

Recursive Enterprise Services Agreement

G-Cloud 15 – Terms and Conditions

This ENTERPRISE SERVICES Agreement (“Agreement”) made and entered into this _____ day of _____ 202____, (the “Effective Date”) between Recursive Labs, Inc. (“RL”), a Delaware corporation and _____ a _____ (“Client”).

WHEREAS, RL controls certain software and technology rights that provide online visual engagement and collaboration solutions, and provides certain services, including consulting, implementation, hosting and maintenance services related to the making one-click, no-download web sharing available as a SaaS (Software as a Service) model (“Services”);

NOW, THEREFORE, in consideration of the above recitals and the mutual promises and covenants contained herein, RL and Client agree as follows:

1. Statement of Work RL shall provide Services for Client as described in a Statement of Work (“Statement of Work”). The parties may modify a Statement of Work only as mutually agreed by the parties in writing. RL will implement and make available the Services (as defined below) in accordance with a Statement of Work.
2. Services RL shall provide access to the cloud based customer collaboration platform as a SaaS model and provide consulting, implementation, hosting and maintenance services related to the SaaS Service (“Services”). RL will provide shared Client hardware, software and network applications necessary to provide the Services, with data storage and usage bandwidth adequate in RL’s judgement to accommodate Client’s reasonably anticipated data and bandwidth needs in connection with the Statement of Work. Client shall be responsible for providing all computer, device and other equipment and any facilities that may be necessary for its use of the Services under this Agreement including any software, hardware or network applications or capabilities necessary for Client to utilize the Services on their own website.

RL shall designate a specific customer service contact for Client in the event Client needs customer support. This contact shall be identified in writing prior to the Effective Date. In the event of an emergency during non-Business Hours (Mon-Fri 9am-5pm Central), RL shall maintain an after-hours contact number for emergency support.

RL hereby reserves the right to interrupt the Services to conduct any necessary maintenance each Sunday during the hours of 11:00pm Central and 1:00am Central ("Scheduled Downtime"). Client understands that this may result in a brief interruption of the Services.

3. Limited License Subject to the terms of this Agreement and in exchange for the consideration detailed herein, the sufficiency of which is herein acknowledged, RL hereby grants to Client and Client accepts from RL, a non-exclusive, non-transferable, non-assignable, limited license and right to access the Services, to access and manage any session transaction (i.e., Start, Stop, mouse position, etc.), and only to the extent detailed in Section 12 of this Agreement, statistics and usage data "Client Data" during the Term of this Agreement. No other license is granted under this Agreement. Access to the Services shall be limited to Client employees and contractors working on Client's behalf who require access to perform their designated responsibilities as an employee or contractor of Client on a need to know/need to use basis. Client will use commercially reasonable efforts, as well as taking any steps reasonably requested by RL, to protect RL's interest in the Services, including the execution and delivery of any documents or instruments related thereto. RL is not obligated to make the Services available as a locally installed application or to make any changes or modifications to the Services suggested or offered by Client, and further reserves the right to discontinue work on or to revise the Services so that it may provide different features or functionality, features in different combinations, and/or different environment configurations.

4. Intellectual Property As between the parties, RL, owns all of the right, title and interest in and to the Services, or has valid licenses to any third party component or technology imbedded in the Services, including the right to sublicense any third party component to Client, including the know-how, business methods and methodologies, works of authorship, skills and programming or SaaS service proprietary code, including but not limited to patents or patentable ideas, copyright, designs, processes, procedures, formulas, trade secrets and ideas or documentation and RL materials developed prior to this Agreement or during any engagement under this Agreement related to the Services, excluding any Client Confidential Information (as defined below) (collectively referred to as "RL Intellectual Property"). RL shall own any corrections, modifications, programs,

enhancements, suggestions, updates, upgrades, information and work Services conceived, created or developed by any party under this Agreement related to the Services or other RL Intellectual Property. Client acknowledges that RL has expended a significant amount of time and energy in the creation of the valuable RL Intellectual Property and shall take no actions that may detrimentally affect such RL Intellectual Property. Client shall not allow any third party other than Client's contractors working on its behalf to view the Services Admin Portal or implementation Script or activator Code without RL's prior written authorization. Except as expressly provided herein, Client acquires no right, title or interest therein or thereto to any RL Intellectual Property. Client acknowledges that as between the parties, RL shall own all copyrights and other intellectual property (whether preexisting or newly developed) in and to the Services, including without limitation, any deliverables ("Deliverables"), excluding any Client Data or Client Confidential Information. RL grants to Client a non-exclusive right to use the Deliverables for its own internal business purposes as long as this Agreement remains in effect. Client shall not sell, transfer, use, reproduce, edit or amend the Deliverables other than as expressly provided in this Agreement.

5. Fees Client shall pay to RL fees as outlined in the Statement of Work. Client acknowledges that some fees may vary based upon Client and/or Client's customers' usage levels. RL will send Client itemized invoices, noting as a separate line item on invoices all applicable sales and use taxes appropriate to the performance of the Services. Client will pay undisputed invoices upon receipt of the invoice. RL is responsible for reporting and remitting to the proper taxing authority all applicable taxes for the Services.

RL agrees that for usage based Services it shall make usage data available to Client at any time during the Term. Client expressly acknowledges, however, that RL cannot control nor be held responsible for abuse, misuse or overuse of the usage based Services by Client's customers or employees. Furthermore, Client specifically agrees that it shall be solely responsible for all usage based charges resulting from abuse, misuse or overuse by its employees or customers.

6. Term and Termination This Agreement shall commence as of the Effective Date and continue for _____ year(s) from the date the Client Data commences being stored on a dedicated Services database, the "Effective Date" (the "Term"), unless earlier terminated in accordance with the terms and conditions set forth herein. Absent written notice from either party at least 90 days prior to the end of the Term, this Agreement shall automatically renew for one (1) year in accordance with the terms and conditions set forth herein and subject to the execution of a new Statement of Work.

RL may terminate this Agreement immediately for violations of Sections 3, 4 or 11. Client may terminate this Agreement or any Statement of Work with or without cause at any time. If, and only if Agreement or any Statement of Work is terminated by Client for cause, RL shall refund to Client a pro-rated portion of the fees paid by Client for the Services not yet completed by RL as of the date of termination.

Upon the expiration or termination of this Agreement, RL shall cease providing Services. Client will immediately cease using the Services. The parties will promptly destroy all data, reports, written or electronic materials (including any backups or archival copies) provided by or on behalf of, or otherwise related to, the other (including any Confidential Information, proprietary information or any related content, including any copies thereof), except for Deliverables, unless such data, reports, written or electronic materials must be retained pursuant to applicable law or record retention requirements. Client shall be responsible to pay RL for all undisputed amounts for Services rendered, up to the expiration or termination date upon receipt of a final invoice detailing such fees and charges, if any.

In the event RL ceases doing business in the ordinary course, terminates its business operations related to the Services, or is deemed to be insolvent or declares bankruptcy at any point during the Initial Term, this Agreement shall be terminated and Client will promptly receive a pro-rated refund of pre-paid fees.

Outside of the terms and conditions set forth in this Section 6, either party may terminate this Agreement if the other party materially breaches this Agreement. Prior to termination, the party alleging a breach by the other party must give notice to the breaching party within 10 days of the breach and must allow the breaching party 45 days in which to cure the breach.

7. Party Warranties Each party hereby represents and warrants to the other that: (i) such party is duly organized and validly existing under the laws of the state of its organization, and has full power and authority to enter into this Agreement and to carry out the provisions hereof; (ii) such party is duly authorized to execute and deliver this Agreement and to perform its obligations hereunder; (iii) this Agreement is a legal and valid obligation binding upon the party and is enforceable in accordance with its terms; and (iv) such party shall ensure the compliance of each of its third party supplier(s) with all obligations and responsibilities set forth herein or in any Statement of Work.

a. 8. Data Integrity CLIENT UNDERSTANDS AND AGREES THAT, by its very nature, a website based service cannot be absolutely protected against intentional or malicious intrusion attempts. Furthermore, RL DOES NOT control third

party or CLIENT devices, systems and computers, or the Internet over which CLIENT may choose to send confidential information and cannot, therefore, absolutely prevent such interceptions of compromises to SUCH information while in transit to and from RL. Therefore, RL makes NO absolute guarantee as to security, integrity or confidentiality of any information transmitted to RL. RL cannot and does not guarantee the absolute security of electronic communications or transmissions since any transmission made over the Internet by any organization or any individual runs the risk of interception. RL will at all times in connection with this Agreement: (i) maintain and enforce an information security program including administrative, physical and technical security policies and procedures with respect to its processing of Client Data and Client Confidential Information that meet or exceed no less than commercially reasonable industry practices and standards; (ii) provide technical and organizational safeguards adequately designed to protect against accidental, unlawful or unauthorized access to or use, destruction, loss, alteration, disclosure, transfer, commingling or processing of such information and ensure a level of security appropriate to the risks presented by the processing of such information and the nature of such information, consistent with not less than commercially reasonable industry practice and standards; (iii) take commercially reasonable measures to secure the Services platform against "hackers" and others who may seek, without authorization, to disrupt, damage, modify, access or otherwise use the Services platform or the information found therein; (iv) take commercially reasonable measures to logically separate Client Confidential Information from that of other customers; and (v) RL will utilize SSL/TLS to encrypt data in transit with a minimum of SHA256 with RSA encryption.

Additionally, RL will periodically test and continuously monitor its systems for potential areas where security could be breached and will also periodically conduct security testing, including penetration testing. RL will be solely responsible for its information technology infrastructure, including all computers, software, databases, electronic systems and networks and hosting platforms that are owned or controlled or provided by RL or that may be used by RL to access Client's systems or otherwise in connection with the Services. Client Data will be stored, accessed and transmitted by RL only within the United States only to the extent that the Client's customer is accessing the Service from within the United States.

9. Limitation of Liability neither party shall have any liability in regard to consequential, exemplary, special, incidental or punitive damages, even if it has been advised of the possibility of such damages. EXCEPT FOR THE INDEMNIFICATION OBLIGATIONS HEREIN, in no event shall either party's total liability in connection with or under this agreement (whether under the theories of breach of contract, tort, negligence, strict liability, or any other theory of law) exceed the fees paid under

this agreement. THIS PROVISION DOES NOT APPLY TO A PARTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT, INDEMNITY OBLIGATIONS OR BREACH OF CONFIDENTIALITY OBLIGATIONS.

10. Limited Warranty RL warrants that the Services are free of any viruses, "Trojan horses" or other harmful code, copy protection, automatic shut-down, lockout, "time bomb" or similar mechanisms that could interfere with Client's exercise of its business or its rights under this Agreement ("Virus"). In addition to any other remedies, RL will reimburse Client for reasonably necessary remediation costs to remove the Virus from Client's computers and network systems. RL warrants that the Services will perform in accordance with the accepted Scope of Work and that the documentation is complete and accurate. RL warrants that it will perform the services under this Agreement in a professional manner, in accordance with applicable professional standards. RL does not warrant results or achievements of Services. Client agrees that where participation by its own staff is necessary in order to assist RL in the provision of Services such staff shall possess the appropriate skills, experience and authority for the tasks assigned to them, and shall be available at such times as agreed by the parties. EXCEPT AS SET FORTH IN THIS AGREEMENT, RL MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES INCLUDING WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE OR USE, ACCURACY, CURRENTNESS, SUITABILITY, INTEGRATION, NON-INFRINGEMENT AND OF THIRD PARTY RIGHTS. FURTHER, RL DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY THAT MAY ARISE OUT OF ANY COURSE OF DEALING OR COURSE OF PERFORMANCE.

11. Confidentiality Either party (the "Disclosing Party") may disclose to the other party (the "Recipient") proprietary and confidential information of the Disclosing Party including, without limitation, RL Intellectual Property, Client Data, information relating to the Services, consulting methodologies, business plans, pricing, marketing and clients of the Disclosing Party ("Confidential Information"). For the avoidance of doubt, the content from Client's live website help sessions with its customers and related screenshots, if any, from use of the Services is Client's Confidential Information. Confidential Information does not include information which is: (a) in the public domain other than by a breach of this Section on the part of the Recipient; or (b) rightfully received from a third party without any obligation of confidentiality; or (c) rightfully known to the Recipient without any limitation on use or disclosure prior to its receipt from the Disclosing Party; or (d) independently developed by the Recipient. It is not a violation of this Section if Confidential Information is disclosed pursuant to the order or requirement of a court, administrative agency or other government body. Except as otherwise expressly permitted herein, Recipient agrees not to disclose Confidential Information to any third party other than contractors or agents working on the Recipient's behalf that have a need to know the information and to use

Confidential Information solely for the purposes of this Agreement. Recipient shall not make any copies of Confidential Information received from the Disclosing Party except as necessary for its employees with a need to know. Recipient will reproduce on all copies of Confidential Information all confidentiality and other proprietary rights notices appearing on the originals. Recipient shall maintain the Confidential Information with at least the same degree of care that Recipient uses to protect its own Confidential Information, but no less than a reasonable degree of care under the circumstances. No license to the Confidential Information is either granted or implied by the disclosure of Confidential Information. The parties acknowledge that Confidential Information has competitive value and that irreparable damage may result to the Disclosing Party if the Recipient discloses Confidential Information. The parties agree that legal proceedings at law or in equity, including injunctive relief, are appropriate in the event of a breach hereof without the duty of posting bond. The obligation of confidentiality shall survive termination indefinitely. Upon request by the Disclosing Party, within ten (10) days of the termination of this Agreement, the Recipient shall return or destroy all Confidential Information received from the Disclosing Party. The parties agree that the terms of this Agreement are to be kept strictly confidential.

12. Access to Data During the Term, information such as Client Data shall be stored on a shared Client Services database and shall be the sole property of Client. As such, RL has the unlimited, unrestricted, worldwide, perpetual, royalty-free ability to receive and use all de-identified activity and reference data associated with the Services and Client's use of the Services solely for internal product use and improvement purposes, and Client Data shall not be redistributed or packaged, bundled or sold in any way.

In the unlikely event of a data breach, RL shall notify Client within 24 hours of learning of said breach event and investigate the extent of such loss or disclosure at RL's own expense. Additionally, RL shall ensure the breach is resolved in a commercially reasonable time. If a breach notification is required by law, RL will, if requested by Client, assist Client with notifying affected individuals at RL's expense.

13. Force Majeure Neither party will be liable for any delay in performance hereunder if such delay is due to causes beyond the reasonable control of such party. Such causes will include, without limitation, fires, floods, strikes or other labor disputes, war, criminal disturbances, power failure, an outage at a third-party cloud hosting provider utilized by RL to provide the Services that could not be reasonably prevented, acts of God and restrictions imposed by any governmental agency. In the event such delay or nonperformance extends beyond thirty (30) days, the other party may, at its option, cancel any portion of this Agreement

and/or extend any date upon which any performance is due, and neither party will assess any damages against the delaying party in such event.

14. **Governing Law** The parties agree that this Agreement shall be construed in accordance with the laws of the State of Texas, USA without regard to its conflict of laws provisions.

15. **Publicity and Use of Name** Client shall not use the name, logo, likeness or trademarks of RL or its third party licensors for any reason, including but not limited to advertising, marketing, media communications, press releases or endorsement purposes without the prior written consent of RL for each such use. RL shall not use the name, logo, likeness or trademarks of Client or its third party licensors for any reason, including but not limited to advertising, marketing, media communications, press releases or endorsement purposes without the prior written consent of Client for each such use.

16. **Independent Contractor Status** Both parties hereto are independent contractors and this Agreement does not establish any partnership, joint venture, employment, franchise, or agency between the parties. Neither party will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent. Each party shall assume sole and complete responsibility for its own employees and for the payment of any applicable taxes.

17. **Service Availability and Remedies** RL will make the Services Available, as measured over the course of each calendar month during the Term at least 99% of the time, excluding only the time the Services are not Available solely as a result of one or more Exceptions (the "Availability Requirement"). For purposes of this Section, the Services are not Available if the Services are inoperable or materially degraded

No period of Service degradation or inoperability will be included in calculating Availability to the extent that such downtime or degradation is due to any of the following ("Exceptions"): (a) failures of Client or its Authorized Users' internet connectivity; (b) widespread internet or other network traffic problems other than problems arising in or from networks actually or required to be provided or controlled by RL or its Subcontractor or third party hosting service provider; (c) Client's or any of its Authorized Users' failure to meet any minimum hardware or software requirements set forth in the Specifications; or (d) Scheduled Downtime as set forth in Sections 2 of this Agreement.

Other than the Scheduled Downtime noted in Section 2 of this Agreement, the RL will notify Client at least twenty-four (24) hours in advance of all scheduled outages of the Services in whole or in part, but such downtime is not considered Scheduled Downtime.

RL will constantly monitor Service Availability and if the actual Availability of the Services is less than the Availability Requirement, RL shall notify Client within 5 days after the end of the month in which the downtime occurred. If this occurs in any three (3) consecutive month period, then Client shall receive service credits equal to 1.5 times the relevant downtime.

18. General No modification or amendment of this Agreement will be valid unless in writing and signed by both parties. The waiver by either party of any default or breach of this Agreement will not constitute a waiver of any other default or breach. To the extent any terms of a Statement of Work are additional terms to this Agreement, the Statement of Work shall govern. To the extent any terms of a Statement of Work conflict with the terms of this Agreement, this Agreement shall govern unless the Statement of Work expressly states that the parties intend to deviate from the terms and conditions of this Agreement. If any provision of this Agreement is held to be invalid or unenforceable, such provision will be read in order to give effect to such term to whatever extent permissible under the law, and the remaining provisions will remain in full force. Both parties will perform their respective obligations under this Agreement in compliance in all material respects with all applicable laws, rules and regulations. The headings of this Agreement are included for convenience only and do not affect the meaning or construction of the provisions herein or the parties' respective rights and obligations hereunder. Neither party shall assign any of its obligations under this Agreement without the advance written notice to the other party. Any attempted assignment without written notice shall be void. This Agreement, including all Exhibits, Schedules or any fully executed Statement of Work, constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, understandings, negotiations and warranties, representations and/or agreements between the parties in connection with the subject matter hereof, except as specifically set forth and referred to herein. Other documents referred to in this Agreement are an integral part hereof and by this reference are incorporated herein.

19. Indemnification. Each party shall indemnify and hold harmless the other and its respective affiliates, directors, officers, employees and agents (collectively, the "Indemnitees"), from and against any losses, claims, actions, damages, penalties, liabilities, costs and expenses, including reasonable attorneys' fees, incurred by, imposed upon, or asserted against any such Indemnitee, by reason of any third party claim, regulatory proceeding, or litigation, to the extent arising out of, based on, or related to, directly or indirectly: (i) the negligent acts or omissions or willful

misconduct of the indemnifying party or of its employees or agents (including permitted subcontractors and their employees or agents, if any); (ii) any breach of the provisions of this Agreement or any Statement of Work by the indemnifying party or its respective employees or agents (including permitted subcontractors and their employees or agents, if any), including unauthorized access, use or disclosure of Confidential Information; or (iii) the indemnifying party's violation of federal, state or local law or regulation applicable to the indemnifying party or its performance of the Services or this Agreement.

RL will defend, indemnify and hold harmless Client, its agents and employees from any liability, loss, claim, lawsuit or expense, including court costs, reasonable legal fees and settlement amounts, against Client arising out of an assertion that the Services or Deliverables or Client's use of the Services or Deliverables infringe a third party's intellectual property rights. Should the Services or Deliverables become, or in RL's opinion be likely to become, the subject of a claim for which RL is required to indemnify pursuant to this Section, RL may, at its discretion, (i) obtain for Client, at no additional cost to Client, the right to continue using the Services or Deliverables under this Agreement; or (ii) modify or replace all or part of the Services or Deliverables with a non-infringing Service or Deliverable that has substantially the same functionality at no additional cost to Client to avoid such claim. If RL determines that neither (i) nor (ii) is commercially practicable, it will refund all fees paid for the Services for the Term or for the applicable Deliverables.

20. Security Audit. Recursive Labs utilizes data centers that are maintained by Amazon. Upon prior written request, RL shall furnish Client with its most recent copies of (i) SSAE16 SOC 2 Type 2 operational control audit; (ii) Federal Information Security Management Act (FISMA); and (iii) annual independent vulnerability assessment report to allow Client the opportunity to assess and verify RL's compliance with its duties and obligations under this Agreement.

21. Disaster Recovery Plan. RL will have a disaster recovery plan in place at all times to address any interruption of services. Upon request, RL will provide a current copy of the disaster recovery plan to Client, and will include information regarding testing and test results.

For purposes of this Agreement, the parties intend and agree that a signed copy delivered by facsimile or electronically shall be treated by the parties as an original of this Agreement and shall be given the same force and effect. In witness

whereof, the parties hereto have caused this Agreement to be executed by their authorized agents as of the date first above written.

RECURSIVE LABS, INC.

By:

By:

A.D. "Bud" Albers

Name (print or type)
CEO

Name (print or type)

Title

Title

Contact Information

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