



EVALUATION AGREEMENT

PLEASE READ THE FOLLOWING TERMS AND CONDITIONS CAREFULLY BEFORE USING THE EVALUATION PRODUCT (DEFINED BELOW). THE TERMS AND CONDITIONS OF THIS EVALUATION AGREEMENT (HEREINAFTER THE “**AGREEMENT**”) GOVERN YOUR RIGHTS OF ACCESS AND USE OF THE EVALUATION PRODUCT MADE AVAILABLE TO YOU BY INCORTA, INC., A DELAWARE CORPORATION WITH A PRINCIPAL PLACE OF BUSINESS AT 2855 CAMPUS DRIVE SUITE 300, SAN MATEO, CA 94403 (“**INCORTA**”).

THIS AGREEMENT IS ENTERED INTO BETWEEN INCORTA AND THE CUSTOMER (DEFINED BELOW) AND IS EFFECTIVE ON THE DATE YOU AND OR ANY REPRESENTATIVE OF CUSTOMER INDICATES ASSENT TO THE TERMS BY CHECKING OR CLICKING THE ACCEPT BUTTON OR OTHERWISE INDICATING ASSENT TO THE TERMS (“**EFFECTIVE DATE**”).

THE “**CUSTOMER**” SHALL MEAN THE PERSON OR ENTITY LISTED ON THE WEB REGISTRATION PAGE. IF YOU ARE AN EMPLOYEE OF OR CONSULTANT OR CONTRACTOR OF AN ENTITY NAMED ON THE WEB REGISTRATION PAGE, YOUR AGREEMENT TO THESE TERMS WILL BE DEEMED TO BE THE AGREEMENT OF THAT ENTITY. YOU AND THE ENTITY NAMED ON THE WEB REGISTRATION PAGE, REPRESENT AND WARRANT THAT YOU HAVE AUTHORITY OR HAVE BEEN PROVIDED THE AUTHORITY TO BIND CUSTOMER (AS DEFINED ABOVE) TO THE TERMS AND CONDITIONS OF THIS AGREEMENT.

INCORTA IS ONLY WILLING TO LICENSE THE EVALUATION PRODUCT TO THE CUSTOMER UPON THE CONDITION THAT CUSTOMER ACCEPTS ALL THE TERMS CONTAINED HEREIN. BY USING THE EVALUATION PRODUCT, OR BY ALLOWING ANY CUSTOMER REPRESENTATIVE TO DOWNLOAD, USE AND/OR ACCESS THE EVALUATION PRODUCT, THE CUSTOMER INDICATES THAT IT HAS READ AND UNDERSTANDS THIS AGREEMENT AND ACCEPTS ALL OF ITS TERMS. IF CUSTOMER DOES NOT AGREE TO ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, THE CUSTOMER WILL NOT BE AUTHORIZED TO USE OR ALLOW ANY USER TO USE OR ACCESS ANY PART OF THE EVALUATION PRODUCT. INCORTA’S LICENSE GRANTED HEREIN IS EXPRESSLY CONDITIONAL ON ASSENT TO THESE TERMS TO THE EXCLUSION OF ALL OTHER TERMS; IF THESE TERMS ARE CONSIDERED AN OFFER BY THE CUSTOMER, ACCEPTANCE IS EXPRESSLY LIMITED TO THESE TERMS.

1. **Certain Definitions.**

“**Evaluation Product**” shall mean the Incorta Analytics Platform (whether the on-prem object code copy or cloud based version of the solution) together with the relevant Documentation which are made available to Customer hereunder.

“**Evaluation Period**” shall mean 30 days from the date the Evaluation product is made available to Customer, unless Incorta authorizes an extension of this period in writing, in which case the Evaluation Period shall continue until the expiration of any extension period agreed in writing by Incorta.

2. **Limited Evaluation License.** Subject to the terms of this Agreement, during the Evaluation Period, Incorta grants Customer a limited non-exclusive, non-transferable, and non-sub-licensable license to install (on prem version only), access and use Evaluation Product in accordance with the end user documentation (“**Documentation**”), solely for Customer’s internal evaluation of the features and functionality of the Evaluation Product while processing, reviewing, and analyzing data owned, licensed or controlled by Customer (“**Evaluation Purpose**”). Customer may authorize any contractor, employee, and/or affiliate (collectively “**Customer Representative**”) to access use the Evaluation Product on behalf of Customer for the benefit of Customer, provided such use is solely for the Evaluation Purpose and otherwise in compliance with the terms of this Agreement.

3. **Restrictions.** Except as otherwise expressly permitted under this Agreement, Customer shall not (and shall not authorize or permit any third party including any Customer Representatives to): (i) modify the Evaluation Product or create derivative works based upon the Evaluation Product or reverse engineer or decompile, decrypt, disassemble or otherwise reduce the Evaluation Product to human-readable form, except and only to the extent any foregoing restriction is prohibited by applicable law; (ii) defeat, avoid, bypass, remove, deactivate, or otherwise circumvent any software protection mechanisms in the Evaluation Product, including without limitation any such mechanism used to restrict or control the functionality of the Evaluation Product (iii) install or use the on-prem version of the Evaluation Product on or with equipment not owned and/or controlled by Customer or in any production environment; (iv) create a program or a set of programs similar or identical to the Evaluation Product, using any elements or functionalities of the Evaluation Product to do so; (v) use the Evaluation Product in any way that is unlawful or in violation in any applicable laws or any third party rights; (vi) distribute, sell, license or otherwise provide the Evaluation Product to third parties; (vii) use or permit the Evaluation Product to be used to perform services for third parties, whether on a service bureau, SaaS, time sharing basis or otherwise; (viii) use the Evaluation Product in or in connection with any production environment; (ix) release, publish, and/or otherwise make available to any third party the results of any performance or functional evaluation of the Evaluation Product without the prior written approval of Incorta; (x) alter or remove any proprietary notices or legends contained on or in the Evaluation Product; or (x) with respect to the cloud based version of Evaluation Product only: (aa) access or use (or attempt to access or use) another user’s account without permission, or solicit another user’s login information, or make any attempts to do so; (bb) “frame” or “mirror” any portion of the online components of the



Evaluation Product; (cc) use any robot, spider, site search/retrieval application or other manual or automatic device or process to retrieve, index, “data mine” or in any way reproduce or circumvent the navigational structure or presentation of the Evaluation Product; (dd) probe, scan or test the vulnerability of the online components of the Evaluation Product, nor breach the security or authentication measures of the Evaluation Product, or take any action that imposes an unreasonable or disproportionately large load on the infrastructure of the Evaluation Product, such as a denial of service attack; or (ee) upload or import any data to the Evaluation Product which Customer does not have appropriate permissions or authorization to upload or import which contains any harmful or malicious code or which otherwise violates any third party rights. Customer is solely liable and responsible for any content uploaded or imported to Evaluation Product by Customer or any Customer Representative and Customer agrees that Incorta is in no way responsible or liable for any data uploaded or imported by Customer or any Customer Representative or for any loss or damage to such data for any reason. For the avoidance of doubt, all restrictions specified herein shall apply to all Customer Representatives and Customer shall remain liable and responsible for the action or inactions of the Customer Representatives as if such actions or inactions are the acts of Customer. There are no implied licenses granted by Incorta to Customer or Customer Representatives under this Agreement.

4. **Support.** Incorta shall have no obligation to support Customer. However, at no extra charge to Customer, and at Incorta’s sole discretion, Incorta may expend reasonable efforts to assist Customer in its efforts to install, access or use the Evaluation Product during Incorta’s standard support hours.

5. **No Fees; No Obligation.** Use of the Evaluation Product during the Evaluation Period for the Evaluation Purpose shall be free of charge, and the parties agree that neither party is under any obligation to enter into a definitive commercial license at the conclusion of the Evaluation Period. However, the Customer acknowledges and agrees that continued use of the Evaluation Product past the Evaluation Period without Incorta’s extension of the Evaluation Period and without any definitive license agreement will be subject to Incorta’s standard license fee.

6. **Term; Termination.** This Agreement shall commence on the Effective Date and terminate at the end of the Evaluation Period. Either party may terminate this Agreement for any material breach of the Agreement that is not promptly cured after notice of breach is received. Customer may terminate this Agreement with written notice to Incorta for any reason. Upon expiration or termination of this Agreement: (a) all rights and obligations of the parties hereunder shall immediately cease except for the obligations/rights described in Sections 3(Restrictions), 5(Fees; No Obligation), 6(Term; Termination), 7 (Ownership), 8(Confidentiality), 9(Indemnity), 10(Disclaimer and Limitation on Liability) and 11(General) shall survive and remain effective. Upon expiration of the Evaluation Period, unless Customer has entered into an end user license agreement with Incorta for the ongoing use of the Evaluation Product, Customer agrees to, discontinue all access and use of, and to return or destroy all copies of, the Evaluation Product (including Documentation) in its possession, and upon written request from Incorta, Customer shall have an authorized representative of the Customer certify the same in writing.

7. **Ownership.** All copies of the Evaluation Product and all intellectual property rights in and to the Evaluation Product (including, without limitation, all improvements, derivatives, modifications and the like thereto) are owned by Incorta or its suppliers, and Incorta retains all right, title, and (except as expressly stated herein) interest in and to the Evaluation Product and any modifications or improvements thereof, by whomever made. Customer is not required to provide any feedback or suggestions for improvements, updates, or error correction to the Evaluation Product (“Feedback”); however, to the extent provided, all such Feedback provided by Customer or Customer Representatives to Incorta will be Incorta’s property, and Customer hereby agrees to assign all right title and interest in and to the same to Incorta.

8. **“Confidential Information”** means any non-public data, information and/or materials regarding the products, services, or business of a party, its employees, contractors or affiliates provided by one party (“**Disclosing Party**”) to the other party (“**Receiving Party**”) where such information is marked or otherwise communicated as being “proprietary” or “confidential” or the like, or where such information should, by its nature, be reasonably considered to be confidential and/or proprietary. Notwithstanding the foregoing, Confidential Information shall not include information which: (i) is already known to the Receiving Party prior to disclosure by the Disclosing Party; (ii) becomes publicly available without fault of the Receiving Party; (iii) is rightfully obtained by the Receiving Party from a third party without restriction as to disclosure, (iv) is approved for release by written authorization of the Disclosing Party; or (iv) is independently developed or created by the Receiving Party without use of the Disclosing Party’s Confidential Information. For clarity, the Evaluation Product, the performance of Evaluation Product and all technical and pricing information relating thereto shall be considered Confidential Information of Incorta. Except as expressly authorized herein, the Receiving Party agrees to: (i) use the Confidential Information of the Disclosing Party only to perform hereunder (including providing the features and services associated with the normal use of the Evaluation Product) or exercise rights granted to it hereunder; (ii) treat all Confidential Information of the Disclosing Party in the same manner as it treats its own similar proprietary information, but in no case will the degree of care be less than reasonable care; and (iii) disclose the Disclosing Party’s Confidential Information only to those employees, contractors, or affiliates of the Receiving Party who have a need to know such information for the purposes of this Agreement, provided that any such employee, contractor, or affiliate shall be subject to obligations of non-use and confidentiality with respect to such Confidential Information at least as restrictive as the terms of this Agreement, and the Receiving Party shall remain solely liable for any non-compliance of such employee, contractor, or affiliate with the terms of this Agreement. Either party may disclose Confidential Information to the extent required by law, provided that the Receiving Party gives the Disclosing Party reasonable advance notice of such required disclosure and the opportunity to obtain appropriate confidential treatment for such Confidential Information.

9. **Indemnity.** Customer will defend Incorta from and against any claim by a third party relating to or arising from (i) any data or



content imported or uploaded to the Evaluation Product, (ii) use of Evaluation Product in violation of this Agreement or applicable law or any third party rights, or (iii) content or materials developed by the Customer and/or Customer Representatives as a result of its usage of Evaluation Product. Incorta will defend Customer from and against any claim by a third party alleging that the Evaluation Product infringes or violates third party intellectual property rights, and will indemnify and hold harmless Customer from and against any damages and costs finally awarded against Customer or agreed to by Incorta in a monetary settlement (including reasonable attorneys' fees) resulting from such claim. In the event any such claim is brought or threatened, Incorta may, at its sole option and expense terminate this Agreement with notice and require that Customer stop all use of Evaluation Product. Notwithstanding the foregoing, Incorta will have no liability to Customer for any claim of infringement to the extent such claim arises out of or is based upon (1) use of the Evaluation Product in combination with Evaluation Product, products or services not provided by Incorta; (2) any modification of the Evaluation Product, in whole or in part, not made or authorized by Incorta; (3) failure to use the Evaluation Product in accordance with this Agreement, or otherwise using the Evaluation Product for purposes for which it was not designed or intended; (4) use of any specified release of the Evaluation Product after Incorta notifies Customer that continued use of such release may subject Customer to a claim of infringement, if Incorta provides Customer with a replacement release, or (5) any data, content or materials provided by Customer or third parties, including Third Party Open Source. THE FOREGOING PROVISIONS OF THIS SECTION STATE THE ENTIRE LIABILITY AND OBLIGATIONS OF INCORTA, AND THE EXCLUSIVE REMEDY OF CUSTOMER, WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY INTELLECTUAL PROPERTY OR OTHER PROPRIETARY RIGHT BY THE EVALUATION PRODUCT OR ANY PART THEREOF.

10. Disclaimers; Liability Limitation. Because the Evaluation Products(s) are provided at no cost, solely for Customer's internal use and evaluation, THE EVALUATION PRODUCT ARE PROVIDED "AS IS" WITHOUT WARRANTY OR CONDITION OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR ANY PARTICULAR PURPOSE. CUSTOMER SHALL HAVE BACKUP COPIES OF ANY DATA IT UPLOADS TO EVALUATION PRODUCT AND SHALL BEAR ALL RISK OF LOSS OR DAMAGE TO ITS DATA UPLOADED TO EVALUATION PRODUCT AND AGREES THAT INCORTA ASSUMES NO LIABILITY OR RISK RELATED TO SUCH DATA UPLOADED OR USED WITH EVALUATION PRODUCT. INCORTA DOES NOT WARRANT THE ABSENCE OF ANY BUGS IN THE EVALUATION PRODUCT AND DOES NOT WARRANT THAT THE USE OF THE EVALUATION PRODUCT WILL BE UNINTERRUPTED AND ERROR FREE. EXCEPT FOR LIABILITY ARISING FROM SECTION 9 (INTELLECTUAL PROPERTY INDEMNITY): (A) IN NO CASE SHALL INCORTA (OR ITS PERSONNEL, LICENSORS OR SUPPLIERS), BE LIABLE TO CUSTOMER FOR ANY SPECIAL, INDIRECT, PUNITIVE, CONSEQUENTIAL, INCIDENTAL DAMAGES OR FOR ANY LOST REVENUE, LOSS PROFIT, ANTICIPATED SAVINGS, GOODWILL, OR ANY LOSS OR DAMAGE TO DATA, OR ANY BUSINESS INTERRUPTION, OR ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ARISING FROM USE OF THE EVALUATION PRODUCT OR RESULTS OF THE USE OF EVALUATION PRODUCT, UNDER ANY CAUSE OF ACTION EVEN IF ADVISED BEFOREHAND OF THE POSSIBILITY OF SUCH DAMAGES, AND (B) IN NO EVENT SHALL INCORTA'S AGGREGATE LIABILITY TO CUSTOMER IN CONNECTION WITH THIS AGREEMENT AND UNDER ANY THEORY OF LIABILITY EXCEED \$5000.

11. General. Any notice provided to a party hereunder shall be in writing and sent to the address specified in the preamble to this Agreement. The failure to enforce any term of this Agreement on one occasion shall not prevent enforcement on any other occasion or the enforcement of any other term. If any provision of this Agreement shall be adjudged by any court to be unenforceable or invalid, that provision shall be limited to the minimum extent necessary. This Agreement will be governed by California law, without reference to conflicts of laws principles. The exclusive jurisdiction and venue of any action arising out of or related to this Agreement will be the courts located in San Francisco County, California and the parties agree and submit to the personal and exclusive jurisdiction and venue of these courts. This Agreement may not be assigned by Customer without Incorta's consent. Incorta may freely assign this Agreement. The prevailing party in any action to enforce this Agreement shall be entitled to recover attorneys' fees. Any waivers or amendments shall be effective only if made by writing signed by representatives authorized to bind the parties. Both parties agree that this Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous agreements and communications relating to the subject matter of this Agreement. The Customer agrees to comply with all export control laws and not to export or re-export the Evaluation Product to any country which, under the laws of the United States, Customer is or might be prohibited from exporting such Evaluation Product.