Athennian

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TERMS OF SERVICE

This agreement (the "Agreement") by and between Paper Interactive, Inc., (dba "Athennian") an Alberta corporation whose principal place of business is 340 12 Ave SW #500, Calgary, AB T2R 1L5 ("Athennian") and the individual or the business entity executing this Agreement (the "Customer") (collectively the "Parties", individually a "Party"). This Agreement is effective as of the date of execution of a contract between the Parties (the "Effective Date"). Use of the System by Customer, including Customer's Users, and Athennian's provision of the System, is governed by this Agreement and our Privacy Policy.

1. Definitions

The following capitalized terms shall have the following meanings whenever used in this Agreement.

"Athennian Associates" means Athennian's officers, directors, employees, shareholders, parents, subsidiaries, agents, successors, and assigns.

"Customer Data" means any data, information or material in electronic form collected or input through the System by Customer, including without limitation from Customer's Users or from individuals or business entities doing business with Customer or that Customer has invited to use the System.

"Documentation" means Athennian's standard manual related to use of the System, as well as any other written documentation provided to Customer by Athennian to facilitate Customer's use of the System under the terms of this Agreement.

"Order" means an order for access to the System created either electronically through the System when Customer opens an Athennian account or in the form of a purchase order, invoice or other agreement signed by the Customer, including by electronic signature.

"Privacy Policy" means Athennian's Privacy Policy, currently posted at Athennian.

"System" means Athennian's entity management, corporate records automation, contract management, document automation, eSign and related software. The System includes, without limitation, Athennian's proprietary software and other technology, including any enhancements, modifications, and derivative works to any of the foregoing.

"User" means any individual who uses the System on Customer's behalf or through Customer's account or passwords, whether authorized or not. Users do not include individuals or business entities that open their own Athennian account, even if such individual or business entity is doing business with Customer or has been invited by Customer to use the System.

2. The System

2.1 Use of the System. During the Term, Customer may access and use the System pursuant to:

  a. The terms of any outstanding Order, including such features and functions as the Order requires
  b. This Agreement

2.2 Order Requirements. Customer agrees:

  a. That it shall submit each proposed Order through the System or sign it, as applicable, through a representative having the authority to bind Customer
  b. That Athennian may presume that such representative has such authority.

Customer shall include in each proposed Order its accurate name, email address, or other identifying information, the subscription plan option selected by Customer, any transaction-specific terms and conditions, and the Term for which Customer has subscribed to the System and the applicable fees, if any. No proposed Order shall be considered an Order until accepted by Athennian.

2.3 Documentation. Customer may reproduce and use the Documentation only as necessary to support Users' use of the System.

2.4 Customer's Partners. Customer recognizes and agrees that its business partners may not access the System as Users and, in order to interact with Customer via the System, shall be required to become Athennian customers and execute separate contracts with Athennian.

3. Electronic Transactions and Electronic Signatures

3.1 Standards. Athennian's System has been designed to address the key requirements of:

    a. The Electronic Signatures in Global and National Commerce (E-SIGN) Act, Pub. L. No. 106-229, 114 Stat. 464 (2000) (15 U.S.C. §§7001-7031);
    b. The Canada Secure Electronic Signature Regulations (SOR/2005-30); enabled pursuant to both the Canada Evidence Act (R.S.C., 1985, c. C-5) and the Personal Information Protection and Electronic Documents Act (S.C. 2000, c. 5).
    c. The Uniform Electronic Transactions Act (UETA), as approved by the National Conference of Commissioners on Uniform State Laws in 1999 (7A Pt. 1 U.LA. 211, 211-99 (2002)), as well as the state laws modeled after UETA.
    d. Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures.

3.2 Exceptions to Applicability of Electronic Signature. Certain types of agreements and documents may be excepted from electronic signature laws (e.g., wills, land transactions and ownership documents, agreements pertaining to family law, etc.), or may be subject to specific regulations promulgated by various government agencies regarding electronic signatures and electronic records. Athennian shall not be responsible or liable to determine whether any particular contract is subject to an exception to applicable electronic signature laws, or whether it is subject to any particular agency promulgations, or whether it can be legally formed by electronic signatures.

