Kaleidoscope Technologies, Inc.

Enterprise Services Agreement

THIS ENTERPRISE SERVICES AGREEMENT IS ONLY APPLICABLE, AND UPON EXECUTION, IN FULL FORCE AND EFFECT IF CUSTOMER IS NOT SUBJECT TO AN ACTIVE AND VALID NON-CLICKTHROUGH ENTERPRISE SERVICES AGREEMENT WITH THE COMPANY.

PLEASE READ THESE ENTERPRISE SERVICES AGREEMENT TERMS ("TERMS") CAREFULLY BEFORE USING THE SERVICES OFFERED BY KALEIDOSCOPE TECHNOLOGIES, INC. ("COMPANY"). BY ACCEPTING THIS AGREEMENT, CLICKING A BOX INDICATING ACCEPTANCE, EXECUTING AN ORDER FORM (AS DEFINED BELOW) THAT REFERENCES THIS AGREEMENT, OR USING KALEIDOSCOPE"S SERVICES, YOU ("CUSTOMER") AGREE TO BE BOUND BY THESE TERMS (TOGETHER WITH THE DATA PROCESSING AGREEMENT AND ALL ORDER FORMS, ALL OF WHICH ARE IN EACH CASE HEREBY INCORPORATED BY REFERENCE, THE "AGREEMENT") TO THE EXCLUSION OF ALL OTHER TERMS. IF THE TERMS OF THIS AGREEMENT ARE CONSIDERED AN OFFER, ACCEPTANCE IS EXPRESSLY LIMITED TO SUCH TERMS.

IF THE INDIVIDUAL ACCEPTING THE AGREEMENT IS ACCEPTING ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, SUCH INDIVIDUAL REPRESENTS THAT THEY HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE

TERMS AND CONDITIONS, IN WHICH CASE THE TERM "CUSTOMER" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT DOES NOT HAVE SUCH AUTHORITY, OR DOES NOT AGREE WITH THESE TERMS AND CONDITIONS, SUCH INDIVIDUAL MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES.

1. <u>Services; Order Forms</u>. The Services (as defined below) will be offered pursuant the terms of this Agreement. If the parties may, at their option, elect to enter into separate order forms that reference this Agreement (each, an "Order Form"), each such mutually agreed upon Order Form shall be incorporated into and form a part of the Agreement. For clarity, Customer is not required to enter into any Order Forms in order to access and use the Services. Subject to Customer's compliance with the terms and conditions of this Agreement (including any limitations and restrictions set forth on an applicable Order Form) Kaleidoscope grants Customer a nonexclusive, limited, personal, nonsublicensable, nontransferable right and license to internally access and use the Kaleidoscope product(s) and/or service(s) (collectively, the "Services") during the Term (as defined below) for the internal business purposes of Customer, only as provided herein and only in accordance with Kaleidoscope's applicable official user documentation for such Services. Kaleidoscope will provide Customer with access privileges that permit Customer to access and manage its platform account ("Customer Account"); to create, manage, and access unique domains in connection with the Customer Account (each, a "Workspace"); and to access, analyze and download Customer Data. Customer will identify an administrative user name and password that will be used to set up Customer's account. Customer must provide accurate and complete information and keep the Customer Account information updated. Customer is solely responsible for the activity that occurs on the Customer Account and any Workspaces created under such Customer Account (including acts or omissions by other persons to whom the Customer has granted access to its Workspace(s)), and for keeping the Customer Account password secure. Customer may never use another person's user account or registration information for Kaleidoscope's Services without permission. Customer must notify Kaleidoscope immediately of any change in Customer's eligibility to use Kaleidoscope's Services (including any changes to or revocation of any licenses from state authorities), of any discovered or otherwise suspected breach of security or unauthorized use of the Customer Account, and of any material changes to the Customer Account (including whether a designated Customer Account administrator leaves or reassigns administrative rights). Customer shall be responsible for the acts or omissions of any person who accesses the Platform using passwords or access procedures provided to or created by Customer.

2. <u>Updates</u>. From time to time, Kaleidoscope may provide upgrades, patches, enhancements, or fixes for Services to its customers generally without additional charge ("Updates"), and such Updates will become part of the Services and subject to this Agreement; provided that, Kaleidoscope shall have no obligation under this Agreement or otherwise to provide any such Updates. Customer understands that Kaleidoscope may cease supporting old versions or releases of the Services at any time in its sole discretion; provided that Kaleidoscope shall use

commercially reasonable efforts to give Customer reasonable prior notice of any major changes.

3. <u>Ownership; Feedback</u>. As between the parties, Kaleidoscope retains all right, title, and interest in and to the Services, and all software, products, works, and other intellectual property and moral rights related thereto or created, used, or provided by Kaleidoscope for the purposes of this Agreement, including any copies and derivative works of the foregoing. Any software which is distributed or otherwise provided to Customer hereunder (including without limitation any software identified on an Order Form) shall be deemed a part of the "Services" and subject to all of the terms and conditions of this Agreement. No rights or licenses are granted except as expressly and unambiguously set forth in this Agreement. Customer may (but is not obligated to) provide suggestions, comments or other feedback to Kaleidoscope with respect to the Services ("Feedback"). Feedback, even if designated as confidential by Customer, shall not create any confidentiality obligation for Kaleidoscope notwithstanding anything else. Kaleidoscope acknowledges and agrees that all Feedback is provided "AS IS" and without warranty of any kind. Customer shall, and hereby does, grant to Kaleidoscope a nonexclusive, worldwide, perpetual, irrevocable, transferable, sublicensable, royalty-free, fully paid up license to use and exploit the Feedback for any purpose. Nothing in this Agreement will impair Kaleidoscope's right to develop, acquire, license, market, promote or distribute products, software or technologies that perform the same or similar functions as, or otherwise compete with any products, software or technologies that Customer may develop, produce, market, or distribute.

4. <u>Fees; Payment;</u> Free Trials.

    a. <u>Fees; Payment</u>. Customer shall pay Kaleidoscope fees for the Services as set forth in the Customer's Plans page in Customer Account. Unless agreed upon by the parties in a writing that expressly supersedes this Agreement, all fees shall be invoiced annually in advance and all invoices issued under this Agreement are payable in U.S. dollars within thirty (30) days from date of invoice. Past due invoices are subject to interest on any outstanding balance of the lesser of 1.5% per month or the maximum amount permitted by law. Customer shall be responsible for all taxes associated with the Services (excluding taxes based on Kaleidoscope's net income). All fees paid are non-refundable and are not subject to set-off. If Customer exceeds any user or usage limitations set forth on Customer's Plans page (or Order Form, as applicable), then Customer shall be responsible for all such additional users or usage at the overage rates, at Kaleidoscope's then-current standard overage rates for such usage, in each case on a pro-rata basis from the first date of such excess usage through the end of the Term (as defined below),.

    b. <u>Free Trials</u>. Portions of the Services may currently be free, but Kaleidoscope reserves the right to charge for certain or all Services in the future. Kaleidoscope will use commercially reasonable efforts to notify Customer before any Services begin carrying a fee and after such notification, Customer shall pay all applicable fees for such Services.

5. <u>Restrictions</u>. Except as expressly set forth in this Agreement, Customer shall not (and shall not permit any third party to), directly or indirectly: (i) reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, or algorithms of the Services (except to the extent applicable laws specifically prohibit such restriction); (ii) modify, translate, or create derivative works based on the Services; (iii) copy, rent, lease, distribute, pledge, assign, or otherwise transfer or encumber rights to the Services; (iv) use the Services for the benefit of a third party; (v) remove or otherwise alter any proprietary notices or labels from the Services or any portion thereof; (vi) use the Services to build an application or product that is competitive with any Kaleidoscope product or service; (vii) interfere or attempt to interfere with the proper working of the Services or any activities conducted on the Services; or (viii) bypass any measures Kaleidoscope may use to prevent or restrict access to the Services (or other accounts, computer systems or networks connected to the Services). Customer is responsible for all of Customer's activity in connection with the Services, including but not limited to uploading Customer Data (as defined below) onto the Services, importing or storing data on the Services, and the activity of those that you grant access to your Customer Account and associated Workspaces. Customer (a) shall use the Services in compliance with all applicable local, state, national and foreign laws, treaties and regulations in connection with Customer's use of the Services (including those related to data privacy, international communications, export laws and the transmission of technical or personal

data laws), and (b) shall not use the Services in a manner that violates any third party intellectual property, contractual or other proprietary rights. Customer acknowledges and agrees that the Services (including, without limitation, any source code contained therein to which Customer may be given access hereunder) (collectively, the "Kaleidoscope Materials") represent valuable trade secrets and confidential information of Kaleidoscope. Accordingly, Customer (x) shall not use any Kaleidoscope Materials except as expressly set forth herein; (y) shall not disclose any Kaleidoscope Materials to any third party, and (z) shall use reasonable efforts to prevent any such unauthorized use or disclosure (but at least the same efforts that

Customer uses to protect its own most highly sensitive and confidential information). Customer acknowledges and agrees that due to the unique nature of the Kaleidoscope Materials, there can be no adequate remedy at law for any breach of its obligations under this Section 8, which breach may result in irreparable harm to Kaleidoscope, and therefore, that upon any such breach or any threat thereof, Kaleidoscope shall be entitled to appropriate equitable relief, without the requirement of posting a bond, in addition to whatever remedies it might have at law.

6. <u>Customer Data</u>. For purposes of this Agreement, "Customer Data" shall mean any data, information or other material provided, uploaded, or submitted by Customer to the Services in the course of using the Services. Customer shall retain all right, title and interest in and to the Customer Data, including all intellectual property rights therein. Customer, not Kaleidoscope, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data. Provided the Services are not deployed on premise, Kaleidoscope shall use commercially reasonable efforts to maintain the security and integrity of the Services and the Customer Data. Kaleidoscope is not responsible to Customer for unauthorized access to Customer Data or the unauthorized use of the Services unless such access is due to Kaleidoscope's gross negligence or willful misconduct. Customer is responsible for the use of the Services by any person to whom Customer has given access to the Services, even if Customer did not authorize such use. Customer agrees and acknowledges that Customer Data may be irretrievably deleted if Customer's account is ninety (90) days or more delinquent. Notwithstanding anything to the contrary, Customer acknowledges and agrees that Kaleidoscope may (i) internally use and modify (but not disclose) Customer Data for the purposes of (A) providing the Services to Customer and (B) generating Aggregated Anonymous Data (as defined below), and (ii) freely use and make available Aggregated Anonymous Data for Kaleidoscope's business purposes (including without limitation, for purposes of improving, testing, operating, promoting and marketing Kaleidoscope's products and services). "Aggregated Anonymous Data" means data submitted to, collected by, or generated by Kaleidoscope in connection with Customer's use of the Services, but only in aggregate, anonymized form which can in no way be linked specifically to Customer.

7. <u>Third Party Services</u>. Customer acknowledges and agrees that the Services may operate on, with or using application programming interfaces (APIs) and/or other services operated or provided by third parties ("Third Party Services"), including without limitation through integrations or connectors to such Third Party Services that are provided by Kaleidoscope. Kaleidoscope is not responsible for the operation of any Third Party Services nor the availability or operation of the Services to the extent such availability and operation is dependent upon Third Party Services. Customer is solely responsible for procuring any and all rights necessary for it to access Third Party Services (including any Customer Data or other information relating thereto) and for complying with any applicable terms or conditions thereof. Kaleidoscope does not make any representations or warranties with respect to Third Party Services or any third party providers. Any exchange of data or other interaction between Customer and a third party provider is solely between Customer and such third party provider and is governed by such third party's terms and conditions.

8. <u>Term; Termination</u>. Unless otherwise specified on an applicable Order Form, this Agreement shall commence upon the date that Customer agrees to this Agreement, and shall last until the end of the term as set forth on the Customer's Plans page (the "Term"). Unless otherwise specified on an applicable Order Form, the Term shall automatically renew for additional successive periods of equal duration to the initial term as set forth on the Customer's Plans page unless either party notifies the other party of such party's intention not to renew no later than one (1) business day prior to the expiration of the such initial term or then-current renewal term, as applicable. Kaleidoscope may terminate this Agreement at any time for any reason upon notice to Customer. In

the event of a material breach of this Agreement by Customer (including for non-payment), Kaleidoscope may terminate this Agreement by providing written notice to Customer. Without limiting the foregoing, Kaleidoscope may (i) suspend or limit Customer's access to or right to use the Services if Customer's account is more than sixty (60) days past due, or (ii) terminate this Agreement immediately if Customer's use of the Services results in (or is reasonably likely to result in) damage to or material degradation of the Services which interferes with Kaleidoscope's ability to provide access to the Services to other customers. All provisions of this Agreement which by their nature should survive termination shall survive termination, including, without limitation, accrued payment obligations, ownership provisions, warranty disclaimers, indemnity and limitations of liability. Upon request by Customer made before, or within thirty (30) days after, the effective date of expiration or termination, Kaleidoscope shall make available to Customer a complete download of all Customer Data in a file or database format in Kaleidoscope's discretion. Upon termination or expiration of this Agreement, Customer shall promptly cease use of all applicable Services and, if applicable, shall delete all copies thereof (and, upon request, shall certify such destruction in writing to Kaleidoscope. For clarity, any services provided by Kaleidoscope to Customer, including the data export set out above, and any assistance in exporting the Customer Data, may be billable at Kaleidoscope's standard rates then in effect.

9. <u>Indemnification</u>. Customer shall defend, indemnify, and hold harmless Company, its affiliates and each of its and its affiliates' employees, contractors, directors, suppliers and representatives (collectively, the "Company Indemnitees") from all liabilities, claims, and expenses paid or payable to an unaffiliated third party (including reasonable attorneys' fees) ("Losses"), that arises (i) from or relates to any claim that Customer's use of the Services other than as permitted under this Agreement infringes, violates, or misappropriates any third party intellectual property or proprietary right or (ii) from or relates to the Customer Data (including without limitation Customer's provision or use thereof in connection with the Services).

10. <u>Disclaimer</u>. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE" AND ARE WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES IMPLIED BY ANY COURSE OF PERFORMANCE, USAGE OF TRADE, OR COURSE OF DEALING, ALL OF WHICH ARE EXPRESSLY DISCLAIMED.

11. <u>Limitation of Liability</u>. IN NO EVENT SHALL EITHER KALEIDOSCOPE'S, ITS DIRECTORS, EMPLOYEES, AGENTS, PARTNERS, SUPPLIERS OR CONTENT PROVIDERS, BE LIABLE UNDER CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE OR ANY OTHER LEGAL OR EQUITABLE THEORY WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT (I) FOR ANY LOST PROFITS, DATA LOSS, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER, SUBSTITUTE GOODS OR SERVICES (HOWEVER ARISING), (II) FOR ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE (REGARDLESS OF THE SOURCE OF ORIGINATION), OR (III) FOR ANY DIRECT DAMAGES IN EXCESS OF (IN THE AGGREGATE) THE FEES PAID BY CUSTOMER TO KALEIDOSCOPE HEREUNDER IN THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO A CLAIM HEREUNDER.

12. <u>Miscellaneous</u>. This Agreement represents the entire agreement between Customer and Kaleidoscope with respect to the subject matter hereof, and supersedes all prior or contemporaneous communications and proposals (whether oral, written or electronic) between Customer and Kaleidoscope with respect thereto. Kaleidoscope reserves the right to change the terms of this Agreement at any time and will use commercially reasonable efforts to notify Customer of the same. If Customer uses the Services in any way after such changes are effective, then the Customer will be deemed to have agreed to all of the changes. Except for the changes as described in the foregoing sentence, no other amendment or modification of this Agreement will be effective unless in writing and signed by both parties. The Agreement shall be governed by and construed in accordance with the laws of the State of New York, excluding its conflicts of law rules, and the parties consent to exclusive jurisdiction and venue in the state and federal courts located in the State of New York. All notices under this Agreement shall be in writing and shall be deemed to have been duly given when received, if personally delivered or sent by certified or registered mail, return receipt requested; when receipt is electronically confirmed, if transmitted by e-mail; or the day after it is sent, if sent for next day delivery by recognized overnight delivery service. Notice

must be sent to the address for Customer as set forth in the Customer Account; notice for Kaleidoscope must be sent to 228 Park Ave S #43080 New York, NY 10003 or notices@kaleidoscope.bio. Either party may update its address set forth herein by giving notice in accordance with this section. Except as otherwise provided herein, no modification or amendment of any provision of this Agreement shall be effective unless agreed by both parties in writing, and no waiver of any provision of this Agreement shall be effective unless in writing and signed by the waiving party. Company shall not be liable for any failure to perform its obligations hereunder where such failure results from any cause beyond such party's reasonable control, including, without limitation, the elements; fire; flood; severe weather; earthquake; vandalism; accidents; sabotage; power failure; denial of service attacks or similar attacks; Internet failure; acts of God and the public enemy; acts of war; acts of terrorism; riots; civil or public disturbances; strikes lock-outs or labor disruptions; any laws, orders, rules, regulations, acts or restraints of any government or governmental body or authority, civil or military, including the orders and judgments of courts. Neither party may assign any of its rights or obligations hereunder without the other party's consent; provided that (i) Kaleidoscope may assign all of its rights and obligations hereunder without such consent to a successor-in-interest in connection with a sale of substantially all of such party's business relating to this Agreement, and (ii) Kaleidoscope may utilize subcontractors in the performance of its obligations hereunder. No agency, partnership, joint venture, or employment relationship is created as a result of this Agreement and neither party has any authority of any kind to bind the other in any respect. In any action or proceeding to enforce rights under this Agreement, the prevailing party shall be entitled to recover costs and attorneys' fees. If any provision of this Agreement is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make it enforceable. The failure of either party to act with respect to a breach of this Agreement by the other party shall not constitute a waiver and shall not limit such party's rights with respect to such breach or any subsequent breaches.