

3DILIGENT CUSTOMER AGREEMENT (2017-11-02)

This Customer Agreement (“**Agreement**”) is effective as of the date upon which you (“**Customer**”) first create your account with the Service (defined below). This Agreement sets forth the terms and conditions between 3Diligent Corporation (“**3Diligent**”) and Customer under which Customer may procure of products and/or services from 3Diligent.

This Agreement controls the relationship between 3Diligent and Customer so as to permit Customer to send and review requests (“**RFQs**”) for quotation for 3D printing, design, manufacturing and finishing services through the 3Diligent Direct service (“**Service**”), to negotiate and agree upon terms with 3Diligent, and purchase services from 3Diligent on a one time or repeat basis.

Unless otherwise specifically agreed to in writing by 3Diligent and Customer, this Agreement shall apply to each RFQ and each agreement (“**RFQ Contract**”) between Customer and 3Diligent formed using the Service and all negotiations therefore and transactions related thereto or thereafter. This Agreement may be updated by 3Diligent from time to time by providing notice to Customer of any such change including posting notice of such change on the 3Diligent website. Customer’s submission of any RFQ shall constitute agreement to the then current terms hereof. It is the responsibility of Customer to review the most current Agreement prior to issuing any new RFQ. In the event of any dispute between this Agreement and any RFQ or RFQ Contract, this Agreement shall control. The most recent version of this Agreement shall be available at all times in the Customer Knowledge Center section of the Customer Portal.

1 3DILIGENT SERVICE.

1.1 License. Customer is granted a limited revocable license to use the Service for the sole purpose of sending RFQs to 3Diligent along with data and specifications relating to the RFQ, proposing terms specifying Customer’s requirements, negotiating and agreeing to specific terms between Customer and 3Diligent, forming RFQ Contracts, and making payment of the agreed price and confirming delivery and acceptance of any order placed thereunder.

1.2 Limitations. The Service is provided to you AS IS. Customer may access and use the Service solely as intended and as permitted under this Agreement. Customer may not copy, reproduce, collect, distribute, transmit, broadcast, display, sell, license, or otherwise exploit any information that Customer may obtain through any use of the Service in any manner or for any purpose other than as provided herein without the prior written consent of 3Diligent. 3Diligent reserves all rights not expressly granted in and to the Service and the Content.

1.3 Quality of Work. 3Diligent warrants that the product manufactured by 3Diligent will substantially meet the features of the indicated RFQ Contract within the limitations of 3D printing and advanced manufacturing technology and will be delivered substantially within the agreed upon time frames. Customer maintains sole legal responsibility for the design specifications and performance of the product. 3Diligent does not give any warranty about the products themselves and does not guarantee that the product will be fit for any particular purposes. Errors or anomalies in the design details or material specifications are the responsibility of Customer.

2 3D PRINTING, MANUFACTURING AND FINISHING SERVICES

2.1 Customer Request for Quotations (“RFQ”).

2.1.1 General RFQ. Customer may use the Service from time to time to issue RFQs for the production of printed or manufactured parts according to Customer specifications which may be incorporated therein. All RFQs must be submitted to 3Diligent via the Service and shall include

3DILIGENT CUSTOMER AGREEMENT (2017-11-02)

- (A) all 3Diligent required data including business oriented terms such as delivery schedules and quantity counts and any special delivery deadlines (“**Data**”), and
- (B) any Customer required specifications including any attached images, drawings, photographs or other representation of any kind in any medium, (“**Specifications**”) to be included in the RFQ.

There is no fee for submitting an RFQ. Any RFQ not containing all data or which, in the sole judgment of 3Diligent requires additional information, may be cancelled or delayed by 3Diligent at any time. Any waiver of these terms, or term contrary to this Agreement contained in any RFQ or amendment thereto including any Data, Specifications or otherwise shall be null and void. 3Diligent may provide alternative procedures for handling particularly complex RFQs.

2.1.2 Confidential RFQ (CRFQ). As an optional service, where so designated as such together with the submission of any RFQ, 3Diligent permits certain RFQs to be designated by a Customer as a confidential RFQ (“**CRFQ**”). By designating an RFQ as confidential, Customer is advising 3Diligent that certain terms contained therein are confidential in nature and are not subject to disclosure to third parties other than suppliers working for 3Diligent and subject to the confidentiality terms of the CRFQ. While 3Diligent always exercises a level of industry standard discretion with all RFQs and all information submitted in conjunction therewith, a designation of a CRFQ commercially and legally includes the following additional terms into the agreement between Customer and 3Diligent established by this Agreement:

2.1.2.1 The information within any CRFQ which shall be treated as confidential (“**Confidential Information**”) is as follows:

- (A) All Data, Specifications, drawings, designs, design specifications, tolerances, materials, or material specifications designated, referenced or referred to therein;
- (B) All processes and finishes designated, referenced or referred to therein;
- (C) All communications and negotiations exchanged via the Service concerning or otherwise in relation to the CRFQ; (e.g., why it is designed the way it is, what it is intended to be used for, why this material and/or process is preferred, whether they have any extenuating circumstances related to the RFQ that could compromise them competitively);
- (D) Any pricing information or discussions concerning, referencing, or related to the CRFQ;
- (E) Any production schedules, quantities or deadlines, referencing, or related to the CRFQ;
- (F) All change orders, alterations amendments or other communications related or otherwise applicable to the CRFQ prior to during the performance of or subsequent to the performance thereof and related thereto; and
- (G) The name of the project or any data used to refer thereto such as a job order number or project number (collectively “**Project Name**”) and any description of the project (“**Project Description**”).

Confidential Information shall not include any information which:

- (1) is or becomes generally available to the public other than
 - (a) as a result of a disclosure (whether by act or omission) by 3Diligent or its representatives or any other person who directly or indirectly receives such information from 3Diligent, or
 - (b) in violation of a confidentiality obligation to Customer not known to 3Diligent;
- (2) is or becomes available to 3Diligent on a non-confidential basis from a source which, to the knowledge of 3Diligent is entitled to disclose it;
- (3) was known to 3Diligent prior to its disclosure to it by Customer; or
- (4) is verifiably developed by 3Diligent, independently and without the benefit of the information provided by Customer.

2.1.2.2 3Diligent agrees to use the Confidential Information solely for the purpose of the fulfillment of the CRFQ and not for any other purpose; and, except only to the extent permitted by this Section 2.1.2, will keep such Confidential Information strictly confidential, including by refraining from disclosing Confidential Information to its affiliates, employees, officers, or agents (“**Representatives**”) except on a

3DILIGENT CUSTOMER AGREEMENT (2017-11-02)

need-to-know basis provided each such recipient has agreed to be bound by confidentiality obligations with respect to such Confidential Information at least as protective as the terms of this Section 2.1.2. 3Diligent shall use the same care and discretion to protect all Confidential Information with at least the same amount of care and discretion as with its own Confidential Information, but no less than reasonable care. Customer and 3Diligent each agree to be responsible for any breach of this Agreement by their respective Representatives. This shall continue to govern the sharing of Confidential Information concerning the CRFQ throughout the completion of the CRFQ.

2.1.2.3 Customer agrees that 3Diligent may as part of 3Diligent's internal security procedures make copies of all or any portion of Confidential Information and modify or remove text, serial numbers, markings, writings, logos and similar items included in such copies which may identify or tend to identify Customer. Such modified Confidential Information may be used by 3Diligent as part of its production process. This Section 2.1.2.3 supersedes all writings and all markings to the contrary, and may be superseded only by a separate agreement between 3Diligent and Customer which explicitly refers to, and supercedes, this Section 2.1.2.3.

2.1.2.4 Upon agreement of 3Diligent and Customer, extended security procedures may be adopted which include increased physical, technical, administrative and personnel security procedures, and extended confidentiality terms.

2.1.2.5 In the event that 3Diligent is required by law and, by interrogatories, requests for information or documents, subpoenas, civil investigative demand or similar process, to disclose any Confidential Information, 3Diligent shall provide Customer with prompt prior written notice of such requirement so that Customer may seek an appropriate protective order. If in the absence of a protective order, 3Diligent is nonetheless advised by counsel that 3Diligent is required by law to disclose Confidential Information, disclosure may be made only as to that portion of the Confidential Information which 3Diligent is advised in writing by counsel that it is legally required to be disclosed. 3Diligent shall exercise its reasonable best efforts to obtain assurance that confidential treatment will be accorded such Confidential Information.

2.1.2.6 All Confidential Information disclosed by Customer shall be and shall remain Customer's property. Within ten (10) days after being so requested by Customer, 3Diligent shall

- (A) return all Confidential Information furnished by Customer, and
- (B) except to the extent 3Diligent is advised in writing by counsel that such action is prohibited by law, destroy all copies of all Confidential Information and all products manufactured by 3Diligent pursuant to containing or otherwise reflecting any Confidential Information.

Any Confidential Information that is not returned or destroyed, including, without limitation, any physical representation or summary of any oral Confidential Information, shall remain subject to the confidentiality obligations set forth in this Agreement. Regardless of whether the Confidential Information is returned or destroyed, 3Diligent may retain an archival copy of Customer's Confidential Information in the possession of outside counsel of its own choosing for use solely in the event a dispute arises hereunder and only in connection with such dispute.

2.1.2.7 It is further understood and agreed that money damages would not be a sufficient remedy for any breach of this Section 2.1.2 and that Customer shall be entitled to specific performance, including, without limitation, injunctive relief, without the need of posting a bond or proving damages, as a remedy for any such breach by 3Diligent. Such remedy shall not be deemed to be the exclusive remedy for breach of this Section 2.1.2 but shall be in addition to all other remedies available at law or equity. It is further understood that

Customer has not made nor will make any representation or warranty as to the accuracy or completeness of the Confidential Information. The Parties agree that Customer shall have no liability to 3Diligent resulting from the use of the Confidential Information.

2.1.2.8 The furnishing of any Confidential Information hereunder shall not be construed as the granting of a license under any patent, patent application, copyright, copyright registration, trademarks, trade secret or

3DILIGENT CUSTOMER AGREEMENT (2017-11-02)

other proprietary right by Customer to any person or entity or as implying any obligation other than is specifically stated herein.

2.2 License to Use Data and Specifications. Customer hereby grants 3Diligent a worldwide license to use all information included in or with any submitted RFQ for the purpose of producing the product as set forth herein. Customer warrants that it owns or has the right to use and distribute all information contained within any RFQ including any information contained within any submitted Data and Specifications. Customer agrees to indemnify and hold harmless 3Diligent, its officers, directors and agents of and from any claim or suit by any third party pertaining to any right or claim of right violated as the result of Customer's submission, use or copying of any RFQ including all associated Data and Specifications including reasonable costs and attorney's fees incurred in defending such claim or suit.

2.3 Quotations / Offer. All complete RFQs will be submitted via the Service to 3Diligent. 3Diligent may choose to provide a quotation in response to any RFQ, including 3Diligent proposed pricing ("**Quote**") in response to any RFQ within the Service, or not, at 3Diligent's discretion. Quotes shall be deemed to expressly include all Data and Specifications in the original RFQ together with any exceptions, amendments or qualifications relevant to the Quote and shall serve as the final determinative basis for any agreement between Customer and 3Diligent. Amendments to any RFQ shall be made only via the Service. Customer and 3Diligent may communicate regarding Amendments via the Service prior to Customer's Acceptance. However, only terms stated by or expressly approved by 3Diligent will become part of any Quote ("**Written Amendments**"). Quotes shall contain full and complete pricing information for each RFQ including taxes and shipping charges. Customers are encouraged to carefully review all Quotes including all exceptions and amendments associated therewith. Quotes expire on the one month anniversary of the date thereof unless otherwise stated therein.

2.4 Customer Acceptance / 3Diligent Acknowledgment / Payment. In the event that Customer receives a Quote, together with any Written Amendments thereto via the Service, which is acceptable to Customer, Customer may issue a formal acceptance ("**Acceptance**") of the Quote together with payment in the amounts specified by 3Diligent in the Quote which will serve as an acceptance of 3Diligent's offer to perform the work identified in the Quote. All payments are final other than as provided herein below. Upon the issuance of the Acceptance via the Service, a contract ("**RFQ Contract**") is formed between 3Diligent and Customer and 3Diligent is bound to complete the work subject only to either (A) receipt by 3Diligent of payment as specified in the RFQ Contract, or (B) 3Diligent's issuance of credit to Customer.

After issuance of the Acceptance, Customer may terminate ("**Customer Termination**") the RFQ Contract without penalty until such time as 3Diligent acknowledges ("**3Diligent Acknowledgment**") the Acceptance. If the Customer delivers a Customer Termination after the delivery to Customer of a 3Diligent Acknowledgment but before receipt of a 3Diligent Production Notice, Customer will be entitled to a refund of 75% the total amount due in respect of such RFQ Contract. Once 3Diligent delivers a notice ("**3Diligent Production Notice**") to Customer that production has started or is in the process of starting such that production cannot practically be stopped (as determined solely by 3Diligent), Customer shall not be entitled to any refund except as otherwise specified in the RFQ Contract and 3Diligent shall remain obligated to fulfill the RFQ Contract as Accepted.

2.5 3D Now Quote System. If the Customer submits an RFQ to which 3Diligent provides a Quote using the 3D Now Quote System, then the procedure set forth in Section 2.4 shall be followed, except:

- (A) payment shall not be due with the Acceptance;
- (B) 3Diligent will confirm (the "**Confirmed Quote**") (and may alter) the price, specifications and delivery schedule in the Quote promptly after receipt of the Acceptance;

3DILIGENT CUSTOMER AGREEMENT (2017-11-02)

- (C) Customer shall then accept or reject the Confirmed Quote, and if Customer accepts the Confirmed Quote, makes payment as specified in the Confirmed Quote.

2.6 Pre-Production Change Orders. Customer may at any time acceptable to 3Diligent request a change to any element of an RFQ Contract subject to the approval, via the Service, of 3Diligent. For the avoidance of doubt, the text of the “**Change Order**” must

- (A) be contained in a single message,
- (B) be entitled “Change Order” (and if a subject line is available, includes in the subject line “Change Order” and the RFQ Contract Number),
- (C) identify the RFQ Contract,
- (D) set out in full the provisions of the RFQ Contract being changed in the form of “Existing Provision:” followed by “Changed Provision:”, or, in the case of an additional provision, describe the additional provision as “Additional Provision:”,
- (E) be sent by Customer through the Service to 3Diligent, and
- (F) be agreed to by 3Diligent in a reply through the Service to Customer that must
 - (1) set out the unaltered text of the Change Order in full and
 - (2) contain an plain statement of acceptance by 3Diligent of the Change Order (e.g. “Accepted by 3Diligent”).

Any messages or other communications that do not satisfy each of these requirements shall not be a valid Change Order. For the further avoidance of doubt, 3Diligent may disclaim any communication from Customer which purports to be a Change Order but which, in the opinion of 3Diligent, does not qualify as such hereunder.

2.7 Packing, Shipping and Delivery. Items for shipment of items produced under any RFQ Contract shall comply with best available commercial packing practices, materials and methodologies. The agreed price set forth in each RFQ Contract shall include all charges that may be due for packing, packaging, insurance, transportation FOB Customer and taxes. All shipments will be labeled as required by the RFQ Contract and shall identify the RFQ number on the exterior of package/box so that packages/boxes do not have to be opened to verify receipt of the order. Unidentified shipments may be refused and returned to 3Diligent under Section 3.

2.8 Taxes. 3Diligent will include all applicable sales and similar taxes in all RFQ Contracts where necessary.

2.9 Complete Agreement and Modification. The Offer and Acceptance together with any Written Amendments thereto and Change Orders in respect thereof, and this Agreement

- (A) constitute the entire agreement and understanding between the parties regarding each RFQ Contract and supersede all prior and contemporaneous representations, promises, statements, agreements and understandings, written or oral, regarding the subject matter thereof; and
- (B) may only be modified and/or waived by a written agreement executed by Customer and 3Diligent.

2.10 Rejected Payment Fee. A Fee in the amount of \$150.00 will be applied to any ACH Debit, or other payment authorized where such payment is not accepted in the first instance or for which there are insufficient funds.

3 QUALITY ASSURANCE GUARANTEE; PARTS REJECTION

In the event that any fulfilled order materially fails to meet the requirements set forth in the RFQ Contract, Customer shall notify 3Diligent of such failure and complete the 3Diligent Non-Conformance Declaration

3DILIGENT CUSTOMER AGREEMENT (2017-11-02)

Form, including a specific description of the failure including proof therefore such as photographs, analyses, or other visual or demonstrative aids establishing such failure within three business days of receipt of the delivery (“Parts Rejection”). In the event of any Parts Rejection, 3Diligent shall issue Customer a pre-paid shipping label and Customer shall ship the rejected part(s) in the original packaging to 3Diligent within two business days of shipping label receipt. Customer shall work together with 3Diligent to find a mutually acceptable solution, which may be any one of the following:

- (A) a replacement part or parts,
- (B) retention of the parts with a partial refund,
- (C) repair or refinishing of the parts (possibly with a partial refund), or
- (D) if Customer and 3Diligent cannot come to a reasonable agreement to any of the foregoing, a full refund.

Failure of Customer to return an order in compliance with this Section 3 and within the time frames set forth herein shall constitute full approval and acceptance of the order by Customer. Customer shall be responsible for shipping costs if in the reasonable opinion of 3Diligent, the Parts Rejection was invalid.

4 COMPLIANCE WITH LAWS

Customer shall be responsible to ensure compliance with all applicable State and Federal and local laws, statutes, government rules, regulations and orders, including those pertaining to the United States Export controls, including the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, Export Administration Regulations (EAR), 15 CFR Parts 730 through 774, in the procurement of any Quote and the fulfillment thereof. In the event that any export licenses are required for fulfillment of any RFQ this fact shall be identified in the initial RFQ and it shall be and remain the responsibility and burden of Customer to procure such license before the need for such license arises. The responsibility for ensuring compliance with, procurement and the expense of such procurement and compliance shall be that of Customer.

5 LIMITED WARRANTIES AND LIABILITY

5.1 Warrantee Disclaimer. Other than as expressly warranted or guaranteed herein, all orders are delivered and accepted in AS IS condition, 3DILIGENT HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE FOR THE USE OF THIS WEBSITE, THE SERVICE, AND ANY PARTS DELIVERED UNDER THIS AGREEMENT OR ANY RFQ CONTRACT. Customer further agrees that the disclaimers, exclusions and limitations of liability set forth in this Section 5 are a material and essential condition of this Agreement, and that the Website and Service would not be made available to Customer, or would be made available on materially different terms in the absence of these conditions.

5.2 Limitation of Liability. 3DILIGENT HEREBY DISCLAIMS AND EXCLUDES ALL LIABILITY FOR ANY PUNITIVE, EXEMPLARY, INCIDENTAL, INDIRECT AND/OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, ARISING IN CONNECTION WITH THIS AGREEMENT AND ITS SUBJECT MATTER, WHETHER SUCH DAMAGES ARISE BY CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE WHETHER 3DILIGENT COULD HAVE OR SHOULD HAVE KNOWN IN ADVANCE OF THE POSSIBILITY THEREOF OR NOT.

5.3 Limitation of Aggregate Damages. THE AGGREGATE LIABILITY FOR ANY DAMAGES SUFFERED OR INCURRED IN CONNECTION WITH THIS AGREEMENT AND ITS SUBJECT MATTER, WHETHER ARISING BY CONTRACT, TORT (INCLUDING NEGLIGENCE) OR

3DILIGENT CUSTOMER AGREEMENT (2017-11-02)

OTHERWISE SHALL UNDER NO CIRCUMSTANCE EXCEED THE AMOUNTS PAID BY CUSTOMER TO 3DILIGENT.

5.4 Indemnity. Customer shall indemnify, defend and hold harmless 3Diligent and its directors, officers, employees and agents of and from all losses, liabilities, damages and expenses (including reasonable attorney's fees and costs) that they may suffer as a result of any claims, demands, actions or other proceedings made or instituted by any third party against any of them arising out of any use or misuse of any item produced under the terms of this Agreement by (A) Customer or its employees, agents or contractors, and (B) any third party.

6 SERVICE ACCESS

Customer shall use their e-mail address and a secure password to access the Service. Customer shall be responsible to protect and not disclose their password to any third parties. Customer is responsible for all access to and use of the Service using their e-mail address and password. In the event that any person accesses the Service using Customer's e-mail address and password to access the Service, Customer shall be deemed to have authorized all such access, use or misuse of the Service including without limitation all RFQ's issued or Quotes accepted. Customer shall not use the Service other than as intended and shall not use any robot, spider, other automatic device or manual process to access the Service or to monitor or copy any data or any portion of the Service without the express written permission of 3Diligent. Customer shall not interfere or attempt to interfere with the proper working of the Service or any activities conducted on the Service including but not limited to the use of the service by any other Customer. Customer shall not take any action that places the Service at risk or imposes an unreasonable or disproportionately large load on the Service. Customer shall not copy, reproduce, alter, modify, create derivative works of, or reverse engineer the Service or publicly display any content from the Service without the prior express written consent of 3Diligent.

7 DISPUTE RESOLUTION PROCEDURES

In the event of any dispute concerning (A)
any term of this Agreement or

- (B) the performance under any RFQ accepted under this Agreement or
- (C) any other dealings between Customer and 3Diligent, the parties agree to the following procedures:

7.1 Pre-Arbitration Resolution

7.1.1 The parties to any dispute shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. Any party may give the other party written notice of any dispute not resolved in the normal course of business. Within 15 days after delivery of the notice, the receiving party shall submit to the other a written response. The notice and response shall include with reasonable particularity (A) a statement of each party's position and a summary of arguments supporting that position, and

- (B) the name and title of the executive who will represent that party and of any other person who will accompany the executive.

Within 30 days after delivery of the notice, the executives of both parties shall meet at a mutually acceptable time and place.

3DILIGENT CUSTOMER AGREEMENT (2017-11-02)

7.1.2 Unless otherwise agreed in writing by the negotiating parties, the above-described negotiation shall end at the close of the first meeting of executives described above (“**First Meeting**”). Such closure shall not preclude continuing or later negotiations, if desired.

7.1.3 All offers, promises, conduct and statements, whether oral or written, made in the course of the negotiation by any of the parties, their agents, employees, experts and attorneys are confidential, privileged and inadmissible for any purpose, including impeachment, in arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiation.

7.1.4 At no time prior to the First Meeting shall either side initiate an arbitration or litigation related to this Agreement except to pursue a provisional remedy that is authorized by law or by JAMS Rules or by agreement of the parties. However, this limitation is inapplicable to a party if the other party refuses to comply with the requirements of Section 7.1.1.

7.1.5 All applicable statutes of limitation and defenses based upon the passage of time shall be tolled while the procedures specified in Section 7.1.1 and Section 7.1.2 are pending and for 15 calendar days thereafter. The parties will take such action, if any, required to effectuate such tolling.

7.2 Mediation. If the matter is not resolved by negotiation pursuant to Section 7.1, then the matter will proceed to mediation.

7.2.1 Either party may commence mediation by providing to JAMS, and the other party a written request for mediation, setting forth the subject of the dispute and the relief requested.

7.2.2 The parties will cooperate with JAMS and with one another in selecting a mediator from the JAMS panel of neutrals and in scheduling the mediation proceedings. The parties agree that they will participate in the mediation in good faith and that they will share equally in its costs.

7.2.3 All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator or any JAMS employees, are confidential, privileged and inadmissible for any purpose, including impeachment, in any arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation.

7.3 Arbitration. The parties agree that any and all disputes, claims or controversies arising out of or relating to this Agreement not resolved through mediation shall be submitted to JAMS, or its successor, for final and binding arbitration before a single arbitrator and shall be handled according to the JAMS Streamlined Arbitration Rules in effect at the time arbitration is initiated and this Section 7.3.