3.3 Electronic Transactions and "Consumers". Certain consumer protection or similar laws or regulations may impose special requirements with respect to electronic transactions involving one or more "consumers," such as (among others) requirements that the consumer consent to the method of contracting and/or that the consumer be provided with a copy, or access to a copy, of an Athennian or other non-electronic, written record of the transaction. Athennian shall not be responsible to:

    a. Determine whether any particular transaction involves a "consumer"
    b. Furnish or obtain any such consents or determine if any such consents have been withdrawn
    c. Provide any information or disclosures in connection with any attempt to obtain any such consents
    d. Provide legal review of, or update or correct any information or disclosures currently or previously given
    e. Provide any such copies or access, except as expressly provided by the System for all transactions, consumer or otherwise to comply with any such special requirements
    f. Customer undertakes to determine whether any "consumer" is involved in any document presented by Customer or its Users for processing by the System, and, if so, to comply with all requirements imposed by law on such documents.

4. Subscription Fees, Billing, & Payment

4.1 Subscription Fees. Fees for paid plans are determined based on the number of active entity records ("AERs") saved in the System during a monthly or annual subscription period ("Billing Period"). Unless otherwise stated in the Order, all subscription fees are payable in advance. An AER means an entity record with the status of "Confirmed" or "Pending".

4.2 Corporate E-File Fees. Athennian provides the ability to electronically file in certain jurisdictions ("E-File"). E-File may be supported via an integration with a third-party service provider. Customer agrees that Athennian may change all E-File prices upon sixty (60) days notice to Customer. E-File fees are set-forth in the E-File Schedule available here. E-File fees are invoiced on a monthly basis. In the event of an increase to Athennian's costs for third party agent fees, Customer agrees that Athennian may change E-file prices for agent fees upon sixty (60) days notice to Customer, provided that such fee increase will not exceed the applicable increase in costs incurred by Athennian with respect to such third party agent fees.

4.3 Payment. Customer will make payment by credit card, automatic electronic funds transfer (EFT) or in limited cases, cheque (the "Payment Method"). Customer authorizes Athennian to transmit Customer's Payment Method information to Athennian's third-party payment processing vendor, which may store such information in order to facilitate payments. Customer shall promptly notify Athennian in writing of any change in Customer's invoicing address or changes related to the Payment Method, which will be effective 5 days after Athennian's receipt of Customer's notification. Customer authorizes Athennian or its payment processing vendor to bill Customer, through Customer's authorized Payment Method, for the applicable subscription fees, along with any applicable taxes and any other charges Customer may incur in connection with its use of the System. Customer acknowledges that it is solely responsible for any and all fees charged to Customer by its credit card issuer, bank, or other financial institution including, but not limited to, membership, overdraft, insufficient funds, and over-the-credit-limit fees. All fees and charges are nonrefundable, and no credit or discount shall be issued are required if Customer uses the System for only part of a Billing Period.

4.3 Invoices. Athennian may:

a. Send invoices generated through the System, via email, or such other means as it may select from time to time
b. Invoice Customer through Customer's Payment Method at the beginning of each Billing Period.

Customer may request an additional invoice or an invoice in a different format by emailing accounts@athennian.com. Increases in paid subscription plan tiers will be effective and invoiced at the time of the increase, on a prorated basis if the change is made during a Billing Period. Decreases in paid subscription plan tiers will be effective upon renewal of the next Billing Period. If Customer does not notify Athennian in writing of a billing problem or discrepancy within 60 days of the relevant invoice date, Customer waives any right or dispute related to such problem or discrepancy. Invoices are due within 30 days of the date of the invoice.

4.4 Taxes. All fees are exclusive of taxes, levies, and duties, and the Customer will be responsible for payment of all such taxes, levies, and duties, including sales tax withholding, or similar taxes, but excluding Canada or the United States (federal or state) income tax and any other taxes based solely on Athennian's income. Athennian may calculate taxes based on the billing information Customer provides.

4.5 Effect of Nonpayment. If Customer fails to pay any invoice in full when due, Athennian shall provide notice to Customer of the default, and if Customer does not cure the default within ten days following the notice, Athennian may suspend Customer's access to the System. In addition to such other rights as Athennian may have, including without limitation pursuant to Section 12.2 (Termination Without Cause) and Section 12.3 (Termination for Cause) below,

Customer shall continue to pay fees during any suspension. Customer will reimburse any costs or expenses (including, but not limited to, reasonable attorneys' fees) incurred by Athennian to collect any overdue amount. Athennian may accept any cheque or payment in any amount without prejudice to its right to recover the balance or to pursue any other right or remedy. Customer may not withhold amounts owed to Athennian under this Agreement for any reason or offset them against amounts that Customer asserts are owed to Customer by Athennian.

5. Customer Data, Privacy & Security

5.1 Use of Customer Data. Athennian requires that all its employees sign strict confidentiality agreements as part of their employment agreement. Unless it receives Customer's prior written consent, Athennian:

a. Shall not access, process, or otherwise use Customer Data other than as necessary to facilitate the System, to prevent or address service or technical problems, or at Customer's request in order to provide Support.
b. Shall not intentionally grant any third party access to Customer Data, including without limitation Athennian's other customers, except subcontractors that are subject to a nondisclosure agreement.

Notwithstanding the foregoing, Athennian may access, preserve and disclose Customer account information and Customer Data if required to do so by law or by proper legal or governmental authority, or if Athennian is required

a. To comply with legal process
b. To enforce the Agreement
c. To respond to claims that Customer Data violates the rights of third parties
d. To protect the rights, property or personal safety of Athennian, its customers and the public.

Athennian shall give Customer prompt notice of any legal or governmental demand and will reasonably cooperate with Customer in an effort to seek a protective order or otherwise to contest such required disclosure, at Customer's expense. Athennian shall reasonably cooperate with Customer to limit any disclosure to the minimum extent required by any such order

5.2 Background Checks. Athennian agrees that it or its agents will have performed a local, provincial, and federal background investigation ("Background Check") on each Athennian employee who may have access to any Customer Data. The Background Check includes a detailed examination of

a. Criminal convictions involving a dishonest act, (including but not limited to fraud, theft, and embezzlement)
b. Injury or threatened injury to another person.

Athennian agrees that if any items were discovered in the Background Check, such individual shall not be entitled to have any access to Customer Data. These obligations shall apply to all subcontractors. Without limiting the foregoing, Athennian agrees that all Athennian subcontractors performing Services will also perform background investigations that are of a commercially reasonable standard that are intended to be as effective as the Background Checks, on any Athennian subcontractor personnel who may have access to any Customer Data.

5.3 Compliance. Athennian will cooperate and comply with any requests or instructions issued by any privacy or data protection authority including the Canadian Privacy Commissioner and other Governmental Authorities applicable to the Customer or its Affiliates or the Customer's Confidential Information.

5.4 Customer Responsible for Customer Data. Customer represents and warrants to Athennian that Customer has obtained all permissions, releases, rights or licences required to collect the Customer Data and/or to input Customer Data into the System. In addition, if European Union General Data Protection Regulation ("GDPR") applies to any Customer Data in the System that is Personal Data, as defined in the GDPR, Customer represents and warrants that:

    a. It has obtained all consents necessary to transfer such Personal Data to Athennian, as a data processor, in the U.S. or elsewhere
    b. The transfer of Personal Data to the U.S. or elsewhere does not violate applicable law or Customer's privacy policy
    c. Any instructions given by Customer to Athennian for the processing of Personal Data do not violate applicable law or Customer's privacy policy.

Customer will be responsible for all inquiries regarding Personal Data from Data Subjects or Supervisory Authorities (as those terms are defined by the GDPR or applicable member state law implementing the GDPR)

5.5 Data Accuracy. Athennian shall have no responsibility or liability for the accuracy of data uploaded to the System by Users, including without limitation Customer Data.

5.6 Privacy Policy. The Privacy Policy applies only to the System and does not apply to any third party website or service linked to the System or recommended or referred to through the System or by Athennian's representatives.

5.7 Security. Athennian will implement appropriate and reasonable administrative, physical, logistical and technical and security measures including disaster recovery procedures to secure all Customer Data against accidental, unauthorized, or unlawful loss, access, use, disclosure, dissemination, making available, or copying without the Customer's authorization.

5.8 Treatment of Customer Data Following Termination. Within 90 days following termination of this Agreement, upon Customer's request and provided that Customer has paid all amounts due to Athennian, Athennian will provide Customer with a copy of the Customer Data in JSON/BSON or similar open source format as reasonably agreed between the Parties. Customer further agrees that Athennian will not be liable to Customer or to any third party for any deletion of Customer Data after the 90-day period following the date on which Customer Data was provided to Customer.

5.9 Aggregate & Anonymized Data. Customer understands that in order for Athennian to improve the Services, it must collect and analyze certain data with respect to user behavior and system optimization ("Usage Data") via anonymization or redaction, Usage Data shall not contain any data that would identify either a specific individual or legal entity without the consent of the Customer. Notwithstanding anything to the contrary, Athennian shall have the right to collect and analyze Usage Data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Customer Data and data derived therefrom), and Athennian will be free (during and after the term hereof) to

    a. Use such information and data to improve and enhance the Services and for other development, diagnostic and corrective purposes in connection with the Services and other Athennian offerings

b. Aggregate data into anonymized form to analyze and publish for product improvement and other business purposes.

5.10 Logical Data Segregation. If you have purchased a white-label version of Athennian, Athennian guarantees that your data is logically segregated from and not co-mingled with the data of other Athennian customers.

6. Software Upgrades & Maintenace

6.1 Upgrades. Athennian shall be responsible for performing upgrades and maintaining the Services as needed to provide the performance levels set-forth in this Agreement at no additional charge to the Customer. Athennian is designed to operate on modern web browsers only. This includes Google Chrome, Mozilla Firefox and Microsoft Edge. Athennian does not guarantee the function of the application in other browsers, including Internet Explorer.

6.2 Notice. Athennian shall provide at least thirty (30) days notice to the Customer of any upgrades to the Software pursuant to the Athennian Release Management Process available for inspection here. Patches, bug fixes or other remedies to defects that interfere with the regular usage of the Software may be updated with immediate notice to Customer.

7. Uptime, Technical Support & Disaster Recovery

7.1 Uptime. Subject to the terms of this Agreement, Athennian will use commercially reasonable efforts to provide the Customer with the Service at an availability rate of 99.9%, measured monthly, excluding holidays, weekends and scheduled maintenance. The uptime of the Services may be viewed here.

7.2 Customer Support. Athennian will provide Technical Support to Customer via both chat support or electronic mail on weekdays during the hours of 8:00 am through 8:00 pm Eastern Standard time, with the exclusion of Holidays ("Support Hours"). Customer may initiate a helpdesk ticket during Support Hours by emailing sla@athennian.com or the contact details otherwise posted at help. Athennian will use commercially reasonable efforts to respond to all support requests pursuant to the response time targets in the below table. The Parties will use commercially reasonable efforts to classify Customer support requests within the following framework and respond according to each issue's respective Response Time Target based on the issue classification.

Issue Classification	Definition	Response Time Targets	Contact Method
P1 – High Priority	Impact on critical business objective or function Risk of data loss Risk to business continuity Irreversible damage to business.	During Support Hours: 15 Minutes (95% of time) Outside of Support Hours: 120 Minutes	Email: sla@athennian.com

Issue Classification	Definition	Response Time Targets	Contact Method
P2 – Medium Priority	Impact on productivity No risk of data loss No risk of irreversible damage to business No significant risk to business continuity	During Support Hours: 30 Minutes Outside of Support Hours: 3 hours	In-App Chat Email: sla@athennian.com
P3 – Low Priority	Enhancement request Minor bugs that User can work around Can be resolved via troubleshooting No immediate impact on productivity or business	During Support Hours: 1 Day Outside of Support Hours: N/A	In-App Chat

Issues reported by Customer are processed through the Athennian's issue escalation procedure available for review here

Athennian's Disaster Recovery Plan is available for review here

8. Customer's Responsibilities & Restrictions

8.1 Acceptable Use. Customer shall not:

a. Use the System for service bureau or time-sharing purposes or in any other way allow third parties to exploit the System
b. Use the System to harm anyone in any way
c. Impersonate any person or entity, including, but not limited to, a Athennian employee, account administrator, or other Customer or User, or falsely state or otherwise misrepresent Customer's affiliation with a person or entity
d. Provide System passwords or other log-in information to any third party
e. Share nonpublic System features or content with any third party
f. Manipulate identifiers in order to disguise the origin of any of Customer's Data
g. Use the System to upload, transmit, or otherwise make available any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation

h. Use the System to upload, transmit, or otherwise make available any software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware

i. Interfere with or disrupt the System or servers or networks connected to the System, or disobey any requirements, procedures, policies or regulations of networks connected to the System, including by using any device or software

j. Modify, adapt, or hack the System, including by using any nonpublic Athennian APIs, or otherwise attempt to gain unauthorized access to the System or its related systems or networks

k. Directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services or any software, documentation or data related to the Services ("Software")

l. Access the System in order to build a competitive product or service, to build a product using similar ideas, features, functions or graphics of the System, or to copy any ideas, features, functions or graphics of the System

m. Permit any third party to access or use the System in violation of any U.S. law or regulation or export any software provided by Athennian or otherwise remove it from the United States except in compliance with applicable U.S. laws and regulations. Without limiting the generality of the foregoing, Customer shall not permit any third party to access or use the System in, or export such software to, a country subject to a U.S. embargo

