

# TERMS OF USE

These Terms of Use (this “**Agreement**”) are agreed to by and between Stella Source, Inc., a Delaware corporation with offices located at 1531 3rd Avenue North, Suite 210, Birmingham, AL 35203 (“**Stella Source**”), and you and the party on behalf of whom you are acting (“**Subscriber**”). Stella Source and Subscriber may be referred to herein collectively as the “**Parties**” or individually as a “**Party**.” This Agreement concerns Subscriber’s use and access to the Stella Source online platform and services (the “**System**”) for the purposes of (i) providing and/or receiving quotes or estimates, (ii) buying and/or supplying manufactured durable goods and materials and/or material processing to third parties, (iii) invoicing and collecting payments from third parties and (iv) such other services as may be made available through the System. The Agreement has an “**Effective Date**” as of the date this Agreement is accepted by Subscriber.

WHEREAS, Stella Source provides access to the System to Subscriber;

WHEREAS, Subscriber desires to access the System, and Stella Source desires to provide Subscriber access to the System, subject to the terms and conditions of this Agreement;

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

## 1. Definitions.

- a. “**Aggregated Statistics**” means data and information related to Subscriber’s use of the System to be used in an aggregate and anonymized manner, including but not limited to compiled statistical and performance information related to the provision and operation of the System. For the avoidance of doubt, Aggregated Statistics does not include Subscriber Data or any other data, including any data or information constituting the intellectual property or trade secret of Subscriber, that is linkable, or reasonably linkable, to Subscriber, or any data associated with Subscriber.
- b. “**Downloadable Software**” means downloadable tools or other software that Stella Source may make available for download specifically for purposes of facilitating access to, operation of, or use with the System, and any updates Stella Source may make available to such software from time-to-time. For the avoidance of doubt, Downloadable Software does not include Third-Party Products.
- c. “**Order Form**” means the document, acknowledgement, sales order form, order screen, purchase screen, or other paper or electronic record setting forth the accounts or other purchase information for accessing the System and the Fees to be paid by Subscriber for such access.
- d. “**Services**” means any implementation, onboarding, or other services as may be described in one or more Statements of Work or as may otherwise be made available to Subscriber through the System and that the Parties may agree to be performed. Unless agreed upon in a Statement of Work or otherwise agreed to in writing, no Services are to be performed by Stella Source other than through Subscriber’s authorized access to the System.
- e. “**Statement of Work**” means the description of the Services and associated documentation, pricing, and terms that may be executed by the Parties and that refers to this Agreement.
- f. “**Stella Source IP**” means all rights arising from or adhering to the System, the System Documentation, the Stella Source websites and home pages, and any and all intellectual property provided to Subscriber in connection with the foregoing. For the avoidance of doubt, Stella Source IP includes Aggregated Statistics

and any information, data, or other content derived from Stella Source's monitoring of Subscriber in relation to or use of the System or Downloadable Software, but does not include Subscriber Data.

- g. **"Subscriber Data"** means, other than Aggregated Statistics, information, data, and other content, in any form or medium, that is submitted, posted, or otherwise transmitted or made available by or on behalf of Subscriber to Stella Source through the System.
- h. **"System Documentation"** means Stella Source's specifications, user manuals, handbooks, and guides relating to the System by Stella Source, either electronically or in hard copy form.
- i. **"Third-Party Products"** means any third-party products or services provided with, made available through, or incorporated into the System or Downloadable Software, or described in a Statement of Work.

## 2. Access and Use.

- a. Provision of Access. Subject to the terms and conditions of this Agreement, Stella Source hereby grants Subscriber a non-exclusive, non-transferable (except in compliance with Section 15(g)) right to (i) access and use the System during the Term, solely for use by Subscriber in accordance with the terms and conditions herein; (ii) download and copy any Downloadable Software, in object code format, that may be made available to Subscriber solely for Subscriber's use in connection with the System during the Term; and (iii) download and make a reasonable number of copies of the System Documentation for Subscriber's use in connection with the System during the Term. The use, rights, and licenses granted herein are limited solely to Subscriber's internal use. Subscriber shall be responsible for establishing the necessary passwords and network links or connections to allow Subscriber to access the System. Subscriber shall abide by all limits or restrictions on account settings or activities that may be agreed by the Parties or otherwise built into the System.
- b. Use Restrictions. Subscriber shall not use the Stella Source IP for any purposes beyond the scope granted in this Agreement. Except as expressly permitted herein, Subscriber shall not directly or indirectly: (i) copy, modify, or create derivative works of the Stella Source IP or System, in whole or in part; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Stella Source IP; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Stella Source IP, in whole or in part; (iv) modify or remove any proprietary notices from the Stella Source IP; or (v) use the Stella Source IP in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law.
- c. Reservation of Rights. Stella Source or its licensors reserve all rights not expressly granted to Subscriber in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants to Subscriber or any third party (other than Stella Source's licensors) any intellectual property rights or other right, title, or interest in or to the Stella Source IP or System.
- d. Suspension. Notwithstanding anything to the contrary in this Agreement, Stella Source may temporarily suspend Subscriber's access to any portion or all of the System if Stella Source in its reasonable discretion determines that (i) there is a threat or attack on any of the Stella Source IP or System; (ii) Subscriber's use of the Stella Source IP is in furtherance of fraudulent or illegal activities, or disrupts or poses a security risk to the Stella Source IP or to any other Subscriber or vendor of Stella Source; (iii) subject to applicable law, Subscriber has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or otherwise become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; (iv) Stella Source's provision of the System to Subscriber is prohibited by applicable law; (v) Subscriber is late in paying any Fees owed; or (vi) Subscriber breaches the terms of this Agreement (any such suspension being a **"Service Suspension"**). Stella Source

shall use commercially reasonable efforts to provide written notice of any Service Suspension to Subscriber and to provide updates regarding resumption of access to the System following any Service Suspension. Stella Source shall use commercially reasonable efforts to resume providing access to the System as soon as reasonably possible after the event giving rise to the Service Suspension is cured. Stella Source will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Subscriber may incur as a result of a Service Suspension.

- e. Aggregated Statistics. Notwithstanding anything to the contrary in this Agreement, Stella Source may monitor the use of the System by Subscriber and collect and compile Aggregated Statistics. As between Stella Source and Subscriber, all right, title, and interest in Aggregated Statistics, and all intellectual property rights therein, belong to and are retained solely by Stella Source. Subscriber acknowledges that Stella Source may compile Aggregated Statistics based on Subscriber Data input into the System. Subscriber agrees that Stella Source may (i) make Aggregated Statistics publicly available in compliance with applicable law, and (ii) use Aggregated Statistics to the extent and in the manner permitted under applicable law; *provided that* such Aggregated Statistics do not identify Subscriber or Subscriber's Confidential Information.
- f. Site Management. Stella Source reserves the right, but not the obligation, to: (i) monitor the website and System for violations of this Agreement; (ii) take appropriate legal action against anyone who, in Stella Source's sole discretion, violates the law or this Agreement, including without limitation, reporting such user to law enforcement authorities; (iii) in Stella Source's sole discretion and without limitation, notice, or liability, remove from the website and System or otherwise disable all files and content that are excessive in size or are in any way burdensome to the website or System; and (iv) otherwise manage the website and System in a manner designed to protect Stella Source's rights and property and to facilitate their proper functioning.

### 3. Subscriber Responsibilities.

- a. General Access Obligations. Subscriber is responsible and liable for all (i) actions occurring through the account of Subscriber, and (ii) uses of the Stella Source IP resulting from access by Subscriber, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement.
- b. Subscriber Data. Subscriber hereby grants to Stella Source a non-exclusive, royalty-free, worldwide license to reproduce, distribute, and otherwise use and display Subscriber Data solely for the purposes of (i) providing the System to Subscriber, (ii) performing all acts with respect to the Subscriber Data authorized by this Agreement, and (iii) sharing with third parties with whom the Subscriber has authorized Stella Source to share for the purpose of receiving goods or services from such third parties. Subscriber will ensure that Subscriber Data and its use thereof in connection with the System do not violate any policy or terms referenced in or incorporated into this Agreement or any applicable law. Subscriber is solely responsible for the development, content, operation, maintenance, and use of Subscriber Data.
- c. Accounts; Passwords and Access Credentials. Subscriber shall maintain a unique account linked to Subscriber through the use of access codes or other mechanisms as may be established by Stella Source from time to time. Subscriber is responsible for keeping passwords and access credentials associated with the System confidential. Subscriber will not disclose, sell, or transfer passwords to any other person or entity. Subscriber will promptly notify Stella Source of any unauthorized access to Subscriber's passwords or access credentials.
- d. Responsibility for Products or Services Sold Through System. The parties to a transaction within the System (including Subscriber to the extent it is a party to a transaction) are solely responsible for the creation, design, manufacture, and sale of any parts, equipment, materials, goods, or services that are designed, quoted, estimated, purchased, or sold through the System including without limitation all tolerances,

performance requirements, specifications, title to the goods sold, and infringement of any third-party intellectual property rights that may apply to the manufacture and sale of such goods or services.

- e. Third-Party Products. Stella Source may from time to time make Third-Party Products available to Subscriber. Without limiting the foregoing, such Third-Party Products include the products and services of Pocketbook, Inc., a Stella Source affiliate which facilitates invoicing and payments functionalities available through the System and acts as a Payment Provider as defined below. For purposes of this Agreement, such Third-Party Products may be subject to their own terms and conditions, which Subscriber may be required to agree to in a separate agreement with the provider of the Third-Party Products. If Subscriber does not agree to abide by the applicable terms for any such Third-Party Products, then Subscriber should not install or use such Third-Party Products. Stella Source makes no representations or warranties with respect to Third-Party Products and disclaims all liability arising from or related to Subscriber's access to or use of Third-Party Products.

#### 4. Service-Specific Terms.

- a. Quote and Sale Service. Subscriber acknowledges the System permits (i) a party seeking to purchase goods or services related to the processing of the goods (each such party a "**Buyer**") to request quotes for goods or services to be provided by a party supplying such goods or performing such services (each such party a "**Seller**," and each such request for quote, a "**Request**"); (ii) a Seller to provide quotes (either directly or in response to a Request) to a Buyer for such goods or services (a "**Quote**"); and (iii) for such Buyer and Seller to enter a transaction for the purchase and sale of the quoted goods or services. A Request shall include at least the specifications of the goods or processing services to be purchased and a quantity of the goods being purchased or processed. A Quote shall include the quantity and price of the goods and/or services for purchase, and may further include a delivery date or deadline, a time period during which or deadline until the offer set forth in the Quote is valid (the "**Offer Period**"), and any other special terms that may be stated in connection therewith. Subscriber may act within the System as a Buyer or a Seller. Subscriber acknowledges and agrees that any Quote (whether or not issued in response to a Request) made by a Seller to a Buyer constitutes a bona fide offer to that Buyer that the Seller will provide the goods or services set forth in the Quote or Request in accordance with the terms set forth in the Quote, which offer the Buyer may accept, counteroffer, or reject. Subscriber acknowledges and agrees that acceptance of a Quote by a Buyer during the Offer Period through the System, or acceptance through the System by a Seller of a counteroffer made by a Buyer, shall result in the Buyer and the Seller entering into a purchase and sale agreement for the goods or services set forth in the Quote or accepted counteroffer in accordance with its terms. NO REQUEST, QUOTE, OFFER, PURCHASE ORDER OR OTHER TRANSACTION SHALL BE BINDING UNLESS AND UNTIL BOTH PARTIES HAVE ACCEPTED THE PROPOSED TRANSACTION THROUGH THE SYSTEM. Subscriber represents and warrants that: (A) Subscriber has agreed with the other party in a transaction on general purchase and sale terms that apply to their transactions; (B) Subscriber will provide to the other party such terms in connection with a Request, Quote, or counteroffer (as applicable); OR (C) in the absence of either of the foregoing, Subscriber agrees that the terms of Article 2 of the Uniform Commercial Code (as interpreted by a court having jurisdiction over the sale contract between Buyer and Seller and pursuant to applicable law) shall apply to the transaction. Subscriber is solely responsible for all representations, warranties, and obligations it makes or agrees to with the other party in a transaction. Subscriber acknowledges and agrees that Stella Source is not a party to any agreement Subscriber may enter into as provided herein and that any disputes that may arise are solely between Buyers and Sellers hereunder.
- b. Stella Sell Services. The services made available to Subscriber through the System may include an Ecommerce solution ("**Stella Sell**") that (i) enables a Subscriber (a "**Seller**") to launch a fully branded digital storefront to provide its customers (each a "**Buyer**") with a seamless digital purchasing experience or (ii) enables a Buyer to purchase goods or services made available by a Seller on such Seller's Ecommerce site. Stella Sell is designed to enable a Buyer to purchase goods or services of a Seller from the Seller's

Ecommerce site and for the Seller and Buyer to enter into a transaction for the purchase and sale of goods or services made available by the Seller through Stella Sell. Upon the selection by the Buyer of product(s) or services that the Buyer wishes to purchase from the Seller through Stella Sell, a Purchase Order is generated ("**Purchase Order**"), and upon the Buyer's placing of the order by approving the Purchase Order and submitting it to the Seller through the System, such Purchase Order constitutes a bona fide offer to the Seller to purchase the goods or services set forth in the Purchase Order, which offer the Seller may accept, counteroffer, or reject if and as provided through the System. The Buyer acknowledges and agrees that acknowledgement and agreement to a Purchase Order by the Seller through the System shall constitute the Seller's acceptance thereof and shall result in the Buyer and the Seller entering into a purchase and sale agreement for the goods or services set forth in the Purchase Order in accordance with its terms. NO PURCHASE ORDER SHALL BE BINDING UNLESS AND UNTIL BOTH PARTIES HAVE ACCEPTED THE PROPOSED TRANSACTION THROUGH THE SYSTEM. Buyer acknowledges that the Purchase Order may be subject to additional terms and conditions of sale presented by Seller. Subscriber is solely responsible for all representations, warranties, and obligations it makes or agrees to with the other party in a transaction. Subscriber acknowledges and agrees that Stella Source is not a party to any agreement Subscriber may enter into as provided herein and that any disputes that may arise are solely between Buyers and Sellers hereunder.

#### 5. Third-Party Hosting and Payment Transaction Providers.

- a. Hosting. Subscriber acknowledges that: (i) the System and all related data and software, including the Subscriber Data, are hosted and stored by Microsoft, Inc. ("**Microsoft**") and Amazon Web Services ("**AWS**") (together, "**Cloud Service Providers**") in accordance with each Cloud Service Provider's security and privacy policies, and not by Stella Source; (ii) the System is run on Microsoft Azure and AWS service infrastructure and is subject to the continuing provision of services by each respective Cloud Service Provider to both the Subscriber and Stella Source; and (iii) any hardware and infrastructure used to provide the System is controlled by Cloud Service Providers or other third parties, and not by Stella Source. Stella Source is not responsible for the actions, omissions, policies or procedures of Microsoft, AWS, or any third party. Subscriber hereby agrees to comply with the Acceptable Use Policy of each Cloud Service Provider.
- b. Payment Transactions. Subscriber acknowledges that the System uses a payment transaction provider ("**Payment Provider**") to process all payment transactions occurring through the System (whether between Subscriber, Stella Source, or another party). Subscriber is solely responsible for ensuring that the Subscriber Data and other information necessary for the processing of the transaction is communicated through the System to Payment Provider. Payment Provider is solely responsible for processing the transaction, not Stella Source. Subscriber hereby agrees to comply with any policies Payment Provider may make applicable to parties transacting online commerce using Payment Provider's payment platform. Subscriber may elect to invoice and settle transactions between Subscriber and another party occurring on the System using its own payment transaction provider or method of payment. Subscriber's use of a Payment Provider is optional for such payments.
- c. Hosting and Payment Transaction Providers Subject to Change. Subscriber acknowledges and agrees that Stella Source may change the hosting and payment transaction providers at Stella Source's discretion, in which case Subscriber agrees to abide by the applicable policies of such new provider in order to continue Subscriber's use of the System.
- d. System Support and Updates. Stella Source shall provide support to Subscriber in connection with the System which Subscriber may request through email ([help@stellasource.com](mailto:help@stellasource.com)). Stella Source may update, modify, or change the System from time to time.

6. Fees and Payment. Subscriber shall pay such fees ("**Fees**"), if any, that are agreed to by the Parties through the Subscriber's account, Order Form, Statement of Work, or other writing. Except as may be otherwise agreed to in an Order Form or separate writing, Stella Source may change Fees for applicable services or access only upon sixty (60) days' notice to Subscriber. Subscriber shall pay Stella Source the Fees on the terms and in the manner agreed to by Subscriber without offset or deduction. Subscriber shall maintain appropriate payment information ("**Payment Information**") on file with Stella Source and/or their Payment Provider, as applicable. Such Payment Information may include without limitation updated deposit account information or credit card information or other information sufficient to facilitate payment by a mechanism authorized for use within the System. Subscriber represents and warrants to Stella Source that Payment Information provided by Subscriber is true and accurate and that Subscriber is authorized to use the payment method for which Payment Information is provided. Subscriber expressly acknowledges and agrees that Stella Source is authorized to charge its payment method in accordance with the terms of this Agreement. Subscriber will promptly update its Payment Information with any changes (for example, a change in its billing address) that may occur. If Subscriber disputes any charges by Stella Source, Subscriber must notify Stella Source in writing at [billing@stellasource.com](mailto:billing@stellasource.com) within thirty (30) days after the date that Subscriber is charged by Stella Source. Stella Source shall not be required to provide any services through the System (including any onboarding, training, etc. associated therewith) before Subscriber has provided Payment Information to Stella Source and provided such authorizations as Stella Source may require in order to obtain payment for Fees hereunder. Subscriber shall make all payments hereunder in the currency agreed to by the Parties on or before the applicable due date. If no currency is agreed to, payments shall be made in USD. If Subscriber fails to make any payment when due, without limiting Stella Source's other rights and remedies: (i) Stella Source may charge interest on the past due amount at the rate of 1.5% per month, calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable law; and (ii) Subscriber shall reimburse Stella Source for all reasonable costs incurred by Stella Source in collecting any late payments or interest, including attorneys' fees, court costs, and collection agency fees. All Fees charged to Subscriber hereunder relate to the usage of the System and any other products or services provided by Stella Source.

7. Taxes.

a. Taxes on Fees. All Fees and other amounts payable by Subscriber to Stella Source under this Agreement are exclusive of sales taxes and similar assessments unless such taxes are invoiced as separate line items.

b. Subscriber Tax Calculations. As part of the System, Stella Source makes available to Subscribers, at the Subscriber's election, a Third-Party Product that enables Subscriber to calculate sales taxes due on transactions entered into with customers through the System. Stella Source is not responsible for determining the applicability of sales tax to transactions between Subscriber and Subscriber's customer for transactions conducted through the System; such responsibility is exclusively that of Subscriber. Further, it is solely the responsibility of Subscriber to comply with applicable sales tax requirements including, for example, determining the amount of sales tax due on transactions conducted through the System, charging such amounts, and collecting and remitting such taxes to the appropriate taxing authorities.

8. Auditing Rights and Required Records. Subscriber agrees to maintain complete and accurate records in accordance with generally accepted accounting principles during the Term and for a period of two (2) years after the termination or expiration of this Agreement relating to or concerning Subscriber's use of the System and the amounts paid by Subscriber for the rights granted herein. No more than once in any 12-month period, and upon fifteen (15) business days' prior written notice, Stella Source may, at its own expense and subject to Subscriber's confidentiality and security requirements, inspect and audit Subscriber's records relating to matters covered by this Agreement. If such inspection or audit reveals that Subscriber has underpaid Stella Source any amounts due and payable during the Term, Subscriber shall promptly pay the amounts necessary to cure such underpayment, together with interest in accordance with Section 6. Subscriber shall pay for the costs of the audit if the audit determines that Subscriber's underpayment equals or exceeds ten percent (10%) for any quarter. Such inspection and auditing rights will extend throughout the Term of this Agreement and for a period of two (2) years after the termination or expiration of this Agreement.

9. Confidential Information. From time to time during the Term, either Party may disclose or make available to the other Party information about its business affairs, products, confidential intellectual property, trade secrets, third-party confidential information (including without limitation Request and/or Quote information originating from a third party, such as a Seller or Buyer), and other sensitive or proprietary information, whether orally or in written, electronic, or other form or media, whether or not marked, designated, or otherwise identified as “confidential” (collectively, “**Confidential Information**”). Confidential Information does not include information that, at the time of disclosure, is: (a) in the public domain; (b) known to the receiving Party at the time of disclosure; (c) rightfully obtained by the receiving Party on a non-confidential basis from a third party; or (d) independently developed by the receiving Party. The receiving Party shall not disclose the disclosing Party’s Confidential Information to any person or entity, except to the receiving Party’s employees who have a need to know the Confidential Information for the receiving Party to exercise its rights or perform its obligations hereunder. Notwithstanding the foregoing, each Party may disclose Confidential Information to the limited extent required (i) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the Party making the disclosure pursuant to the order shall first have given written notice to the other Party and made a reasonable effort to obtain a protective order; (ii) to establish a Party’s rights under this Agreement, including to make required court filings; or (iii) to a third party in connection with Subscriber’s purchase or subscription of a Third-Party Product or in connection with the use of a Payment Provider. On the expiration or termination of the Agreement, the receiving Party shall promptly return to the disclosing Party all copies, whether in written, electronic, or other form or media, of the disclosing Party’s Confidential Information, or destroy all such copies and certify in writing to the disclosing Party that such Confidential Information has been destroyed. Each Party’s obligations of non-disclosure with regard to Confidential Information are effective as of the Effective Date and will expire five (5) years from the date first disclosed to the receiving Party; provided, however, with respect to any Confidential Information that constitutes a trade secret (as determined under applicable law), such obligations of non-disclosure will survive the termination or expiration of this Agreement for as long as such Confidential Information remains subject to trade secret protection under applicable law. The terms of this Agreement shall be deemed the Confidential Information of Stella Source.

10. Intellectual Property Ownership; Feedback.

- a. Stella Source IP. Subscriber acknowledges that, as between Subscriber and Stella Source, Stella Source owns all right, title, and interest, including all intellectual property rights, in and to the System and the Stella Source IP.
- b. Subscriber Data. Stella Source acknowledges that, as between Stella Source and Subscriber, Subscriber owns all right, title, and interest, including all intellectual property rights, in and to the Subscriber Data.
- c. Feedback. If Subscriber sends or transmits any communications or materials to Stella Source by mail, email, telephone, or otherwise suggesting or recommending changes to the System, including without limitation new features or functionality relating thereto, or any comments, questions, suggestions, or the like (collectively, “**Feedback**”), Stella Source may use such Feedback notwithstanding any other obligation or limitation between the Parties relating to such Feedback. Subscriber hereby assigns to Stella Source all right, title, and interest in and to any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the Feedback that are owned or controlled by Subscriber or that Subscriber has the right to assign. Stella Source may use such Feedback for any purpose whatsoever without attribution or compensation to any party and shall have no obligation to use any Feedback.
- d. Sharing Content. Subscriber acknowledges that the System allows users to share information both within their accounts and outside their accounts in a manner that will be visible to one or more third parties. Subscriber is solely responsible for creation, dissemination, transmission, or display of its information through or in connection with Subscriber’s account.

- e. Collaboration. Subscriber acknowledges that Subscriber may receive information from third parties, including but not limited to other Seller or Buyer information, and that they may make or suggest changes to such information. All such third-party information shall be owned by that third party. In addition, Subscriber acknowledges that third parties with whom Subscriber collaborates, enters into agreements, or otherwise shares information will have access to view that information, including personal information, of Subscriber.
- f. Third Party Links and Content. The System may contain links to other websites and resources provided by third parties that are not owned or controlled by Stella Source. Stella Source has no control over the contents of those websites or resources. If Subscriber accesses any third-party content through the System, Subscriber does so at its own risk and subject to the terms and conditions of use for such third-party content.
- g. Use of Subscriber Trademarks. To the extent that Subscriber is accessing services in connection with the offering of the Stella Source System or technology under Subscriber's marks under a separate agreement (i.e., a "white-label" arrangement and related agreement), Subscriber grants to Stella Source a non-exclusive, royalty-free, non-transferable, non-sublicensable right to use the Subscriber's marks for the provision of the System under such arrangement, subject to any restrictions or obligations set forth in the applicable separate agreement.
- h. Use of Third-Party Marks. Stella Source claims no rights in and to any third party's marks that may be used in connection with the offering of goods and services through the System. All such marks and related goodwill shall belong to the third party. Without limiting the foregoing, Stella Source claims no rights in or to any branded product lines, and any use or appearance of such third-party marks in connection with the System is by the implementation of the third-party Seller selling its products and services through the System (e.g., the presentation of a product list using a third party's specifically branded product lines).

11. Limited Warranty and Warranty Disclaimer.

- a. Stella Source represents and warrants that (i) it has sufficient rights to grant the rights in the System, (ii) the System will operate substantially in accordance with the System Documentation, (iii) it will use industry standard security measures and will not intentionally introduce malicious code, (iv) it will not materially degrade the System's core functionality from that described in the Documentation during the Term, and (v) it will use commercially reasonable efforts to correct any material errors in the System in a timely manner. Stella Source also passes through to Subscriber, with respect to any third-party product or service that Stella Source makes available through the System, any warranties made by that third party which are expressly passed down to Subscriber, provided that if Subscriber enters into a separate agreement with the third-party product or service provider, the terms of such agreement shall control. No warranty is made that the System will run uninterrupted or error-free. EXCEPT AS SET FORTH IN THIS SENTENCE, THE FOREGOING WARRANTY DOES NOT APPLY, AND STELLA SOURCE STRICTLY DISCLAIMS ALL WARRANTIES, WITH RESPECT TO ANY THIRD-PARTY PRODUCTS.
- b. Subscriber Warranty. Subscriber warrants that Subscriber has the right to transmit to Stella Source all Subscriber Data that is transmitted through Subscriber's account in connection with the System.
- c. EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 11(a), THE STELLA SOURCE IP IS PROVIDED "AS IS" AND STELLA SOURCE HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. STELLA SOURCE SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. STELLA SOURCE MAKES NO WARRANTY OF ANY KIND THAT THE STELLA SOURCE IP, THE SYSTEM, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET SUBSCRIBER'S OR ANY

OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.

12. Indemnification.

a. Stella Source Indemnification.

- i. Stella Source shall indemnify, defend, and hold harmless Subscriber from and against any and all losses, damages, liabilities, and costs (including reasonable attorneys' fees) ("**Losses**") incurred by Subscriber resulting from any third-party claim, suit, action, or proceeding ("**Third-Party Claim**") that the System, or any use of the System in accordance with this Agreement, infringes or misappropriates such third party's US intellectual property rights, provided that Subscriber promptly notifies Stella Source in writing of the claim, cooperates with Stella Source, and allows Stella Source sole authority to control the defense and settlement of such claim.
- ii. If a Third-Party Claim is made or appears possible, Subscriber agrees to permit Stella Source, at Stella Source's sole discretion, to (A) modify or replace the System, or component or part thereof, to make it non-infringing, or (B) obtain the right for Subscriber to continue use. If Stella Source determines that neither alternative is reasonably available, Stella Source may terminate this Agreement, in its entirety or with respect to the affected component or part, effective immediately on written notice to Subscriber.
- iii. This Section 12(a) will not apply to the extent that the alleged infringement arises from: (A) use of the System in combination with data, software, hardware, equipment, or technology not provided by Stella Source or authorized by Stella Source in writing; (B) modifications to the System not made by Stella Source or its licensors; or (C) Subscriber Data.

b. Subscriber Indemnification. Subscriber shall indemnify, hold harmless, and, at Stella Source's option, defend Stella Source from and against any Losses resulting from any Third-Party Claim (i) that the Subscriber Data, or any use of the Subscriber Data in accordance with this Agreement, infringes, misappropriates, or violates such third party's intellectual property rights or privacy rights, (ii) that a part manufactured or sold by Subscriber through the System infringes or misappropriates such third party's intellectual property rights, (iii) that Subscriber breached the terms agreed to between Subscriber and a third-party Seller or Buyer in any Request, Quote, or transaction, or (iv) that arise from Subscriber's use of the Stella Source IP in a manner not authorized by this Agreement or in combination with data, software, hardware, equipment, or technology not provided by Stella Source or authorized by Stella Source in writing, provided that Subscriber may not settle any Third-Party Claim against Stella Source unless Stella Source consents to such settlement, and further provided that Stella Source will have the right, at its option, to defend itself against any such Third-Party Claim or to participate in the defense thereof by counsel of its own choice.

c. Sole Remedy. THIS SECTION 12 SETS FORTH SUBSCRIBER'S SOLE REMEDIES AND STELLA SOURCE'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE STELLA SOURCE IP INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

13. Limitations of Liability. IN NO EVENT WILL STELLA SOURCE BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT, WHETHER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, FOR ANY: (a) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (b) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (c) LOSS OF GOODWILL OR REPUTATION; (d) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY, OR RECOVERY OF ANY DATA, OR BREACH OF DATA OR SYSTEM SECURITY; OR (e) COST

OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER STELLA SOURCE WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. IN NO EVENT WILL STELLA SOURCE'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE EXCEED THE TOTAL AMOUNTS PAID TO STELLA SOURCE UNDER THIS AGREEMENT IN THE 12-MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

14. Term and Termination.

- a. Term. Unless otherwise agreed by the Parties in an Order Form or a separate writing, the Term of this Agreement shall commence on the date this Agreement is accepted by Subscriber and, unless terminated sooner as provided herein, shall continue for as long as Subscriber accesses and uses the System even if such usage is infrequent or occasional, and shall terminate automatically upon the cessation of Subscriber's activity on the System (such period being the "**Term**"). Without limiting the foregoing, deletion or termination of Subscriber's account shall be deemed termination of this Agreement.
- b. Termination. In addition to any other express termination right set forth in this Agreement:
  - i. Subscriber may terminate this Agreement at any time by ceasing all activity and terminating Subscriber's account.
  - ii. Either Party may terminate this Agreement if the other Party materially breaches this Agreement and fails to cure such breach within ten (10) days following written notice of such breach by the non-breaching Party.
  - iii. Stella Source may terminate this Agreement immediately upon written notice to Subscriber if (A) Stella Source determines, in its sole discretion, that circumstances giving rise to a Service Suspension are not likely to be addressed in a timely manner and to Stella Source's reasonable satisfaction; (B) if Stella Source reasonably determines that it is necessary or appropriate to protect Stella Source, Subscriber, or any other person against material loss, damage, or harm; (C) if Subscriber's use of all or any part of the System imposes a material risk to the financial condition of Stella Source; or (D) in the event that any material financial information, representation, warranty, statement, certificate, or document delivered or furnished by Subscriber is or becomes untrue or misleading in any material respect or omits material information as of the date made or delivered.
  - iv. This Agreement shall terminate automatically in the event that either Party: (A) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (B) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (C) makes or seeks to make a general assignment for the benefit of its creditors; or (D) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.
- c. Effect of Expiration or Termination. Upon expiration or earlier termination of this Agreement, Subscriber shall immediately discontinue use of the Stella Source IP. Stella Source may terminate Subscriber's access to the System by suspending or deleting Subscriber's account. No expiration or termination will affect Subscriber's obligation to pay all Fees that may have become due before such expiration or termination or entitle Subscriber to any refund.

d. Survival. This Section 14(d) and Sections 1, 6, 7, 8, 9, 10, 11, 12, 13, and 15 survive any termination or expiration of this Agreement. No other provisions of this Agreement survive the expiration or earlier termination of this Agreement.

15. Miscellaneous.

a. Entire Agreement. This Agreement, together with any other documents incorporated herein by reference and all related Exhibits, constitutes the sole and entire agreement of the Parties with respect to the System and supersedes all prior and contemporaneous understandings, agreements, and representations and warranties, both written and oral, with respect to such subject matter. Except as otherwise set forth in Section 2(b), in the event of any inconsistency between the statements made in the body of this Agreement, the related Exhibits, and any other documents incorporated herein by reference, the following order of precedence governs: first, any Order Form or Statement of Work; second, this Agreement; and then, any other documents incorporated herein by reference.

b. Notices. All notices shall be made in writing (which may include by email or by a notification posted to or sent to Subscriber's account) to the following addresses:

i. If to Stella Source:

by email to: [legal@stellasource.com](mailto:legal@stellasource.com)

or by mail to:

Stella Source, Inc.

Attn: Legal

1531 3rd Avenue North, Suite 210

Birmingham, AL 35203

ii. If to Subscriber, Stella Source to contact through the contact or email address provided in the Subscriber's account.

Notices shall be deemed received on the day of receipt of any mailing delivered to the appropriate address or account as set forth in this Section 15(b).

Notwithstanding the foregoing, Subscriber hereby consents to receiving electronic communications from Stella Source. These electronic communications may include notices about applicable fees and charges, transactional information, and other information concerning or related to the System. Subscriber agrees that any notices, agreements, disclosures, or other communications that Stella Source sends to Subscriber electronically will satisfy any legal communication requirements, including that such communications be in writing.

c. Force Majeure. In no event shall Stella Source be liable to Subscriber, or be deemed to have breached this Agreement, for any failure or delay in performing its obligations under this Agreement, if and to the extent such failure or delay is caused by any circumstances beyond Stella Source's reasonable control, including but not limited to acts of God, flood, fire, earthquake, explosion, war, terrorism, invasion, riot or other civil unrest, strikes, labor stoppages or slowdowns or other industrial disturbances, pandemic, or passage of law or any action taken by a governmental or public authority, including imposing an embargo or quarantine.

d. Amendment and Modification; Waiver. This Agreement may be modified from time to time by Stella Source by publishing modified terms of this Agreement to the System with the date of last modification shown on the post or webpage, with notice of such modification being provided on, or through Subscriber's account. All such modifications shall be effective as of the date of modification. If Subscriber does not agree to the terms as modified, Subscriber may terminate the Agreement by deleting or terminating Subscriber's account.

Subscriber's continued use of the System after publication of the modified terms shall constitute agreement to such modifications by Subscriber. Except as otherwise set forth in this Agreement, (i) no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof, and (ii) no single or partial exercise of any right, remedy, power, or privilege hereunder will preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

- e. Severability. If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect their original intent as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.
- f. Governing Law; Submission to Jurisdiction. This Agreement is governed by and construed in accordance with the internal laws of the State of Alabama without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Alabama, including without limitation the UN Convention on Contracts for the International Sale of Goods. Any legal suit, action, or proceeding arising out of or related to this Agreement or the licenses granted hereunder will be instituted exclusively in the federal courts of the United States or the courts of the State of Alabama, in each case located in the city of Birmingham and County of Jefferson, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.
- g. Assignment. Subscriber may not assign any of its rights or delegate any of its obligations hereunder, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without the prior written consent of Stella Source, which consent shall not be unreasonably withheld, conditioned, or delayed. Any purported assignment or delegation in violation of this Section 15(g) will be null and void. No assignment or delegation will relieve the assigning or delegating Party of any of its obligations hereunder. This Agreement is binding upon and inures to the benefit of the Parties and their respective permitted successors and assigns.
- h. Export Regulation. The System, Services, Stella Source IP, Subscriber Data, and any other data or deliverables included within, contained in, or utilizing any such System, Services, software, documentation, or data (collectively, "**Regulated Information**"), may be subject to U.S. export control laws and regulations, including but not limited to the International Traffic in Arms Regulations ("**ITAR**"), 22 C.F.R. 120 *et seq.* To the extent required, Subscriber shall comply with all applicable federal laws, U.S. and non-U.S. sanctions and export control laws, regulations, and rules, specifically including but not limited to, ITAR, and complete all required undertakings (including obtaining any necessary export license or other governmental approval) prior to exporting, re-exporting, releasing, or otherwise making available the Regulated Information outside the U.S. Subscriber shall not, and shall not permit any third parties to, directly or indirectly, export, re-export, or release the Regulated Information, or make the Regulated Information accessible from, any country, jurisdiction, entity or person to which export, re-export, or release is prohibited by applicable law or regulation. Subscriber shall provide prior written notice of the need to comply with such laws, regulations, and rules to any person, firm, or entity which it has reason to believe is obtaining any such Regulated Information from the Subscriber with the intent to export, re-export, or release. Subscriber acknowledges and agrees that Stella Source adheres to all requirements of ITAR, including but not limited to the retention requirements set forth in 22 C.F.R. 122.5.
- i. U.S. Government Rights. Each of the System Documentation, the Downloadable Software, and the software components that constitute the System is a "commercial product" as that term is defined at 48 C.F.R. §

2.101, consisting of “commercial computer software” and “commercial computer software documentation” as such terms are used in 48 C.F.R. § 12.212. Accordingly, if Subscriber is an agency of the U.S. Government or any contractor therefore, Subscriber only receives those rights with respect to the System, Downloadable Software, and System Documentation as are granted to all other users, in accordance with (a) 48 C.F.R. § 227.7201 through 48 C.F.R. § 227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. § 12.212, with respect to all other U.S. Government users and their contractors.

j. Equitable Relief. Each Party acknowledges and agrees that a breach or threatened breach by such Party of any of its obligations under Section 9 or, in the case of Subscriber, Section 2(c), would cause the other Party irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, the other Party will be entitled to equitable relief, including a restraining order, an injunction, specific performance, and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise.