonably known by the Receiving Party to be confidential or proprietary due to the nature of the information disclosed and the circumstances surrounding the disclosure. Any Adtrib Technology, performance information relating to any Service, and the terms and conditions of this Agreement will be deemed Confidential Information of Adtrib without any marking or

further designation. Except as expressly authorized herein, the Receiving Party will (a) hold in confidence and not disclose any Confidential Information to third parties other than as set forth in this Agreement and (b) not use Confidential Information for any purpose other than fulfilling its obligations and exercising its rights under this Agreement. The Receiving Party may disclose Confidential Information to its employees, agents, Contractors and other representatives having a legitimate need to know (including, for Adtrib, the third party service providers referenced in Section 3.1 (Subcontractors)), provided that such representatives are bound to confidentiality obligations no less protective of the Disclosing Party than this Section 13 and that the Receiving Party remains responsible for compliance by any such representative with the terms of this Section 13. The Receiving Party's confidentiality obligations will not apply to information that the Receiving Party can document: (a) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (b) is or has become public knowledge through no fault of the Receiving Party; (c) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; or (d) is independently developed by employees of the Receiving Party who had no access to such information. The Receiving Party may make disclosures to the extent required by law or court order, provided, to the extent not prohibited by applicable law, the Receiving Party notifies the Disclosing Party in advance and cooperates, to the extent commercially reasonable, in any effort to obtain confidential treatment. The Receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Party the Disclosing Party will be entitled to seek appropriate equitable relief without the requirement of posting a bond in addition to whatever other remedies it might have at law.

## 14. Publicity

Nothing in this Agreement shall prevent either party from making any statement about its business relationship with the other or otherwise making public or private statements in the normal course of its business that do not disclose the specific terms of this Agreement. Neither party will publicly or privately disparage the other party or its services or business. Subscriber hereby grants to Adtrib a limited, non-transferable license to use its name, logos and other graphical representation for the sole purpose of listing Subscriber as a customer on the Adtrib website or within other Adtrib marketing materials.

## 15. General Terms

**15.1. Assignment** . This Agreement will bind and inure to the benefit of each party's permitted successors and assigns. Neither party may assign this Agreement without the advance written consent of the other party, except that either party may assign this Agreement to an Affiliate or in connection with a merger, reorganization, acquisition or other transfer of all or substantially all of such party's assets or voting securities. Any attempt to transfer or assign this Agreement except as expressly authorized under this Section 15.1 will be null and void.

**15.2. Severability.** If any provision of this Agreement is adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision will be limited to the minimum extent necessary so that this Agreement will otherwise remain in effect.

**15.3. Governing Law; Dispute Resolution.**

a) Direct Dispute Resolution. In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement, whether arising in contract, tort or otherwise, ("**Dispute**"), the parties shall first use their best efforts to resolve the Dispute. If a Dispute arises, the complaining party shall provide written notice to the other party in a document specifically entitled "Initial Notice of Dispute," specifically setting forth the precise nature of the dispute ("**Initial Notice of Dispute**"). If an Initial Notice of Dispute is being sent to Adtrib it must be emailed to team@maestroqa.com and sent via mail to:

Adtrib  
41 East 11<sup>th</sup> Street; 11<sup>th</sup> Floor  
New York, NY 10003

Following receipt of the Initial Notice of Dispute, the parties shall consult and negotiate with each other in good faith and, recognizing their mutual interest, attempt to reach a just and equitable solution of the Dispute that is satisfactory to both parties ("**Direct Dispute Resolution**"). If the parties are unable to reach a resolution of the Dispute through Direct Dispute Resolution within thirty (30) days of the receipt of the Initial Notice of Dispute, then the Dispute shall subsequently be resolved by arbitration as set forth below.

b) Arbitration. IN THE EVENT THAT A DISPUTE BETWEEN THE PARTIES CANNOT BE SETTLED THROUGH DIRECT DISPUTE RESOLUTION, AS DESCRIBED ABOVE, THE PARTIES AGREE TO SUBMIT THE DISPUTE TO BINDING ARBITRATION. BY AGREEING TO ARBITRATE, THE PARTIES AGREE TO WAIVE THEIR RIGHT TO A JURY TRIAL. The arbitration shall be conducted before a single neutral arbitrator, before JAMS in New York, NY. The arbitration shall be administered by JAMS in accordance with this document and the JAMS Streamlined Rules and Procedures for the Arbitration, with one addition: The limitation of one discovery deposition per side shall be applied by the arbitrator, unless it is determined, based on all relevant circumstances, that more depositions are warranted. The arbitrator shall consider the amount in controversy, the complexity of the factual issues, the number of parties and the diversity of their interests and whether any or all of the claims appear, on the basis of the pleadings, to have sufficient merit to justify the time and expense associated with the requested discovery.

The arbitration will occur in New York, NY, but the parties may choose to appear by person, by phone, by another virtual means, or through the submission of documents.

The arbitrator will issue a ruling in writing. Any issue concerning the extent to which any dispute is subject to arbitration, the applicability, interpretation, or enforceability of this agreement shall be resolved by the arbitrator. To the extent state law is applicable, the arbitrator shall apply the substantive law of New York.

All aspects of the arbitration shall be treated as confidential and neither the parties nor the arbitrators may disclose the content or results of the arbitration, except as necessary to comply with legal or regulatory requirements. The result of the arbitration shall be binding on the parties and judgment on the arbitrator's award may be entered in any court having jurisdiction. The arbitrator shall award to the prevailing party, if any, the costs and attorneys' fees reasonably incurred by the prevailing party in connection with the arbitration.

c) Choice of Law and Jurisdiction. FOR ANY CLAIM WHICH IS NOT SUBJECT TO THIS DISPUTE RESOLUTION PROVISION, SUBSCRIBER AGREES TO SUBMIT AND CONSENT TO THE PERSONAL AND EXCLUSIVE JURISDICTION IN, AND THE EXCLUSIVE VENUE

OF, THE STATE AND FEDERAL COURTS LOCATED WITHIN NEW YORK, NEW YORK. IN ANY DISPUTE, NEW YORK LAW SHALL APPLY.

d) Construction and Joinder. THIS AGREEMENT MUST BE CONSTRUED AS IF IT WAS JOINTLY WRITTEN BY BOTH PARTIES. BOTH SUBSCRIBER AND ADTRIB AGREE THAT EACH MAY BRING OR PARTICIPATE IN CLAIMS AGAINST THE OTHER ONLY IN THEIR RESPECTIVE INDIVIDUAL CAPACITIES, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS. NO ARBITRATION OR CLAIM UNDER THIS AGREEMENT SHALL BE JOINED TO ANY OTHER ARBITRATION OR CLAIM, INCLUDING ANY ARBITRATION OR CLAIM INVOLVING ANY OTHER CURRENT OR FORMER USER OF THE SERVICES, AND NO CLASS ARBITRATION PROCEEDINGS SHALL BE PERMITTED. IN THE EVENT OF ANY DISPUTE CONCERNING THE VALIDITY OR ENFORCEABILITY OF THIS PROVISION, SUCH CLAIM MUST BE ADJUDICATED BY A COURT AND NOT BY AN ARBITRATOR.

e) Injunctive Relief. Notwithstanding the above provisions, Adtrib may apply for injunctive remedies (or an equivalent type of urgent legal relief) in any court or jurisdiction.

15.4. **Notice**. Any notice or communication required or permitted under this Agreement will be in writing to the parties at the address provided through online registration or set forth on the Order Form in the case of Subscriber and at the address set forth in Section 15.3 in the case of Adtrib, or at such other address as may be given in writing by either party to the other in accordance with this Section and will be deemed to have been received by the addressee (a) if given by hand, immediately upon receipt; (b) if sent via email to the e-mail address used for registration, subject to actual non-automatic confirmation of receipt; (c) if given by overnight courier service, the first business day following dispatch; or (d) if given by registered or certified mail, postage prepaid and return receipt requested, the second business day after such notice is deposited in the mail.

15.5. **Waivers**. No waiver will be implied from conduct or failure to enforce or exercise rights under this Agreement, nor will any waiver be effective unless in a writing signed by a duly authorized representative on behalf of the party claimed to have waived.

15.5. **Amendment**. From time to time, Adtrib may modify this Agreement. Unless otherwise specified by Adtrib, changes become effective for Subscriber upon renewal of Subscriber's current Subscription Term or entry into a new Order Form. Adtrib will use reasonable efforts to notify Subscriber of the changes through communications via Subscriber's account, email or other means. Subscriber may be required to click to accept or otherwise agree to the modified Agreement before renewing a Subscription Term or entering into a new Order Form, and in any event continued use of the Services after the updated version of this Agreement goes into effect will constitute Subscriber's acceptance of such updated version. If Adtrib specifies that changes to the Agreement will take effect prior to Subscriber's next renewal or order (such as for legal compliance or product change reasons) and Subscriber objects to such changes, Subscriber may terminate the applicable Subscription Term and receive as its sole remedy a refund of any fees Subscriber has pre-paid for use of the applicable Services for the terminated portion of the Subscription Term.

15.6. **Entire Agreement**. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement. Subscriber acknowledges that the Services are on-line, subscription-based products, and that Adtrib may make changes to the Services.



15.7. **Force Majeure.** Neither party will be liable to the other for any delay or failure to perform any obligation under this Agreement (except for a failure to pay fees) if the delay or failure is due to a Force Majeur Event.

15.8. **Subpoenas.** Nothing in this Agreement prevents Adtrib from disclosing Subscriber Data to the extent required by law, subpoenas, or court orders, but Adtrib will use commercially reasonable efforts to notify Subscriber where permitted to do so.

15.9. **Independent Contractors.** The parties to this Agreement are independent contractors. There is no relationship of partnership, joint venture, employment, franchise or agency created hereby between the parties. Neither party will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent

15.10. **Export Control.** In its use of the Services, Subscriber agrees to comply with all export and import laws and regulations of the United States and other applicable jurisdictions. Without limiting the foregoing, (a) Subscriber represents and warrants that it is not listed on any U.S. government list of prohibited or restricted parties or located in (or a national of) a country that is subject to a U.S. government embargo or that has been designated by the U.S. government as a "terrorist supporting" country; (b) Subscriber will not (and will not permit any of its users to) access or use the Services in violation of any U.S. export embargo, prohibition or restriction; and (c) Subscriber will not submit to the Services any information that is controlled under the U.S. International Traffic in Arms Regulations

15.11. **Non-Exclusivity.** Nothing herein shall prevent Adtrib from entering into any further agreements or business relationships, nor prevent Adtrib from conducting similar business with others as long as Adtrib observes its obligations under this Agreement.