7.3.1 Either party may initiate arbitration with respect to the matters submitted to mediation by filing a written demand for arbitration at any time following the initial mediation session or at any time following 45 days from the date of filing the written request for mediation, whichever occurs first (“**Earliest Initiation Date**”). The mediation may continue after the commencement of arbitration if the parties so desire.

7.3.2 All applicable statutes of limitation and defenses based upon the passage of time shall be tolled until 15 days after the Earliest Initiation Date. The parties will take such action, if any, required to effectuate such tolling.

7.3.3 Day baseball arbitration will be used. The appointed arbitrator shall determine a prevailing party and shall award costs including reasonable expert and attorney’s fees to such prevailing party in conjunction with any arbitration award except that any party initiating arbitration or filing any claim or action other than an action to pursue a provisional remedy that is authorized by law or by JAMS Rules or by agreement of the parties without first complying with Section 7.1 and Section 7.2 shall be said to have waived any claim for costs, expert fees and attorney’s fees.

3DILIGENT CUSTOMER AGREEMENT (2017-11-02)

8 CHANGES TO THE TERMS HEREOF

3Diligent may unilaterally change the terms of this Agreement at any time, such changes to take effect with respect to every RFQ submitted to the Service after the date hereof.

9 MISCELLANEOUS PROVISIONS

9.1 Governing Law. This Agreement, all RFQ's and any Offers or Acceptances hereunder shall be governed by and construed in accordance with the laws of the State of California without regard to the conflicts of laws provisions of that state. By submitting any RFQ within the Service, Customer irrevocably consents to the jurisdiction of the applicable Federal or State courts situated in the County of Los Angeles, California, and agrees that other than the dispute resolution provisions hereof, such courts shall be the exclusive forums for the resolution of any disputes hereunder.

9.2 Force Majeure. Neither party hereto accepting any Offer hereunder shall be liable for a breach of its obligations hereunder to the extent that such breach is caused by factors outside its reasonable ability to foresee and avoid, including without limitation, war, acts of God, terrorism, natural disaster, or third party technology, communications or encryption failures which continue for any 60 day period or more.

9.3 Independent Contractors. The parties hereto are independent contractors and are not, and shall not represent themselves as, principal and agent, partners or joint ventures. No party shall attempt to act, or represent itself as having the power, to bind another party or create any obligation on behalf of another party. Each party shall be solely responsible for the employment, direction and control of its employees and their acts.

9.4 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law. The parties agree that

- (A) the provisions of this Agreement shall be severable in the event that any of the provisions hereof are for any reason whatsoever invalid, void or otherwise unenforceable,
- (B) such invalid, void or otherwise unenforceable provisions shall be automatically replaced by other provisions which are as similar as possible in terms to such invalid, void or otherwise unenforceable provisions but are valid and enforceable, and
- (C) the remaining provisions shall remain enforceable to the fullest extent permitted by law.

9.5 Assignment. Customer shall have no right to assign the rights and obligations under this Agreement without the written consent of 3Diligent. Any assignment in breach of this provision shall be null and void.

9.6 Right to Disclose

Customer grants to 3Diligent the right to disclose the use by Customer of the Service, and to include Customer's name and logo in promotional materials, including, but not limited to, 3Diligent's websites, subject at all times to Customer's right to revoke such grant in writing.

10 REQUIRED NOTICES

10.1 Copyright Infringement Claims. 3Diligent takes copyright infringement very seriously. Any notice concerning any claim of copyright infringement should be addressed to:

3Diligent Corporation
COPYRIGHT INFRINGEMENT CLAIM

3DILIGENT CUSTOMER AGREEMENT (2017-11-02)

128 Sierra Street, Suite 202,
El Segundo, CA 90245

10.2 Repeat Infringer Policy. The accounts of repeat infringers will be terminated.

10.3 California Pursuant to the terms of The Electronic Commerce Act of 1984 please be advised that as may be applicable to you under California Law if you are unsatisfied with the manner in which a complaint that you may have regarding the 3Diligent service you may contact the complaint Assistance Unit of the Division of Consumer Services of the Department of Consumer Affairs in writing at 1020 N. Street, #501, Sacramento, CA 95814 or by telephone at 1-916-445-1254.