8.2 Unauthorized Access. Customer shall take reasonable steps to prevent unauthorized access to the System, including without limitation by protecting its passwords and other log-in information. Customer is on notice that it and Users increase their safety through "strong passwords," which use a combination of upper and lower case letters, numbers and symbols. Customer shall notify Athennian immediately of any known or suspected unauthorized use of the System, breach of security, or unauthorized use of Customer's account and shall use reasonable efforts to stop such unauthorized use or breach.

8.3 Compliance with Laws. In its use of the System, Customer shall comply with all applicable laws, including without limitation laws governing the protection of personally identifiable information and other laws applicable to the protection of Customer Data.

8.4 Users & System Access. Customer is responsible and liable for:

a. Users' use of the System, including without limitation unauthorized User conduct and any User conduct that would violate the requirements of this Agreement applicable to Customer

b. Any use of the System through Customer's account, whether authorized or unauthorized.

8.5 Equipment. Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, "Equipment"). Customer shall also be responsible for maintaining the security of the Equipment, Customer account, passwords (including but not limited to administrative and user passwords) and files, and for all uses of Customer account or the Equipment with or without Customer's knowledge or consent. Customer understands and agrees it is responsible for managing usernames, passwords and other access credentials for its personnel through the credential management systems provided in the Services.

8.6 Athennian's Remedies for Breach. If Athennian reasonably suspects any breach of the requirements of this Section 6, including without limitation by Users, Athennian may suspend Customer's access to the System with advance notice, in addition to such other remedies as Athennian may have. This

Agreement does not require that Athennian take any action against Customer or any User or other third party for violating this Section 6 of this Agreement, but Athennian is free to take any such action it sees fit.

9. Confidential Inforamtion and Proprietary Rights

9.1 Confidential Information. Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose business, technical or financial or other information relating to the Disclosing Party's business (hereinafter referred to as "Confidential Information"). Confidential Information of Athennian includes non-public information regarding features, functionality, pricing, customers, vendors, and performance of the Service. Confidential Information of Customer includes non-public data input or provided by Customer to Athennian to enable the provision of the Services ("Customer Data"). For further clarity,

Confidential Information includes:

a. Any document marked as "Confidential"
b. Any information Disclosing Party orally designates as "Confidential" at the time of disclosure
c. Any technology incorporated into or used by the System, as well as the System's non-public features, for which Athennian will be the Disclosing Party
d. Any other non-public, sensitive information disclosed by Disclosing Party, whether or not marked or designated "Confidential."

   The Receiving Party agrees:

   i. To take reasonable precautions to protect such Confidential Information
   ii. Not to use (except in the performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information.

Notwithstanding the foregoing, Confidential Information does not include information that:

a. Is or becomes generally available to the public other than as a result of Receiving Party's improper action or inaction
b. Was in its possession or known by it prior to receipt from the Disclosing Party
c. Was rightfully disclosed to it without restriction by a third party
d. Was independently developed without the use of any Confidential Information of the Disclosing Party
e. Is required to be disclosed by law
f. Is disclosed or published only solely in aggregated, anonymized form, and not identifiable as Proprietary Information

9.2 Proprietary Rights. Customer shall own all right, title and interest in and to the Customer Data. Athennian shall own and retain all right, title and interest in and to

a. The System and all graphics, user interfaces, logos, and trademarks reproduced through the System and all improvements, enhancements or modifications thereto

b. Any software, applications, inventions or other technology developed in connection with Implementation Services or support

c. All intellectual property rights related to any of the foregoing.

This Agreement does not grant the Customer any intellectual property licence or rights in or to the System or any of its components. Customer recognizes that the System and its components are protected by copyright and other laws.

9.3 Feedback Athennian has not agreed to and does not agree to treat as confidential any Feedback (as defined below) Customer or Users provide to Athennian, and nothing in this Agreement shall restrict Athennian's right to use, profit from, disclose, publish, keep secret, or otherwise exploit Feedback, without compensating or crediting Customer or the User in question. ("Feedback" refers to any suggestions or ideas for improving or otherwise modifying any of Athennian's products or services.)

9.4 Nondisclosure. Receiving Party shall not use Confidential Information for any purpose other than to fulfill Receiving Party's obligations or exercise its rights pursuant to this Agreement (the "Purpose"). Receiving Party:

a. Shall not disclose Confidential Information to any employee or contractor of Receiving Party unless such person needs access in order to facilitate the Purpose and executes a nondisclosure agreement with Receiving Party with terms no less restrictive than those of this Section 9

b. Shall not disclose Confidential Information to any other third party without Disclosing Party's prior written consent.

Without limiting the generality of the foregoing, Receiving Party shall protect Confidential Information with the same degree of care it uses to protect its own confidential information of a similar nature and importance, but with no less than reasonable care. Receiving Party shall promptly notify Disclosing Party of any misuse or misappropriation of Confidential Information that comes to Receiving Party's attention. Notwithstanding the foregoing, Receiving Party may disclose Confidential Information as required by applicable law or by proper legal or governmental authority. Receiving Party shall give Disclosing Party prompt notice of any such legal or governmental demand and reasonably cooperate with Disclosing Party in any effort to seek a protective order or otherwise to contest such required disclosure, at Disclosing Party's expense.

9.5 Injunction. Receiving Party agrees that breach of this Section 9 would cause Disclosing Party irreparable injury, for which monetary damages would not provide adequate compensation, and that in addition to any other remedy, Disclosing Party will be entitled to injunctive relief against such breach or threatened breach, without proving actual damage or posting a bond or other security.

10. Representations & Warranties

10.1 From Athennian. Athennian represents and warrants that it is the owner of the System and of each and every component thereof, or the recipient of a valid licence thereto, and that it has and will maintain the full power and authority to grant the rights granted in this Agreement without the further consent of any third party. Athennian's representations and warranties in the preceding sentence do not apply to use of the System in combination with hardware or software that Athennian has advised Customer cannot be used with the System. In the event of a breach of the warranty in this Section 10.1, Athennian, at its own expense, will promptly take the following actions:

a. Secure for Customer the right to continue using the System

b. Replace or modify the System to make it non-infringing
c. Terminate the infringing features of the Service and refund to Customer any prepaid fees for such features, in proportion to the portion of the Term left after such termination, or indemnify the Customer for claims against it related to infringement of intellectual property rights with respect to the System.

In conjunction with Customer's right to terminate for breach where applicable, the preceding sentence states Athennian's sole obligation and liability, and Customer's sole remedy for breach of the warranty in this Section 9.1 and for potential or actual intellectual property infringement by the System. Notwithstanding the terms of this Section 10.1, Customer acknowledges that certain features of Athennian require third-party licences to be purchased by vendors other than Athennian in order to access such features **("Third-Party Features")**. Customer agrees and acknowledges that Third-Party features are not captured in the terms of this Section 9.1 and are not included in the price for the System

10.2 From Customer In addition to Customer's representations and warranties concerning Customer Data in Section 5.4, Customer represents and warrants that:

a. It has the full right and authority to enter into, execute, and perform its obligations under this Agreement
b. It has obtained all permissions, releases, rights or licences required to engage in Customer's activities (and allow Athennian to perform its obligations) in connection with the use of the System
c. No pending or threatened claim or litigation known to it would have a material adverse impact on its ability to perform as required by this Agreement
d. It has accurately identified itself and it has not provided any inaccurate information about itself to or through the System
e. It is a corporation or other entity authorized to do business pursuant to applicable law, an individual with the legal capacity to enter into a contract, or the sole proprietorship of such an individual.

10.3 WARRANTY DISCLAIMERS. Customer accepts the system "as is" and as available, with no representation or warranty of any kind, express or implied, including without limitation implied warranties of merchantability, fitness for a particular purpose, or non-infringement of intellectual property rights, or any implied warranty arising from statute, course of dealing, course of performance, or usage of trade. Without limiting the generality of the foregoing:

a. Athennian does not represent or warrant that the system is or will be error-free
b. Will meet subscriber's requirements
c. Be timely

Without limiting the generality of the foregoing:

a. Customer understands that the technical processing and transmission of electronic communications is essential to customer's use of the system
b. Customer consents to Athennian's interception and storage of customer data and of electronic communications to and from customer, its users and other Athennian customers doing business with customer
c. Customer understands that such interception and storage will involve transmission over the internet and over various networks that are not owned, operated, or controlled by Athennian
d. Customer acknowledges that changes to customer data may occur in order to conform and adapt customer data to the technical requirements of connecting networks and/or devices.

e. Customer acknowledges and understands that, when communicated across the internet, network facilities, and telephone or other electronic means, electronic communications may be accessed by unauthorized parties.

f. Customer agrees that athennnian is not responsible for any delay, loss, alteration, or interception of electronic communications and/or customer data.

g. Customer acknowledges and agrees that customer's decision to use the system is not contingent on the delivery of any future functionality or features or made in reliance on any oral or written statements made by Athennian regarding future functionality or features.

h. Customer acknowledges and agrees that in performing its obligations pursuant to this agreement, Athennian may use information furnished by customer without any independent investigation or verification, and that Athennian shall be entitled to rely upon the accuracy and completeness of such information.

11. Indemnification

11.1 Customer Indemnity. Customer hereby agrees to indemnify and hold harmless Athennian against any damages, losses, liabilities, settlements and expenses (including, without limitation, costs and attorneys' fees) in connection with any claim or action that arises from a violation by Customer of applicable securities laws and any fraud by the Customer. Provided that Customer maintains insurance coverage types and amounts sufficient to cover its potential liability under these terms, Athennian agrees that it will not pursue any claims under this indemnification clause that

a. Exceed Athennian's permissible recovery against customer under applicable law
b. Would void or render cancelable the insurance coverage maintained by Customer.

11.2 Athennian Indemnity. Should any claim be raised by any third party alleging that Customer's use of the Services or Software constitutes infringement of any patent, copyright, licence or other property right (an "IP Claim"), Athennian will, at its expense, defend such IP claim and will indemnify Customer from and against each claim, demand, loss, liability and expense (including reasonable attorney's fees) suffered or incurred by Customer as a result of or in connection with any IP claim.

Notwithstanding the foregoing, Athennian shall not indemnify the Customer for any IP Claim that is directly caused by

a. A breach by Customer of its obligations under the Agreement
b. Any alteration or modification made by Customer to the Software
c. Any third party's unauthorized access to or use of any of Athennian's Services or Software which is directly caused by Customer without Athennian's consent

After receiving notice of an IP Claim, Customer shall promptly advise Athennian of the IP Claim. Customer shall give Athennian all reasonable information and assistance, at Athennian's expense, reasonably necessary to defend any IP Claim

12. Limitation of Liability

12.1 Dollar Cap. Except for a breach of Section 9.2 and 10.1, Athennian's liability arising out of or related to this agreement will not exceed all amounts customer paid to Athennian in the 12 months preceding the claim that gave rise to the liability.

12.2 Exclusion of Consequential Damages. Except for a breach of Section 8.2 and 9.1, in no event shall Athannian be liable to Customer for any consequential, indirect. special, incidental or punitive damages arising out of or related to this Agreement.

12.3 Clarifications & Disclaimers. The liabilities limited by this Section 12 apply:

    a. To liability for negligence, but not liability for gross negligence or willful misconduct
    b. Regardless of the form of action, whether in contract, tort, strict liability, or otherwise
    c. Even if Athennian is advised in advance of the possibility of the damages in question and even if such damages were foreseeable
    d. Even if Customer's remedies fail of their essential purpose.

If applicable law limits the application of the provisions of this Section 12, Athennian's liability will be limited to the maximum extent permissible. For the avoidance of doubt, Athennian's liability limits and other rights set forth in this Section 12 apply likewise to Athennian's affiliates, licensors, suppliers, advertisers, agents, sponsors, directors, officers, employees, consultants, and other representatives.

13. Term & Termination

13.1 Term. Subject to earlier termination as provided below, this Agreement is for the Initial Service Term specified in the Order Form, or as otherwise described in the Order Form (collectively, the "Term").

13.2 Termination Without Cause. Customer may terminate this Agreement by emailing accounts@athennian.com or by otherwise notifying Athennian as set forth in this Section 12.2. Customer's termination of this Agreement pursuant to a free account will be effective upon Athennian's receipt of Customer's notice. Customer's termination of this Agreement pursuant to a paid subscription will be effective at the end of the Billing Period during which Athennian receives Customer's notice. For example, if Athennian receives notice of termination on the first day of a new Billing Period, termination will be effective at the end of that new Billing Period.

13.3 Termination for Cause. Athennian may terminate this Agreement (including without limitation Customer's access to the System) without advance notice if Customer fails to pay applicable fees when due. Either party may terminate this Agreement for any other material breach by the other party via written notice, effective in 30 days unless the other party first cures such breach.

14. Miscellaneous

14.1 Independent Contractors. The parties are independent contractors and will so represent themselves in all regards. No agency, partnership, joint venture, or employment is created as a result of this Agreement, and neither party r may make commitments on the other's behalf.

14.2 Notices. Athennian may send notices pursuant to this Agreement to Customer's email contact points provided by Customer, and such notices will be deemed received 24 hours after they are sent. Customer may send notices pursuant to this Agreement to hello@athennian.com, and such notices will be deemed received 24 hours after they are sent.

14.3 Force Majeure: Neither Party to this Agreement shall be liable for damages to the other Party for any failure or delay in fulfilling an obligation hereunder, if said failure or delay is attributable to circumstances beyond its control. Such circumstances include, but not limited to, any fire, earthquake, flood, other natural disaster or act of God; any war, riot, act of terrorism, attack or conflict; any strike, lockout, or labour dispute or disturbance; and any government measure, court order, civil disturbance, accident, or disruption to electrical, communications or other utility systems ("Force Majeure"). The Parties agree that the deadline for fulfilling the obligation in question will be extended for a period of time equal to that of the continuance of the Force Majeure. Athennian will use commercially reasonable efforts to minimize the effect of the Force Majeure on its performance under this Agreement.. Performance under this Agreement shall resume when the affected party or parties are able to perform substantially that party's duties.Notwithstanding the continuance of an event of Force Majeure, Athennian may not delay performance of its obligations under any circumstances by more than 30 days, otherwise the Customer may terminate this Agreement.

14.4 Assignment & Successors. Customer may not assign this Agreement or any of its rights or obligations hereunder without Athennian's prior written consent. Except to the extent forbidden in this Section 13.4, this Agreement will be binding upon and inure to the benefit of the parties' respective successors and assigns. Athennian may not assign this Agreement or any of its rights or obligations hereunder without Customer's prior written consent.

14.5 Severability. If any provision, or portion thereof, of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, such determination will not impair or affect the validity, legality or enforceability of the remaining provisions of this Agreement, and each provision, or portion thereof, is hereby declared to be separate, severable and distinct.

14.6 Waiver. Neither party will be deemed to have waived any of its rights under this Agreement by lapse of time or by any statement or representation other than by an authorized representative in an explicit written waiver. A waiver of any provision of this Agreement will only be applicable to the specific incident and occurrence so waived. The failure by either Party to insist upon the strict performance of this Agreement, or to exercise any term hereof, will not act as a waiver of any right, promise or term, which will continue in full force and effect.

14.7 Marketing. Athennian may identify Customer as an Athennian customer in Athennian's marketing materials, provided it has first obtained Customer's express written authorization. If such authorization is subsequently withdrawn:

   a. Athennian shall not include Customer in any future printed customer lists, provided Athennian will not be required to modify any existing printed materials
   b. Athennian will remove Customer's name from any online materials within a reasonable period, not to exceed 30 days

14.8 Choice of Law & Jurisdiction. The Agreement is governed by and construed under the laws of the Province of Alberta, without reference to its conflict of laws provisions. Any dispute or claim arising out of or relating to the Agreement or claim of breach hereof shall be brought exclusively in the courts in the City of Calgary, Alberta. By execution of the Agreement, Customer and Athennian hereby consent to the exclusive jurisdiction of such courts and waive any right to challenge jurisdiction or venue in such courts with regard to any suit, action, or proceeding under or in connection with the Agreement.

14.9 Survival. The following provisions will survive termination or expiration of this Agreement:

    a. Any obligation of Customer to pay fees incurred before termination
    b. Sections 9 (Confidential Information & Proprietary Rights), 10.3 (Warranty Disclaimers), 11 (Indemnification), and 12 (Limitation of Liability)
    c. Any other provision of this Agreement that must survive to fulfill its essential purpose.

14.10 Entire Agreement. This Agreement and the Order Form constitute is the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement.