[Client]

Subscription Agreement

Date

THIS SUBSCRIPTION AGREEMENT ("AGREEMENT") GOVERNS CUSTOMER'S ACQUISITION AND USE OF THE "PURCHASED SERVICES" (AS DEFINED HEREIN). BY ACCEPTING THIS AGREEMENT AND BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, CUSTOMER AGREES TO THE TERMS OF THIS AGREEMENT. IF CUSTOMER IS ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, CUSTOMER REPRESENTS THAT CUSTOMER HAS THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "CUSTOMER" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF CUSTOMER DOES NOT HAVE SUCH AUTHORITY, OR IF CUSTOMER DOES NOT AGREE WITH THESE TERMS AND CONDITIONS, CUSTOMER MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE PURCHASED SERVICES.



Table of Contents

1.	Definitions	3
	Purchased Services	
	Use of the Services	
	Payment for Purchased Services	
	Proprietary Rights	
	Confidentiality	
7.	Indemnification	<u>9</u>
	Disclaimers and Limitation of Liability	
	Term and Termination	
	Miscellaneous	

1.



SUBSCRIPTION AGREEMENT

This Subscription Agreement (the "Agreement"), effective as of [DATE] (the "Effective Date"), is entered into by and between FLYOVERWORKS, INC. d/b/a/ CULTIVATE LABS, INC., an Illinois corporation having its principal place of business at 447 Highcrest Dr. Wilmette, IL 60091 USA ("Provider") and [NAME OF CUSTOMER], having its principal place of business at [CUSTOMER BUSINESS ADDRESS] ("Customer", together with Provider, the "Parties", and each, a "Party").

WHEREAS, Provider is providing hosted software under this agreement as well as an executed Order Form (as defined below); and

WHEREAS, Customer desires to obtain software support services from Provider for the software, 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

"Affiliate" means, with respect to a Party, that Party's and its employees, officers, directors, consultants, agents, independent contractors, service providers, sublicenses, subcontractors and legal advisors

"Agreement" has the meaning set forth in the preamble.

"Authorized User" means individuals who are authorized by Customer to use the Purchased Services, for whom subscriptions to Purchased Services have been ordered, and who have been supplied user identifications and passwords by Customer (or by Provider at Customer's request).

"Confidential Information" has the meaning set forth in Section 6.1.

"Customer" has the meaning set forth in the preamble.

"Data" means, data and other content, in any form or medium, that is collected, downloaded or otherwise received, directly or indirectly from Customer, Provider or an Authorized User by or through the Purchased Services or that incorporates or is derived from the processing of such information, data or content by or through the Purchased Services.

"Disclosing Party" has the meaning set forth in Section 6.1.

"Effective Date" has the meaning set forth in the preamble.

"Fees" has the meaning set forth in Section 4.1

"Force Majeure Event" has the meaning set forth in Section 3.1.



"Intellectual Property Rights" means any and all registered and unregistered rights granted, applied for or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

"Law" means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree or other requirement or rule of any federal, state, local or foreign government or political subdivision thereof, or any arbitrator, court or tribunal of competent jurisdiction.

"Malicious Code" means viruses, worms, time bombs, Trojan horses any software, hardware or other technology, device or means, including any other malicious computer code, the purpose or effect of which is to (a) permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede in any manner any (i) computer, software, firmware, hardware, system or network or (ii) any application or function of any of the foregoing or the security, integrity, confidentiality or use of any data processed thereby, or (b) prevent Customer or any Authorized User from accessing or using the Purchased Services as intended by this Agreement. Harmful Code does not include any Provider Disabling Device.

"Order Form" means the documents for placing orders hereunder, including addenda thereto that are entered into between Customer and Provider or any of its affiliates from time to time, including addenda and supplements thereto. By entering into an Order Form hereunder, an Customer or its affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto. Order Forms shall be deemed incorporated herein by reference.

"Parties" has the meaning set forth in the preamble.

"Party" has the meaning set forth in the preamble

"Person" means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association or other entity.

"**Provider**" has the meaning set forth in the preamble.

"Provider Disabling Device" means any software, hardware or other technology, device or means (including any back door, time bomb, time out, drop dead device, software routine or other disabling device) used by Provider or its designee to disable Customer's or any Authorized User's access to or use of the Purchased Services automatically with the passage of time or under the positive control of Provider or its designee.

"Purchased Services" means services that Customer or Customer Affiliates purchase under an Order Form, as distinguished from those provided pursuant to a free trial.

"Term" has the meaning set forth in Section 9.1.



2. Purchased Services

2.1. Purchased Services.

Provider shall make the Purchased Services available to Customer pursuant to this Agreement and the relevant Order Forms during a subscription term. Customer agree that Customer purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by Provider regarding future functionality or features.

2.2. User Subscriptions.

Unless otherwise specified in the applicable Order Form, (i) services are purchased as user subscriptions and may be accessed by Authorized Users only, (ii) additional user subscriptions may be added during the applicable subscription term at the same pricing as that for the pre-existing subscriptions thereunder, prorated for the remainder of the subscription term in effect at the time the additional user subscriptions are added, and (iii) the added user subscriptions shall terminate on the same date as the pre-existing subscriptions. User subscriptions are for Authorized Users only and cannot be shared or used by more than one Authorized User but may be reassigned to new Authorized Users replacing former Authorized Users who no longer require ongoing use of the Purchased Services.

3. Use of the Services

3.1. Our Responsibilities.

Provider shall: (i) provide basic support for the Purchased Services to Customer at no additional charge, and/or upgraded support if purchased separately, (ii) use commercially reasonable efforts to make the Purchased Services available, except for: (a) planned downtime (of which Provider shall give at least 8 hours notice via the Purchased Services and which Provider shall schedule to the extent practicable during the weekend hours from 6:00 p.m. Friday to 3:00 a.m. Monday, Central Time), or (b) any unavailability caused by circumstances beyond Provider's reasonable control, including without limitation, acts of God, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving Provider's employees), Internet service provider failures or delays, or denial of service attacks ("Force Majeure Event"), and (iii) provide the Purchased Services only in accordance with applicable laws and government regulations.

3.2. Provider's Protection of Customer Data.

Provider shall maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data. Provider shall not (a) modify Customer Data, (b) disclose Customer Data except as compelled by law in accordance with Section 6.3 (Compelled Disclosure) or as expressly permitted in writing by Customer, or (c) access Customer Data except to provide the Purchased Services and prevent or address service or technical problems related thereto, or at Customer's request in connection with Customer support matters.

3.3. Customer's Responsibilities.

Customer shall (i) be responsible for Authorized User(s) compliance with this Agreement, (ii) be responsible for the accuracy, quality and legality of Customer Data and of the means by which Customer acquired Customer Data, (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the Purchased Services, and notify Provider promptly of any such unauthorized access or use, and (iv) use the Purchased



Services only in accordance with applicable laws and government regulations. Customer shall not (a) make the Purchased Services available to anyone other than Authorized Users, (b) sell, resell, rent or lease the Purchased Services, (c) use the Purchased Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use the Purchased Services to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of the Purchased Services or third-party data contained therein, or (f) attempt to gain unauthorized access to the Purchased Services or their related systems or networks.

3.4. Usage Limitations.

Purchased Services may be subject to other limitations, including but not limited to, limits on disk storage space and the number of calls Customer is permitted to make against Provider's application programming interface within a specified period of time.

3.5. Non-Exclusive Services

Provider and Customer hereby acknowledge and agree that Provider will render Purchased Services to Customer on a non-exclusive basis and that Provider is free to provide services of any kind to any third parties at any time, without limitation before, during or after the Term of this Agreement.

4. Payment for Purchased Services

4.1. Fees

Customer shall timely compensate Provider for the Purchased Services rendered hereunder at the rates set forth in the Order Form (the "Fees"). Except as otherwise specified herein or in an Order Form, (i) Fees are based on services purchased and not actual usage, (ii) payment obligations are non-cancelable and Fees paid are non-refundable, and (iii) the number of Authorized User subscriptions purchased cannot be decreased during the subscription term stated on the Order Form. User subscription fees are based on monthly periods that begin on the subscription start date and each monthly anniversary thereof; therefore, fees for Authorized User subscriptions added in the middle of a monthly period will be charged for that full monthly period and the monthly periods remaining in the subscription term.

4.2. Payment Procedures

Provider will invoice Customer on a monthly basis for Fees. Invoices will be rendered to Customer's accounts payable department as provided or at Customer's address set forth in Section 10.7.2. Customer shall pay Provider in full the amounts set forth on each invoice submitted to Customer by Provider hereunder within thirty (30) days of the date thereof. A "Past Due Invoice" is an invoice that remains unpaid, in whole or in part, after forty-five (45) from the date of the invoice.

4.3. Taxes

In addition to the foregoing, Customer shall be responsible for the payment of any and all taxes or levies, however designated, and any amounts in lieu thereof, relating to the Purchased Services, except for taxes and levies on Provider's income.

4.4. Late Payments

Without limiting its rights or remedies, (i) Provider shall have the right to suspend its performance hereunder until payment is received, in full, on any Past Due Invoice, (ii) Customer shall pay to Provider interest on all



amounts not paid after forty-five days at the rate of one and one-half percent (1.5%) per month or the highest legal rate, whichever is less.

5. Proprietary Rights

5.1. Reservation of Intellectual Property Rights in Purchased Services

Subject to the limited rights expressly provided herein, Provider reserves all Intellectual Property Rights, title and interest in and to the Purchased Services, including all related Intellectual Property Rights. No rights are granted to Customer hereunder other than as expressly set forth herein.

5.2. Restrictions

Customer shall not (i) permit any third party to access the Purchased Services except as permitted herein, (ii) create derivate works based on the Purchased Services except as authorized herein, (iii) copy, frame or mirror any part or content of the Purchased Services, (iv) reverse engineer the Purchased Services, or (v) access the Purchased Services in order to (a) build a competitive product or service, or (b) copy any features, functions, content, or graphics of the Purchased Services.

5.3. Customer Applications and Code

If Customer, a third party acting on Customer's behalf, or an Authorized User creates applications or program code using the Purchased Services, Customer authorize Provider to host, copy, transmit, display and adapt such applications and program code, solely as necessary for Provider to provide the Purchased Services in accordance with this Agreement. Subject to the above, Provider acquires no right, title or interest from Customer or Customer licensors under this Agreement in or to such applications or program code, including any Intellectual Property Rights therein.

5.4. Customer Data

Subject to the limited rights granted by Customer hereunder, Provider acquires no right, title or interest from Customer or Customer licensors under this Agreement in or to Customer Data, including any Intellectual Property Rights therein.

5.5. Suggestions

Provider shall have a royalty-free, worldwide, irrevocable, perpetual license to use and incorporate into the Purchased Services any suggestions, enhancement requests, recommendations or other feedback provided by Customer, including Authorized Users, relating to the operation of the Purchased Services.

6. Confidentiality

6.1. Definition of Confidential Information

As used herein, "Confidential Information" means all confidential information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Customer Confidential Information shall include Customer Data; Provider's Confidential Information shall include the Purchased Services; and Confidential Information of each party shall include the terms and conditions of this Agreement and all Order Forms, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by



such party. However, Confidential Information (other than Customer Data) shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

6.2. Protection of Confidential Information

The Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its affiliates' employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Neither party shall disclose the terms of this Agreement or any Order Form to any third party other than its affiliates and their legal counsel and accountants without the other party's prior written consent.

6.3. Compelled Disclosure

The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

7. Indemnification

7.1. Indemnification by Customer

Customer shall defend Provider against any claim, demand, suit or proceeding made or brought against Provider by a third party alleging that Customer Data, or Customer use of the Purchased Services in breach of this Agreement, infringes or misappropriates the Intellectual Property Rights of a third party or violates applicable law (a "Claim Against Provider"), and shall indemnify Provider for any damages, attorney fees and costs finally awarded against Provider as a result of, or for any amounts paid by Provider under a court-approved settlement of, a Claim Against Provider; provided that Provider promptly gives Customer written notice of the Claim Against Provider.

7.2. Exclusive Remedy

This Section 7 states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of claim described in this Section.



8. Disclaimers and Limitation of Liability

8.1. Software

Provider does not warrant that any software or other materials created by Provider in the performance of the Purchased Services will operate without interruption or will be error-free, or that any or all errors will be corrected. Purchaser does not warrant, nor shall it be responsible for, the operation or performance of any third-party software or other products related to the Purchased Services, even if selected or recommended by Provider. Customer's sole and exclusive rights and remedies with respect to such third-party software or products (including rights and remedies in connection with any infringement claims) shall be against such third party, and not against Provider.

8.2. Disclaimer

EXCEPT AS EXPRESSLY PROVIDED HEREIN, PROVIDER HEREBY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE PURCHASED SERVICES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF RESULT, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, DESIGN OR USE OR ACHIEVEMENT OF DESIRED RESULTS.

8.3. Limitation of Liability

PROVIDER'S ENTIRE AGGREGATE LIABILITY PURSUANT TO, IN CONNECTION WITH AND ARISING OUT OF THIS SAGREEMENT, REGARDLESS OF THE FORM OF ANY LEGAL ACTION OR PROCEEDING, WHETHER IN CONTRACT, STATUTE, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), OR OTHERWISE SHALL NOT EXCEED THE TOTAL AMOUNT ACTUALLY PAID HEREUNDER BY CUSTOMER TO PROVIDER. PROVIDER SHALL NOT BE LIABLE HEREUNDER FOR ANY AMOUNTS REPRESENTING LOSS OF PROFIT, LOSS OF BUSINESS OR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, EVEN IF PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CUSTOMER ACKNOWLEDGE THAT THE FEES REFLECT THIS ALLOCATION OF RISK. SOME STATES DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION MAY NOT ENTIRELY APPLY TO CUSTOMER. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. The parties acknowledge that the limitations set forth in this Section are integral to the amount of consideration levied under this Agreement.

9. Term and Termination

9.1. Term of Agreement

This Agreement commences on the Effective Date and continues until all Authorized User's subscriptions granted in accordance with this Agreement have expired or been terminated (the "Term").

9.2. Term of Purchased User Subscriptions

Authorized User subscriptions purchased by Customer commence on the Effective Date and continue for the subscription term specified herein. Except as otherwise specified in an applicable Order Form, all Authorized User subscriptions shall automatically renew for additional periods equal to the expiring subscription term or one year (whichever is shorter), unless either Party gives the other notice of non-renewal at least 30 days before the end of the relevant subscription term. The per-unit pricing during any such renewal term shall be the same as that during the prior term unless Provider has given Customer written notice of a pricing increase



at least 60 days before the end of such prior term, in which case the pricing increase shall be effective upon renewal and thereafter. Any such pricing increase shall not exceed 7% of the pricing for the relevant Purchased Services in the immediately prior subscription term, unless the pricing in such prior term was designated as promotional or one-time.

9.3. Termination for Cause

A party may terminate this Agreement for cause: (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

9.4. Refund or Payment upon Termination

Upon any termination for cause by Customer, Provider shall refund Customer any prepaid fees covering the remainder of the Term of all subscriptions after the effective date of termination. Upon any termination for cause by Provider, Customer shall pay any unpaid fees covering the remainder of the term of all Order Forms after the effective date of termination. In no event shall any termination relieve Customer of the obligation to pay any fees payable to Provider for the period prior to the effective date of termination.

9.5. Return of Customer Data

Upon request by Customer made within 30 days after the effective date of termination of a Purchased Services subscription, data will remain available to Customer for download in comma separated value (.csv) format. After such 30-day period, Provider shall have no obligation to maintain or provide any relevant data and shall thereafter, unless legally prohibited, delete all of Customer Data in Provider's systems or otherwise in Provider's possession or under Provider's control.

9.6. Surviving Provisions

Section 4 (Payment for Purchased Services), 5 (Proprietary Rights), 6 (Confidentiality), 7 (Indemnification), 8 (Disclaimer and Limitation of Liability), 9.4 (Refund or Payment upon Termination), 9.5 (Return of Customer Data), and 10 (Miscellaneous) shall survive any termination or expiration of this Agreement.

10. Miscellaneous

10.1. Governing Law

The laws of the State of Illinois (irrespective of its choice of law principles) shall govern the validity of this Agreement, the construction of its terms, and the interpretation and enforcement of the rights and duties of the parties. Furthermore, the parties consent to jurisdiction and venue of the State and Federal Courts in Illinois.

10.2. Binding upon Successors and Assigns

Customer shall have no right to assign this Agreement without the prior written consent of Provider. Subject to the foregoing, this Agreement shall be binding upon, and inure to the benefit of, the successors and permitted assigns of a party to this Agreement, provided that any successor or permitted assign shall agree in writing, for the express benefit of the other party, to assume all of the obligations of its predecessor under this Agreement. Any assignment or attempted assignment of this Agreement not permitted by this Section shall be void.



10.3. Severability

If any provision of this Agreement, or the application of a provision, shall for any reason and to any extent be found invalid or unenforceable, the remainder of this Agreement, and (if appropriate) such provision to other persons or circumstances, shall remain in full force and effect and be interpreted so as best to reasonably effect the intent of the parties. Both parties recognize their intent that this Agreement shall be deemed amended by modifying such provision to the extent necessary to make it legal and enforceable while preserving its intent or, if that is not possible, by substituting therefore another provision that is legal and enforceable and achieves the same objective.

10.4. Entire Agreement

This Agreement, including the exhibits to this Agreement, constitutes the entire understanding and agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous agreements or understandings between the parties.

10.5. Amendment and Changes

No amendment, modification, supplement or other purported alteration of this Agreement shall be binding upon the parties unless it is in writing and is signed on behalf of the Parties' authorized representatives. The failure of either party to enforce any of the provisions of this Agreement shall not be construed to be a waiver of the right of such party thereafter to enforce such provisions.

10.6. Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be an original as against any party whose signature appears on such counterpart and all of which together shall constitute one and the same instrument.

10.7. Notices

Whenever any party desires or is required to give any notice, demand, or request with respect to this Agreement, each such communication shall be in writing and shall be effective only if it is delivered by personal service or registered mail or certified mail, if desired, postage prepaid, or by facsimile with confirmed answer back, or by email addressed as follows:

10.7.1. If to Provider, then addressed to:

Cultivate Labs
447 Highcrest Dr.
Wilmette, IL 60091 USA
support@cultivatelabs.com

10.7.2. If to Customer, then addressed to:

<ADDRESS NEEDED>

Any such communications shall be effective when they are received by the addressee; but if sent by registered or certified mail in the manner set forth above, they shall be effective five (5) days after being deposited in the mail.



Any party may change its address for such communications by giving an appropriate notice to the other parties in conformity with Section 10.7.

10.8. Further Assurances

Each party agrees to cooperate fully with the other party and to execute such further instruments, documents and agreements and to give such further written assurances, as may be reasonably requested by the other Party, to better evidence and reflect the transactions described in and contemplated by this Agreement, and to carry into effect the intents and purposes of this Agreement.

10.9. Reference

Customer acknowledge and agree that Customer may be reasonably used as a customer reference for Provider.

10.10. Force Majeure

Except with regard to the payment of money, no party shall be responsible for any delays caused by acts of God or any other cause beyond its reasonable control, including but not limited to such things as strikes, riots, acts of war, restricting legislation, embargo, blockage, work stoppage, major outage of a public communications carrier, etc. Any delay caused by one party hereto which affects any other party's ability to perform according to the terms of this Agreement shall extend the non-delaying party's obligation to perform by the same number of days by which the delaying party delayed in performing its obligations.

10.11. Headings

The headings used in this Agreement and/or any exhibit hereto are for reference and convenience purposes only and shall not in any way limit or affect the meaning or interpretation of any of the terms hereof.





IN WITNESS WHEREOF, intending to be legally bound hereby, the parties have caused this Agreement to be executed by duly authorized representatives.

Cultivate Labs Inc.	[Client]
Signed	Signed
Name	Name
Title	Title
Date	Date