

## Master Services Agreement

Updated September 12, 2025

This Master Services Agreement (this “**Agreement**”) is entered into by and between Capturepoint LLC d/b/a Capturepoint (“**Capturepoint**”, “**us**”, “**we**”, “**our**”, or “**ours**”) and the entity or organization receiving the Services pursuant to this Agreement and/or a Quote (as defined below) (“**Client**”, “**you**”, “**your**”, or “**yours**”).

Capturepoint offers software and services as described at <https://www.communitypass.net/>, as updated from time to time (the “**Website**”), or more specifically set forth on a proposal or quote provided to you by Capturepoint (“**Quote**”) (collectively and respectively, the “**Services**”).

All access to and use of the Services is subject to the terms of this Agreement and any Quote. In addition to this Agreement and any Quote, your access to and use of the Services is subject to Capturepoint’s then-current policies relating to the Services, including, without limitation, Capturepoint’s [Privacy Policy](#). You are responsible for compliance with these policies and all other Capturepoint policies applicable to the access and use of the Services posted to the Website or provided through Services.

THIS DOCUMENT CONTAINS VERY IMPORTANT INFORMATION REGARDING YOUR RIGHTS AND OBLIGATIONS, AS WELL AS CONDITIONS, LIMITATIONS, AND EXCLUSIONS THAT MIGHT APPLY TO YOU. PLEASE READ IT CAREFULLY.

THIS AGREEMENT REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS.

BY ACCESSING OR USING THE SERVICES, YOU AGREE THAT YOU HAVE READ AND AGREE TO BE BOUND BY THIS AGREEMENT.

IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, OR DO NOT MEET THE QUALIFICATIONS INCLUDED IN THIS AGREEMENT, CAPTUREPOINT IS NOT WILLING TO PROVIDE YOU WITH ACCESS TO OR USE OF THE SERVICES AND YOU MUST NOT ACCESS OR USE THE SERVICES. IF YOU ACCESS OR USE THE SERVICES, YOU ACKNOWLEDGE THAT YOU MEET THE QUALIFICATIONS INCLUDED IN THIS AGREEMENT AND AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT.

THIS AGREEMENT IS ENTERED INTO AS OF THE DATE YOU FIRST ACCESS OR USE THE SERVICES (THE “**EFFECTIVE DATE**”). THIS AGREEMENT IS SUBJECT TO CHANGE BY CAPTUREPOINT WITHOUT PRIOR WRITTEN NOTICE AT ANY TIME, IN CAPTUREPOINT’S SOLE DISCRETION. THE LATEST VERSION OF THIS AGREEMENT WILL BE POSTED ON THE WEBSITE OR OTHERWISE DELIVERED TO YOU ELECTRONICALLY. YOUR CONTINUED USE OF THE SERVICES AFTER A POSTED CHANGE IN THIS AGREEMENT WILL CONSTITUTE YOUR ACCEPTANCE OF AND AGREEMENT TO SUCH CHANGES.

1. **Services.** Capturepoint will provide the Services you select, as more specifically set forth on a Quote. Each Quote is incorporated herein by reference and sets forth all fees due and payable from

Client for the Services. All services itemized in the Quote are included as Services to be provided by Capturepoint for the fees specified. The cost estimate is valid for 60 days from the date defined in the Quote. Capturepoint reserves the right, at any time, to modify the Services, or any part thereof, subject to the terms of this Agreement and any Quote; provided, that any such modification does not materially diminish any functionality thereof utilized by Client.

2. **Excluded Services.** “**Excluded Services**” are (a) “**Enhancements**”, which are system wide change requests submitted by the Client, and (b) “**Customizations**”, which are changes that impact only the Client’s system and may include custom eligibility, custom pricing, custom reports, custom validations, public site design, or other customized product features. Excluded Services are subject to additional fees and are not included in the standard Services.

3. **Users & User IDs.** Client may authorize designated employees within Client’s organization to access the Services through its account (each such individual, as applicable, a “**User**”). Client expressly agrees that it will not allow any use of or access to the Services by anyone other than Client’s authorized Users, and any such use or access will be consistent with the terms, conditions, and restrictions set forth in this Agreement. Capturepoint provides each User with a unique username and password that must be entered each time a User logs on (each such user identification and password, a “**User ID**”). Each User ID is personal in nature and may be used only by the applicable User. Client is solely responsible for (a) all use of the Services by Users, (b) the actions of each User, and (c) compliance by each User with the applicable terms of this Agreement. Client will use commercially reasonable practices to protect the security and confidentiality of each User ID. Client will notify Capturepoint immediately if any User ID is lost, stolen, or otherwise compromised, or of any other unauthorized use of or access to Client’s account. Client acknowledges that Client is fully responsible for all losses, damages, liabilities, penalties, costs, and expenses incurred, and all electronic information transferred, stored, modified, communicated, or shared through, use of each User ID (whether lawful or unlawful).

4. **Services Fees.** Fees for Services are: (a) Annual, (b) One-Time, or (c) Payment Processing, as further described below. All Fees are specified in the Quote.

a. **Annual.** CommunityPass is a Service and its Annual Subscription Fee is based on one or more of the following criteria: (i) the CommunityPass Package, (ii) Client payment processing revenue, (iii) the number of Merchant Accounts, and (iv) the number of Locations as defined in the Quote. A CommunityPass subscription does not include any additional One-Time Services.

b. **One-Time.** One-Time Fees are fixed or based on one-time estimates. Should the hours required Services exceed the estimates provided, Capturepoint will provide written documentation, including a detailed explanation of the variance, and provide a new estimate for approval by the Client.

c. **Payment Processing.** Payment Processing Fees are fees for any Client payment transaction, including, but not limited to: credit card, E-Check, Gift Card, or other mobile payment wallet service. E-Check is an electronic payment funded by the buyer’s bank account.

5. **Payment Processing Terms and Conditions.** Capturepoint will provide payment processing services as further set forth at <https://www.communitypass.net/processing-terms>, which is

incorporated herein by this reference. Client must maintain a positive balance in their Bank Account or risk suspension of deposits (e.g., the amount of refunds issued cannot create a negative bank account balance). Clients must Whitelist their bank account to comply with these terms. Failure to comply with Payment Processing terms may result in the suspension or termination of Services.

6. **Accepted Credit Cards.** Capturepoint “Accepted Credit Cards” are Visa, Mastercard, American Express, and Discover.

7. **Registrant Fees.** Registrant Fees are fees charged by the Client to their registrants and, in the case of credit card / E-Check charges, collected by Capturepoint. All Registrant Fees are the exclusive ownership of the Client. Capturepoint will deposit Registrant Fees daily into Client’s specified bank account.

8. **Bank Account.** Client will provide a valid Bank Account and routing number to Capturepoint to deposit Registrant Fees via ACH electronic banking. Should the Bank Account change, Client must notify Capturepoint in writing immediately or risk (a) delaying receipt of Registrant Fees and (b) being subject to Insufficient Funds Fees for non-payment of Service Fees, if applicable.

9. **Merchant Accounts.** This Agreement is for use of Services with one (1) Merchant Account, which services one (1) Organization. An Organization is an individual entity that operates autonomously. One Merchant Account includes one (1) Card Present (used for in-person use) account and one (1) Card Not Present (used for online use) account. Subscriptions requiring more than one Merchant Account are subject to an additional annual Service Fee. Clients that do not implement Card Present and Card Not Present accounts simultaneously are subject to additional One-Time fees.

10. **Payment Processing Refunds & Voids.** Capturepoint charges a transaction fee when Client completes a refund transaction to a Registrant. Capturepoint will not credit the original Payment Processing Fee when Client issues a refund to a Registrant. Capturepoint will not charge a Payment Processing Fee for a voided payment.

11. **Risk Factors.** If Capturepoint determines that the Client and/or Cardholder’s Account presents, or is likely to present, a disproportionately high number of customer complaints, reversals, Chargebacks, claims, fees, fines, penalties, or other liability (collectively “**Risk Factors**”), the Client and/or the Client’s Cardholders may be subject to an increase in Payment Processing Fees. This Fee may be included in the initial rate when the Client first signs up for Services or may be added at any time by Capturepoint with 30 days’ prior written notice of the Fee increase. In such case, if the Client does not agree to this Fee, Client may terminate the usage of the Services.

12. **Subscription Start Date.** The Subscription Start Date is (a) the date the 12-month subscription commences and (b) occurs on the first day of the month and at least 30 days after the Effective Date.

13. **Renewal Date.** The Renewal Date is the first day of the month of the Subscription Start Date in the following year, unless otherwise agreed in writing between Capturepoint and Client.

**14. Implementation Schedule.** Capturepoint and Client will agree in writing to an Implementation Schedule prior to the start of an implementation.

**15. Client Data**

a. **General.** Except as expressly set forth herein, Client will be solely responsible for all Client Data transferred, stored, modified, communicated, or shared by Client, or that Capturepoint may receive, collect, or obtain, in each case, through the Client's use of, or access to, the Services. Client acknowledges that, to the extent Client grants access to Client Data through the Services to any third-party, Client is solely responsible for all use of and access to Client Data by such third-party. Capturepoint shall have no responsibility for any such activity, or the actions taken or not taken by any third-party to whom Client has granted any such use or access. Capturepoint may take remedial action if any Client Data violates the terms of this Section 15, including the deletion thereof; provided, that Capturepoint is under no obligation to review any Client Data for compliance with these terms. For purposes of this Agreement, "**Client Data**" means all electronic information transferred, stored, modified, communicated, or shared through (i) the Services, or (ii) otherwise provided to or accessed by Capturepoint for the purposes set forth under this Agreement; in each case, including any Personal Information (as defined in the Data Processing Addendum attached hereto as Exhibit A) relating to Client or any of Client's members, customers, service providers, employees, contractors, recipients, or agents.

Capturepoint understands and agrees that Client Data and Personal Information shall each be considered "Confidential Information" for purposes of Section 27 (Confidentiality).

b. **License; Title and Non-Infringement.**

i. **License.** For the term of this Agreement, Client hereby grants to Capturepoint a non-exclusive, non-sublicensable, non-transferable, revokable, limited license in and to Client Data, for the sole purpose of Capturepoint providing Services under this Agreement. As between Client and Capturepoint, Client owns and retains all of Client's rights in and to Client Data, including all data, analyses, and other results obtained from Client's use of the Services, in each case, through Client's processing of Client Data, and Client does not convey any proprietary interest therein to Capturepoint other than the licenses set forth herein.

ii. **Title and Non-Infringement.** Client represents and warrants to Capturepoint that (a) Client has all necessary right, title, interest, authorization, and consent necessary to allow Capturepoint to access and use Client Data for the purposes for which Client provides Client Data to Capturepoint hereunder, including the transfer, storage, modification, communication, and processing of Client Data, and (b) that all Client Data was lawfully acquired and its use hereunder does not and will not constitute an infringement, violation, or misappropriation of the rights of any third-party, including, without limitation, intellectual property rights.

c. **Capturepoint's Access to and Use of Client Data.**

i. **Data Processing.** If, and only if, Capturepoint processes Personal Information on behalf of Client in the course of providing the Services, the parties agree to comply with the terms of the Data Processing Addendum attached as Exhibit A hereto, which shall be incorporated into this Agreement.

ii. **Security.** To protect Client Data, Capturepoint shall (a) implement and maintain administrative, technical, physical, and organizational safeguards regarding security, continuation, backup, and disaster-recovery that are consistent with industry standards and practices and comply with applicable law, including data protection laws, in connection therewith, and (b) only access and use Client's systems to the extent necessary to perform the Services.

iii. **Usage Restrictions.** Except as (a) expressly permitted under this Agreement or any Quote, (b) requested or approved in writing by Client (email to suffice), including in connection with any Client support matters, (c) in order to provide or improve Services to Client, including to prevent or address any service or technical problems, (d) in order to develop and test new features and services, or (e) compelled by law in accordance with Section 27 (Confidentiality), Capturepoint shall not access or modify Client Data, or disclose Client Data to any third-party.

iv. **Return of Client Data.** Capturepoint will, for a period of 30 days following the termination or expiration of this Agreement, make available to Client, at Client's request, a file of all Client Data in one of the following formats: Access, Excel, comma separated value (.csv) file, or Microsoft SQL Server backup. After such 30 day period, Capturepoint will have no obligation to maintain or provide any Client Data and may thereafter, unless legally prohibited, delete all Client Data in its systems or otherwise in its possession or control.

v. **Use of Aggregated Anonymous Data.** Notwithstanding anything herein to the contrary, Capturepoint may (a) collect information to generate, and process, Aggregated Anonymous Data, and (b) freely use and make available Aggregated Anonymous Data for the purpose of operating the Website and providing the Services and marketing it to other similar customers (including without limitation, for purposes of improving, testing, operating, promoting and marketing Capturepoint's current and future products and services). Capturepoint is and will remain the sole and exclusive owner of all right, title, and interest in and to all Aggregated Anonymous Data, including all intellectual property rights related thereto, and may freely use all Aggregated Anonymous Data during the term of this Agreement and thereafter. For purposes of this Agreement, "**Aggregated Anonymous Data**" means any of the following information as has been aggregated with other similar information of other of Capturepoint's customers, and anonymized so that it does not reveal any personally identifying information or information identifying Client or a User: (i) information related to how Capturepoint's customers are using the Website and Services; and (ii) information related to the performance of the Website or Services.

## 16. Intellectual Property.

### a. Capturepoint's Intellectual Property.

i. **General.** Client understands and agrees that the Services are licensed, not sold. Nothing in this Agreement conveys to Client any rights of ownership in or related to the Services, or any intellectual property rights therein, which may include, without limitation, concepts, ideas, methods, methodologies, procedures, processes, know-how, techniques, models, templates, generalized features of the structure, sequence and organization of any software, user interfaces and screen designs, general purpose consulting and software tools, utilities and routines, and logic, coherence, and methods of operation of systems (collectively, the "**Capturepoint Technology**"). Except as expressly set forth herein, Capturepoint alone (and its licensors, where applicable) will

retain all intellectual property rights relating to the Capturepoint Technology and Services, including, without limitation, any modifications or enhancements thereto, or any derivatives thereof. For the avoidance of doubt, all licenses granted under this Agreement with respect to the Capturepoint Technology and Services, shall automatically terminate upon the termination or expiration of this Agreement.

ii. **Deliverables.** Client understands and agrees that Capturepoint Technology may be used in the performance of the Services. To the extent that any Capturepoint Technology is incorporated into any Deliverables, Capturepoint shall grant to Client a royalty-free, non-exclusive, non-sublicensable, non-transferable, revokable, limited license to use any such Capturepoint Technology contained in such Deliverables upon full and final payment of all cost, fees, and expenses owed to Capturepoint under this Agreement and any Quote, pursuant to which such Deliverables are contemplated. Except for the license expressly granted in this Section, which shall automatically terminate upon the termination or expiration of this Agreement, Capturepoint alone (and its licensors, where applicable) will retain all intellectual property rights relating to such Capturepoint Technology and Deliverables, including without limitation, any modifications or enhancements thereto, or any derivatives thereof. For purposes of this Agreement, “**Deliverables**” means any work product first created or modified by Capturepoint or any of Capturepoint’s independent contractors, subcontractors, or agents, specifically for Client and delivered to Client in connection with the Services provided hereunder.

iii. **Improvements.** Client understands and agrees that Capturepoint shall be entitled to use and incorporate into the Website and Services and any future products or services, for Client as well as any of its other customers or future customers, any Feedback, and Capturepoint shall have no obligations to Client or any third-party for any such use or incorporation. Client agrees to execute and deliver, or cause to be executed and delivered, to Capturepoint such instruments and documents, and to take such other actions, as Capturepoint, at its expense, may reasonably request for the purpose of evidencing, establishing, documenting, or otherwise supporting its intellectual property rights in and to any such Feedback. For purposes of this Agreement, “**Feedback**” means any suggestions, enhancement requests, recommendations, or other feedback provided by Client or its Users, relating to the Website or Services.

b. **Client’s Intellectual Property.** Client grants to Capturepoint a non-exclusive, non-sublicensable, non-transferable, revokable, royalty-free, limited license to use and display Client’s name, trade name, service mark, logo, and other trademarks (collectively, “**Client Trademark**”), solely for the purpose of facilitating Client’s use of Services as contemplated by this Agreement. As between Client and Capturepoint, Client owns all rights, title, and interest in and to any such Client Trademark. Except as expressly set forth herein, Capturepoint shall not use any Client Trademark, in whole or in part, for any other purpose other than as required to provide the Services in accordance with the terms and conditions of this Agreement. This license shall automatically terminate at the termination or expiration of this Agreement.

17. **Support Services.** By entering into this Agreement, Client agrees to the terms and conditions as defined in Appendix A – Capturepoint Support.

18. **Training.** Training is session based, is priced per Service, and includes a syllabus and training materials. It is intended to be “train-the-trainer” sessions, with the following terms applying: (a) the Client is responsible for coordinating the trainee(s) to attend training; (b) trainees will train the

entire Client's staff; (c) for On-Site CommunityPass training, Capturepoint will train up to 5 people per Service at no additional cost; (d) staff will be trained at a location designated by the Client; (e) each trainee will have access to a computer and the Internet, so that multiple users can be trained simultaneously; (f) Capturepoint will provide access to meeting software during On-Site or Web-based training; (g) Travel & Expenses for On-Site training are priced separately; and (h) additional Web-based retraining is recommended each year to handle any retraining or staff turnover. If any of the above conditions are not met, the price of training may be increased.

19. **Wait Charge.** Capturepoint may invoke a \$100/day wait charge if Client does not provide the items listed in Section 20 (Client Obligations) prior to the implementation start date. Capturepoint will notify Client in writing when this charge is invoked.

20. **Client Obligations.** The following are responsibilities of Client:

- a. **Designated Contact.** Client will provide a single, primary point of contact that will serve as a subject matter expert to quickly resolve issues that arise during the implementation and throughout Client's use of the Services.
- b. **Chargebacks.** Client agrees that any disputes between Client and a Cardholder relating to a transaction funded directly to the Client shall be settled between Client and the Cardholder directly. Client understands that such disputes can result in a Cardholder issued "Chargeback" to Client. A Chargeback occurs when a merchant issues credit to a cardholder's account. Chargeback(s) can be avoided by settling disputes with the Cardholder directly or issuing a refunded transaction. Such chargeback disputes may require Client to provide a copy of the signed credit card receipt and other supporting documentation.
- c. **Whitelisting.** Unless otherwise to in writing between Capturepoint and Client, Stripe is the company Capturepoint uses to settle credit card transactions. The Client will receive the Net Value into its bank account daily, which is equal to the revenue owed less refunds, chargebacks, and other deductions. Should the Net Value of the day's transactions be negative, Stripe will debit the Client's specified bank account that amount. To whitelist Stripe to allow such debits, the Client must provide their bank with Stripe's company ID WFMSTRIPE1 and/or 1800948598.
- d. **Hardware Purchase.** Any hardware required for implementation and/or use of the Services must be purchased, installed, and tested by the Client. Capturepoint bears no responsibility for acquiring hardware. Capturepoint does not directly guarantee or warranty any hardware equipment purchased through Capturepoint or from another vendor. Any equipment purchased through Capturepoint is non-refundable. Any hardware cost estimate is valid for 60 days from the date defined in the Quote.
- e. **Hardware Integration and Support.** Hardware, including, but not limited to, bar code scanners, web cameras, touch screens, ID printers, and credit card swipes purchased from other sources may not have the required programming to work with the Services. Capturepoint does not provide hardware programming or maintenance and does not guarantee or warranty hardware purchased via Capturepoint or elsewhere will work with Capturepoint Services.

- f. **Policies.** Client is responsible for providing policy information pertaining to their specific rules of operation, such as, Code of Conduct, Internet, Refund Policy, and Privacy Policy. The Privacy Policy is posted on the Public Site. The Privacy Policy automatically defaults to Capturepoint's [Privacy Policy](#) if the Client does not supply one. All administrators of the Services must comply with the [Acceptable Use Policy](#) ("AUP"). Failure to comply with the AUP may result in the suspension or termination of Services.
- g. **Internet Service.** Client is responsible for the purchase and set up of their Internet service, which is required for the use of Services. Capturepoint does not provide Internet service connection support or maintenance.
- h. **User Roles.** Client is responsible for creating, approving, or de-permissioning User roles. Client should have a transition plan for administrators that join or leave the organization. Capturepoint does not create or approve User roles, unless Client provides written approval of the changes. User roles may not be deleted.
- i. **Setup.** Client is responsible for organizing and entering their content, which, includes but is not limited to, catalog, facility, memberships, and financial information, unless Client purchases additional One-Time Services.
- j. **Online Gaming/Gambling.** Client is responsible for complying with their state and local gaming authority's laws and regulations regarding online gaming. Gaming may include, but is not limited to, raffles, contests, 50/50s, etc. Failure to comply with the state law may result in suspension or termination of the Services.
- k. **Compliance with Governing Laws.** Client is responsible for complying with their state and local laws, which includes but is not limited to, convenience fees. Failure to comply with the state and local laws may result in suspension or termination of the Services.

21. **Overtime Charges.** Work performed outside of the Regular Service Hours as defined in [Appendix A – Capturepoint Support](#), at the specific request of the Client, is subject to overtime charges. Should the Client request overtime hours, both Client and Capturepoint must provide written approval of the overtime hours. Upon completion of the work, Capturepoint will provide written documentation, of the overtime hours worked.

22. **Payment.** Capturepoint will invoice Client for One-Time Set Up Fees at the outset of the Services, unless otherwise agreed by Capturepoint and Client. Capturepoint will invoice for the Annual Subscription fees on the Subscription Start Date. On the Renewal Date, Capturepoint will submit one annual invoice to the Client. Payment is due within 30 days of Client's receipt of each invoice. Should any invoice remain unpaid for more than 30 days, interest shall be paid at a rate of 1.5% per month, or the maximum amount allowable by law, whichever is less. Capturepoint will collect Payment Processing Fees monthly from Client based on terms defined in the Quote. Failure to comply with Payment terms may result in the suspension or termination of Services.

23. **Term.** This Agreement shall have a term of 12 months commencing on the Subscription Start Date, unless terminated as provided in [Section 24](#) (Termination & Effect of Termination). This Agreement will automatically renew for successive, 12-month terms.



**24. Termination & Effect of Termination.** Either Capturepoint or Client may, upon giving 30 days written notice identifying specifically the basis for such notice, terminate this Agreement. In the event this Agreement is terminated, Client shall pay Capturepoint for all Services rendered and expenses incurred prior to the date of termination. Capturepoint will not pro-rate or return funds for the current subscription period. All sections of this Agreement, which by their nature should survive the termination or expiration of this Agreement, shall so survive, subject to any survival periods specified therein.

**25. Exclusions.** The Agreement does not include any additional Services that are not set forth in this Agreement. Additional Services and requirements will be documented and agreed to in a Quote.

**26. Warranty.** Capturepoint warrants that its Services will be performed in a good and workmanlike manner. Capturepoint shall re-perform any work not in compliance with this warranty brought to its attention within a reasonable time (not to exceed 60 days), after that work is performed. Except as expressly stated in this Agreement, all Services are provided “AS IS.” THE WARRANTY CONTAINED IN THIS SECTION IS CAPTUREPOINT’S ONLY EXPRESS WARRANTY CONCERNING THE SERVICES AND IS MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, INFORMATIONAL CONTENT, SYSTEMS INTEGRATION, NON-INFRINGEMENT, INTERFERENCE WITH ENJOYMENT OR OTHERWISE.

**27. Confidentiality.** “**Confidential Information**” means all confidential information disclosed by either Capturepoint or you (“**Disclosing Party**”) to the other (“**Receiving Party**”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential. Without limitation, Confidential Information of each party will include all Quotes, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. Confidential Information will not include any information that (a) is or becomes generally known to the public, (b) was known to Receiving Party prior to its disclosure by Disclosing Party, (c) is received from a third-party, or (d) was independently developed by Receiving Party. Receiving Party shall not to use any Confidential Information of Disclosing Party for any purpose outside the scope of this Agreement, and except as otherwise authorized by Disclosing Party in writing, limit access to its and its affiliates’ employees, contractors, and agents who need such access to perform hereunder and who have signed confidentiality agreements with Receiving Party. Receiving Party may disclose Confidential Information of Disclosing Party if it is compelled by law; provided, Receiving Party gives Disclosing Party prior notice and reasonable assistance, at Disclosing Party’s cost, if Disclosing Party wishes to contest the disclosure. Upon the expiration or termination of this Agreement, or upon request of Disclosing Party, Receiving Party shall immediately destroy any Confidential Information that Receiving Party received. These obligations will survive for one year following the termination or expiration of this Agreement.

## **28. Representations and Warranties.**

a. **Due Authorization; No Conflict; Compliance with Laws.** Each party represents and warrants to the other party that, as of the Effective Date: (i) it has full power and authority, and has been duly authorized, to enter into and perform its obligations under this Agreement, with all

necessary approvals of any board of directors, shareholders, partners, or other required approvers having been obtained; (ii) its acceptance and/or performance of this Agreement does not conflict with any agreement, understanding, or document to which it is a party; (iii) the individual signing any Quote is authorized to execute the Quote for and on behalf of such party and has full authority to so bind such party; and (iv) it will comply with all applicable laws, rules, and regulations in its performance of its obligations hereunder.

b. **OFAC Certification.** Each party certifies that (i) it is not acting on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department, through its Office of Foreign Assets Control (“OFAC”) or otherwise, as a terrorist, “Specially Designated Nation”, “Blocked Person”, or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule or regulation that is enforced or administered by OFAC or another department of the United States government, and (ii) it is not engaged in this transaction on behalf of, or instigating or facilitating this transaction on behalf of, any such person, group, entity or nation.

**29. Indemnification.** Client shall indemnify and hold Capturepoint and its affiliates (and their respective officers, directors, employees, and agents) harmless from any third-party claims arising out of Client’s or User’s use of the Services or its breach of applicable law or any of its obligations hereunder, and any related damages, losses, costs, or expenses, including, without limitation, reasonably attorney’s fees.

**30. Limitation of Liability.** The sole liability of either party to the other (whether in contract, tort, negligence, strict liability in tort, by statute or otherwise) for any claim in any manner related to this Agreement shall in no event in the aggregate exceed, in the case of Capturepoint’s liability, the fees received by Capturepoint for the Services giving rise to the liability, or, in the case of Client (and except for a violation of Capturepoint’s or a third-party’s intellectual property rights or a violation of the AUP), the total fees payable to Capturepoint. In no event shall either party be liable for consequential, incidental, indirect, special, or punitive losses, damages, or expenses (including lost profits or lost data), even if advised of the possibility of such damages.

**31. Disputes Between the Parties.** Subject to Section 27 (Confidentiality), all claims or disputes between the parties, whether in contract, tort, misrepresentation, or any other legal theory, related directly or indirectly to this Agreement, any Quote, or the Services (each, a “Dispute”) will be resolved solely in accordance with the terms of this Section. In the event of a Dispute, the parties hereby agree that (a) both parties will first attempt, in good faith, to resolve such Dispute through direct negotiation for at least 30 days following the disputing party’s giving of notice to the other party as provided in Section 39 (Notices), and (b) in the event a Dispute cannot be resolved during that time period, each party hereby agrees and covenants that it will submit to mediation under a mutually agreeable certified and impartial mediator located in the State of Delaware. In the event of mediation, each party will bear its own costs of such mediation, including its own attorney’s fees and its equal share of mediator fees. The parties and their representatives will hold the existence, content, and results of the mediation in confidence. The mediator shall not consider punitive damages. In the event the Dispute is not resolved in said mediation, the parties agree to submit to binding arbitration before a single arbitrator in the State of Delaware in accordance with the Streamlined Arbitration Rules and Procedures of JAMS, which shall administer the arbitration. In the event of arbitration, each party will bear its own costs of such arbitration, including its own attorney’s fees and its equal share of arbiter fees. The parties and their representatives will hold

the existence, content, and results of the arbitration in confidence. The arbiter shall not consider punitive damages. The arbiter does not have the authority to alter or modify the terms of this Agreement. Notwithstanding the foregoing, each party reserves the right to seek an injunction or other equitable relief in court to prevent or stop a breach of this Agreement or a violation of rights either party has under law, at its own expense, including attorney's fees.

**32. Statute of Limitations.** No claim, suit, action, proceeding or other form of litigation of any kind ("**Action**"), regardless of form, may be brought or asserted by one party (nor its affiliates or their respective officers, directors, employees, or agents) against the other party (nor its affiliates or their respective officers, directors, employees, or agents) under this Agreement more than one year after the cause of such Action became known to the potential claimant or should have been known to the claimant based on the surrounding circumstances.

**33. Waiver of Jury Trial.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH PARTY HEREBY WAIVES ANY RIGHT TO JURY TRIAL IN CONNECTION WITH ANY ACTION IN ANY WAY ARISING OUT OF OR RELATED TO THIS AGREEMENT, ANY QUOTE, OR THE SERVICES.

**34. No Third-Party Beneficiaries.** Except as expressly provided herein, this Agreement (a) is entered into by and between, and may be enforced only by, the parties hereto, and (b) will not be deemed to (i) create any rights in third parties (other than the parties' permitted successors and assigns and any persons or entities expressly entitled to indemnity hereunder), including without limitation, a party's affiliates and their respective officers, directors, employees, and agents, or (ii) create any obligations of a party (nor its affiliates or their respective officers, directors, employees, or agents) to any such third parties.

**35. Relationship of the Parties.** The relationship of the parties is as independent contractors. Nothing in this Agreement shall create or be deemed to create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties. Each party shall retain responsibility for and control over all aspects of its relationship with its respective customers and its own business, products, and services.

**36. No Presumption Against Drafter.** This Agreement shall not be construed or interpreted against either party because that party drafted or caused that party's legal counsel to draft any of its provisions.

**37. Entire Agreement.** This Agreement, including (a) any Quotes, (b) any terms or policies referenced herein or otherwise posted to the Website or provided to Client through the Services, and (c) any appendices hereto, constitutes the entire agreement between the parties regarding the subject matter hereof and supersedes all prior or contemporaneous agreements, proposals, understandings, and communications, whether written or oral. In the event of a conflict between any of the foregoing (a)-(c) and/or this Agreement, the following shall be the order of precedence: (1) the Data Processing Addendum attached as Exhibit A hereto; (2) this Agreement; (3) any Quotes, (4) any appendices hereto, and (5) any terms or policies referenced herein or otherwise posted to the Website or provided to Client through the Services.

**38. Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party.

Notwithstanding the foregoing, Capturepoint may assign this Agreement in its entirety, without consent of Client, to its affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its stock or assets. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

**39. Notices.** All notices given by the parties under this Agreement shall be directed to the following addresses in accordance with the requirements set forth below:

If to Capturepoint:

Capturepoint LLC  
Two Ravinia Drive, Suite 500  
Atlanta, Georgia 30346  
Attn: GlennAnne Chabala

Email: [gchabala@capturepoint.com](mailto:gchabala@capturepoint.com)

with a copy to:

Togetherwork Holdings, LLC  
Attn: Legal Department  
Two Ravinia Drive, Suite 500  
Atlanta, Georgia 30346

[legal@togetherwork.com](mailto:legal@togetherwork.com)

If to Client:

To the mailing address and email address set forth on the Quote or otherwise provided by Client to Capturepoint through the Services.

Notices must be sent by email and via certified or registered mail and are deemed received upon the earliest of: (i) receipt by sender of delivery confirmation for certified or registered mail; (ii) receipt by sender of an electronic 'read receipt' for email notice; and (iii) two (2) business days after an email notice was sent; provided, that such email was sent to the email address specified above, as applicable, and was not returned as 'undeliverable'. The parties may update their respective addresses for notice via the procedures set forth in this Section.

**40. Force Majeure.** Neither party will be liable for any delays or failures to perform due to causes beyond that party's control (other than Client's payment obligations for Services rendered).

**41. Branding.** Client shall not use Capturepoint's name outside Client's organization without Capturepoint's express written consent, which may be withheld by Capturepoint in its sole discretion.

**42. Waiver.** No failure or delay by either party in exercising any right, power, or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise thereof

preclude any other or further exercise thereof or the exercise of any other right, power, or privilege hereunder. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against whom it is to be enforced.

**43. Governing Law, Jurisdiction, and Venue.** This Agreement shall be governed and construed in accordance with applicable United States federal law and the laws of the State of Delaware, without regard to conflict of laws principles. The parties hereby submit to the jurisdiction of, and waive any venue objections against, the federal and state courts of the State of Delaware for any Action arising out of or relating to this Agreement or the negotiation, validity, or performance of this Agreement.

**44. Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law and the remaining provisions of this Agreement will remain in effect.

**45. California Charitable Fundraising Platform Disclosure Agreement.** If, and only if, Client is a non-profit (or has a foundation that is a non-profit) that utilizes the Services to solicit and accept donations from California residents, the parties agree to comply with the terms of the California Charitable Fundraising Platform Disclosure Agreement attached as Exhibit B hereto, which shall be incorporated into this Agreement.

#### APPENDIX A - CAPTUREPOINT SUPPORT

This Appendix forms a part of the Master Services Agreement (the “**Agreement**”) entered into by and between Capturepoint LLC d/b/a Capturepoint (“**Capturepoint**”) and Client. Capitalized terms used in this Appendix but not otherwise defined in this Appendix shall have the meanings given to them in the Agreement.

1. Service Hours. Regular Service Hours are Monday through Friday, 9:00am to 5:00pm EST. Emergency Hours are 24/7.
2. Severity Levels. There are two types of service levels:
  - a. Severity Level 1. The site is wholly or substantially inoperable or interrupted.
  - b. Severity Level 2. The site experiences a minor error and the impact to normal activities is minimal, including bugs and enhancements.
3. Support. “Support” is included with your Capturepoint Subscription and includes: 1) Severity Level 1 support, 24X7; 2) Severity Level 2 support during Regular Service Hours; 3) access to CommunityPass Help & Training; 4) access to a Ticket Management System (TMS); 5) bug fixes; 6) analysis and resolution of issues with the system by a Capturepoint Technical Resource that cannot otherwise be solved by a Customer Service representative. Initial analysis and recommendations are included with your Capturepoint Subscription. Relief for a problem may be a billable service. Support **does not** include additional One-Time Services, such as Training or Professional Services.

4. Response Times. Capturepoint will attempt to resolve issues as quickly as possible; however, we make no guarantees or representations, either expressed or implied, regarding the resolution time of any issue. If the issue is categorized as Severity Level 1, we will work on it until it is resolved, provided the issue is within the scope of our control. If a Severity Level 2 alert occurs outside of Regular Service Hours, on weekends, or on a holiday, resolution may not occur until the next business day. If we cannot reach the Designated Contact - defined as the Client's primary contact - outside of Regular Service Hours and such contact is needed to rectify your issue, Capturepoint may not be able to provide support.

5. Tickets. "Tickets" are requests for Support. Each ticket will be assigned a number, which must be referenced in the subject of all correspondence. Severity Level 1 Tickets take prioritization over all other Tickets, unless otherwise advised by the Client.

6. Ticket Management System - "TMS". All requests for Support requiring a Ticket are submitted via a TMS. Acknowledgements, status updates, and closure documentation will be transmitted through the TMS. The TMS is available 24/7 and monitored regularly by Capturepoint support staff.

7. Ticket Process Flow. To maintain organization and communication with Client, Capturepoint will perform the following tasks for each new or changed Support request.

a. Receipt of request: All Support requests by email are routed to a Customer Service Representative who verifies the contact information. Designated Contacts may be required to approve Support requests submitted by other members of the Client's organization. Requests will be addressed in the order received. Capturepoint does not accept Support requests via text messaging, website, or fax.

b. Problem Triage. Analyze request and investigate potential solutions or answers. After initial review of the issue, Capturepoint may: 1) solve your request immediately; 2) research your request and provide a response; or 3) open a Ticket. If a Ticket is opened, Capturepoint will assess and record time estimates for each request and assign a Severity Level.

c. Relief: Relief is the answer to the request or, in the case of a product defect, a temporary fix, a workaround (e.g., configuration changes, temporarily turning off non-critical product functionality) or an action plan to get the software up and running. Once Relief is provided, Capturepoint may downgrade the severity of the Ticket. Relief provided to the problem may also be the solution that the Client confirms resolves the issue and the Ticket will be closed. Relief for a problem may be a billable service. Clients will be notified if the solution to fix the issue is billable prior to starting any Ticket work.

d. Ticket Resolution. If Relief is delivered and it has not resolved the problem, Capturepoint will continue research until Ticket resolution is found and delivered and confirms that it resolves the problem, at which time the Ticket will be closed. Ticket Resolution as related to the Ticket, is defined as a permanent solution to the problem. A permanent solution may be available as a fix and, for some Tickets, a permanent solution may be available in the next release. Also, custom fixes or workarounds may be developed to circumvent a product defect that will not be included in future releases; for such Tickets, these fixes and workarounds will be considered a permanent resolution by Capturepoint.

8. Enhancements. Enhancements are system wide change requests submitted by the Designated Contact via the TMS. If approved, Capturepoint will prioritize the enhancement within the product development cycle. Completion of the enhancement will vary based on its complexity and development priorities. Expediting an approved enhancement request may be a billable service.

9. Capturepoint Efforts.

a. Ticket Management. Capturepoint will use commercially reasonable efforts to manage and address the Client's Ticket based on the Severity Level and its complexity. All Ticket Management targets and delivery timelines are goals and not commitments, and the actual timing may vary.

b. Bug Fixes. Capturepoint will remedy defects or failures within the system. Capturepoint will prioritize bugs based on critical impact to the system and use commercially reasonable efforts to remedy bugs in a timely manner. Bug fixes do not include problems caused by Client negligence, abuse, or misapplication, or use of Capturepoint products other than as is specified in the product documentation or other Tickets beyond the control of Capturepoint. Capturepoint makes no representation or warranty that all bugs will be fixed.

c. Availability of Product. Capturepoint will strive to achieve 100% availability of Service, except for scheduled maintenance windows, which Capturepoint will perform outside of Regular Service Hours, when possible. Capturepoint will notify Client in advance of scheduled maintenance. Capturepoint technical support will be available for Severity Level 1 issue resolution, 24 hours a day, 7 days a week. Lack of accessibility to the Services because of problems outside the control of Capturepoint, as described in the Agreement, will not be counted against this availability target.

d. Replication of Client problems. Capturepoint makes every effort to duplicate Client problems. There are times, however, when a Customer Service Representative is unable to replicate the issue. When this happens, Capturepoint gathers all pertinent information before escalating an issue. The Customer Service Representatives have direct access to Technical Support Representatives, who analyze issues and make recommendations for solving the problem, which may require billable services. Capturepoint works together as a team to bring timely resolution to Client reported problems and strives to maintain a high level of Client satisfaction.

e. Materials. All support materials are maintained electronically and can be accessed through CommunityPass Help & Training. Capturepoint does not provide paper copies of its support materials.

f. Consulting. At times, a Consultant may be required to resolve a problem or evaluate a business issue. The need for a Consultant is evaluated on a case-by-case basis by Capturepoint management. Dispatching a Consultant, either on site or remotely, will occur once a signed agreement has been entered into between the Client and Capturepoint for this service. The agreement shall be detailed within a statement of work and is a billable service.

g. Message Manager. Message Manager is a bulk email delivery tool that transmits multiple email messages within a single batch. Bulk email messages are delivered through a separate engine

than transactional email messages such as receipts, outstanding payment notices, and tuition reminders are processed on a first come, first served basis. As a result, bulk email delivery may not occur immediately after the request has been submitted. Capturepoint makes every effort to ensure that messages are delivered; however, there are many reasons outside of Capturepoint's control that may prevent bulk email messages from being delivered (e.g., spam filters.)

h. Asset Storage. Capturepoint stores all Client Assets (i.e. images, documents, forms) in Amazon CloudFront. Capturepoint adheres to all Terms & Conditions stipulated by Amazon CloudFront hosting agreement, which can be found at <https://aws.amazon.com/partners/terms-and-conditions/>.

Customer Service Representatives will not:

- Guide Client through step-by-step implementations or provide remote implementation assistance for Capturepoint products. \
- Perform ticket work outside Client's Support contract.
- Provide support for any software other than the specified line of Capturepoint Services.
- Provide support for hardware or third-party products. However, Capturepoint will make a reasonable effort to help Client get a resolution to its hardware or third-party vendor problem within standard resolution time goals. The Ticket is kept open until the resolution is delivered or it is determined that Capturepoint cannot control the hardware or third-party issue, at which time we will inform the Client that Capturepoint is not able to resolve the issue and the Ticket will be closed.
- Provide assistance with problems caused by: 1) Client negligence, abuse, or misapplication; 2) use of Capturepoint products other than as specified in the product documentation; or 3) any other causes beyond the control of Capturepoint, or any other problem that is excluded under Capturepoint's standard support terms or problems caused by any unsupported hardware and/or software.

10. Client Responsibilities. The following are responsibilities that Capturepoint expects of Client. To ensure that the problem or question is resolved as promptly as possible, the Client should meet these responsibilities before requesting Support.

- a. Requirements Definition & Ticket Prioritization. Client is responsible for describing system changes or enhancements in a Ticket ("Requirements Definition") and setting Ticket priorities. If Capturepoint defines requirements, the time spent defining requirements may be a billable service.
- b. Provide Capturepoint with timely responses and any information reasonably needed to address a Ticket.
- c. Thoroughly review all product documentation before contacting Support for assistance. Check self-service resources on CommunityPass Help & Training. Capturepoint strongly



encourages Client to make use of these resources and provide feedback on areas where Capturepoint can expand and improve value.

d. Client should use reasonable efforts to isolate, document, and report errors to Support.

e. Severity Level 1 Request. If the Client is experiencing a Severity Level 1 issue, call Capturepoint. Do not send emails for Severity 1 issue. Client should abide by the Severity Level 1 terms. Abuse or misuse of the terms more than three times will result in fees and overtime penalties, time and a half of the consulting rate for time spent analyzing and researching the problem.

f. Capturepoint will not accept Support requests directly from Client's end users. It is the Client's responsibility to service your customer requests and inquiries. A console is available for Client to update contact information for end users.

g. Capturepoint will support all Administrative Users of CommunityPass. However, Client should assign a Designated Contact as the primary contact. Typically, the Organization Administrator is the Designated Contact. A Designated Contact needs to have a basic understanding and access to expertise in the tasks related to administering and trouble-shooting CommunityPass. Capturepoint encourages organizations to filter all support requests through the Designated Contact, as Capturepoint will typically require approval and feedback from the Designated Contact prior to resolving Tickets and questions.

h. Asset Upload. Client may only upload Assets which the Client has all necessary copyright and other rights. If the Client uploads an Asset, anyone with access to that Asset may view and download copies of the Asset. Client is solely responsible for how the Client shares Assets and who may access Client Assets that the Client shares. Client may not upload Assets: (a) that contain defamatory, threatening, abusive, pornographic, or otherwise objectionable material; (b) that advocate bigotry, hatred, or illegal discrimination; or (c) if sharing those files violates any law, any intellectual property, publicity, privacy, or other right of others, or any license or other agreement by which the Client is bound.

11. Cloud Computing. Capturepoint uses web-based software that Users access from any computer with an Internet connection. The software is hosted by and resides on Capturepoint servers. The software can integrate with the following hardware items, which if using must be purchased, installed and tested, prior to using the Services: Cash drawer, Receipt Printer, Digital Camera/Web Cam, Bar Code Scanner, and Photo ID Printer.

12. Security. Capturepoint uses advanced technology for Internet security. When you access our site, Secure Socket Layer (SSL) technology protects your information using both server authentication and data encryption, designed to keep your data safe, secure, and available only to Users in your organization. Client Data will be inaccessible to unauthorized visitors. Capturepoint products are hosted in a secure server environment that uses a firewall and other advanced technology designed to prevent interference or access from outside intruders.

13. Cookies. Capturepoint issues a session cookie ("**Cookie**") only to record encrypted authentication information for the duration of a specific session. The session Cookie does not include either the username or password of the User. Capturepoint does not use Cookies to store

other confidential User or session information, but instead implements more advanced security methods based on dynamic data and encoded session IDs.

14. Changes to Capturepoint Support. Capturepoint reserves the right to amend this Appendix at any time in its discretion and will notify Client in writing of any changes.

#### EXHIBIT A – DATA PROCESSING ADDENDUM

This Data Processing Addendum (this “**DPA**”) forms a part of the Master Services Agreement (the “**Agreement**”) entered into by and between Capturepoint LLC d/b/a Capturepoint (“**Capturepoint**”) and Client. The parties enter into this DPA to comply with applicable Data Protection Laws (as defined below).

1. **Certain Defined Terms.** Capitalized terms used in this DPA but not otherwise defined in this DPA or the Agreement have the following meanings:

a. “**Applicable Law**” means all laws, rules, regulations, rulings, decrees, directives, or other requirements of any governmental authority, and all current industry self-regulatory principles that (i) apply to this DPA and the Services; (ii) relate to the parties’ rights and obligations in this DPA and the Services; or (iii) apply to the collection, processing, and storage of Personal Information.

b. “**Data Protection Laws**” means all Applicable Laws, self-regulatory rules and guidelines, and Client policies relating to or impacting the processing, privacy, or security of Personal Information, including the California Privacy Rights Act of 2020.

c. “**Personal Information**” means information processed by Capturepoint on behalf of Client through the Services that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly to, a natural person. “Personal Information” does not include Usage Data.

d. “**Usage Data**” means data and information related to Client’s and its Users’ use of the Services through system logging and other tools that automatically collect information on events that occur through use of the Services.

2. **Scope.** This DPA only applies to the extent that Capturepoint processes Personal Information on behalf of Client in the course of providing the Services. This DPA does not apply to the processing of Personal Health Information (as defined in Data Protection Laws). In the event Capturepoint processes Personal Health Information on behalf of Client, the parties will enter into a Business Associate Agreement (as defined in Data Protection Laws) that will govern such processing. To the extent Usage Data is considered Personal Information under applicable Data Protection Laws, Capturepoint is the “controller” or “business” with respect to such Usage Data.

3. **Compliance with Laws.** Each party shall comply with its obligations under applicable Data Protection Laws. Client may take reasonable and appropriate steps to stop and remediate unauthorized use of Personal Information by Capturepoint. If applicable Data Protection Laws related to the processing of Personal Information change, Capturepoint may make any necessary amendments to this DPA.

4. **Instructions.** Capturepoint shall process Client's Personal Information in accordance with Client's documented lawful instructions as set forth in this DPA and the Agreement and as otherwise necessary to provide the Services (together "**Processing Instructions**"). Client will ensure that its Processing Instructions comply with Applicable Laws. If, in Capturepoint's opinion, Client's Processing Instructions violate applicable Data Protection Laws, Capturepoint will notify Client. Capturepoint, may without penalty, refuse further processing of Personal Information under this DPA that it believes to be in violation of any Applicable Law, including any applicable Data Protection Laws.

5. **Use of Personal Information.** Capturepoint may process Personal Information to provide the Services and as otherwise provided in the Agreement and this DPA. Capturepoint shall not:

a. sell, share (as such terms are defined under applicable Data Protection Laws) or otherwise disclose any Client Data, including Personal Information, to any third-party other than its duly authorized subcontractors for purposes of providing or improving the Services or providing access to or use of the Website, including to prevent or address any service or technical problems;

b. collect, retain, use, or otherwise disclose or process Personal Information, for any purpose other than as necessary to provide the Services specified in the Agreement or outside of the direct business relationship between Capturepoint and Client; provided that Capturepoint may retain, use and disclose Personal Information: (i) to provide Services or access to or use of the Website, (ii) to retain and employ a Subprocessor (as defined below), (iii) for internal purposes, to build or improve the quality of its services or develop and test new features and services, and (iv) to detect data security incidents or protect against fraudulent or illegal activity, or as otherwise permitted by Data Protection Laws;

c. combine Personal Information with Personal Information Capturepoint receives from, or on behalf of, another person or persons, or which Capturepoint collects from its own interactions with an individual, in each case except as expressly agreed by Client and permitted by Applicable Laws.

Capturepoint certifies that it understands the restrictions in this Section 5 and will comply with them.

6. **Security.** Capturepoint will implement and maintain appropriate technical and organizational security measures designed to preserve the security and confidentiality of Client Data processed through the Services. Capturepoint may update its security measures, provided that any updates shall not materially diminish the overall security of Personal Information.

7. **Subprocessors.** Client generally authorizes Capturepoint to engage third parties to assist in the processing of Personal Information on behalf of Client (each, a "**Subprocessor**"), including the Subprocessors listed on Schedule 1 to this DPA. Capturepoint shall require that each person processing Personal Information on its behalf be subject to a duty of confidentiality with respect to such Personal Information. If Capturepoint engages a Subprocessor, Capturepoint shall provide notice to Client of that engagement and provide Client with an opportunity to object to such engagement.

8. **Disposition of Personal Information Upon Termination.** Upon termination of the Agreement, Capturepoint will promptly delete all Personal Information in its custody or control, except for Personal Information retained in Capturepoint's backup files, if any, which will be deleted in the ordinary course of Capturepoint's business in accordance with its standard data retention schedules.

9. **Third-Party Communications.** Capturepoint shall promptly notify Client if it receives any communication from a third-party (from an individual, a governmental or otherwise) which relates to the processing of Personal Information, or to either party's compliance with Data Protection Laws, and shall refer such third-party to Client.

10. **Compliance and Audit.**

a. Capturepoint shall provide all information reasonably necessary to demonstrate compliance with this DPA.

b. Capturepoint shall allow Client or an auditor appointed by Client to, not more than once every 12 months unless required by Applicable Law, carry out audits or other security assessment ("**Security Assessment**") relating to the processing of Personal Information by Capturepoint. The scope of any Security Assessment shall be mutually agreed by the parties in advance. Client shall be solely responsible for all costs related to any Security Assessment, including all costs incurred by Capturepoint in connection with cooperating with such Security Assessment.

c. Capturepoint may, but is not required to, retain a qualified and independent assessor to perform an annual audit of the physical, technical, administrative, and organizational safeguards put in place by Capturepoint that relate to the protection of the security, confidentiality, or integrity of Personal Information using an appropriate and industry accepted control standard or framework and assessment procedure, or documentation of certification of compliance with, industry-accepted information security standards ("**Third-Party Audit**").

d. Client agrees to first review any available Third-Party Audit prior to conducting any Security Assessment.

11. **Personal Information Breach.** Capturepoint will notify Client without undue delay of any unauthorized access to, or disclosure or acquisition of, to Personal Information. Capturepoint will provide Client with information regarding the extent of data exposure, including the number and identity of affected individuals, if known, and the status of remediation efforts.

12. **Conflict.** In the event of any conflict between this DPA and the Agreement, the terms of this DPA shall prevail.

13. **Limitation of Liability.** Notwithstanding anything to the contrary in the Agreement or this DPA and to the maximum extent permitted by Applicable Law, each party's liability, in the aggregate, arising out of or related to this DPA, whether in contract, tort or under any other theory of liability, shall remain subject to the limitations on liability section of the Agreement.

14. **Survival.** The obligations placed upon each party under this DPA will survive so long as Capturepoint processes Personal Information on behalf of Client.



**Schedule 1**  
**Subprocessors**

Capturepoint hereby identifies the following Subprocessors:

<b>Subprocessor</b>	<b>Role / Purpose</b>	<b>Location</b>
AWS	Hosting	United States (US East 1 N. Virginia)
Stripe	Credit Card/ACH Processing	United States
Zendesk	Customer Support	United States
Datadog	Monitoring and Analytics for Servers, Databases, Tools, and Services	United States
Togetherpay (Affiliate of Capturepoint)	Credit Card/ACH Processing	United States

## EXHIBIT B – CALIFORNIA CHARITABLE FUNDRAISING PLATFORM DISCLOSURE AGREEMENT

This California Charitable Fundraising Platform Disclosure Agreement (“**Disclosure Agreement**”) forms a part of the Master Services Agreement (the “**Agreement**”) entered into by and between Capturepoint LLC d/b/a Capturepoint (“**Capturepoint**”) and Client. The parties enter into this Disclosure Agreement to comply with the Act (as defined below). Under the Act, the State of California requires Capturepoint to provide certain disclosures to, and obtain certain donation information from, the Client, as further set forth below.

1. **California Regulation.** Pursuant to Title 2, Division 3, Part 2, Chapter 6, Article 7 of the California Government Code (the Supervision of Trustees and Fundraisers Charitable Purposes Act (the “**Act**”)), Capturepoint is deemed to be a “Charitable Fundraising Platform” under the Act because (a) Capturepoint’s software platform (the “**Platform**”) offers a function that permits Client to solicit and accept charitable donations from California residents (“**Donations**”), and (b) Client is a non-profit (or has a foundation that is a non-profit) that utilizes this function to solicit and accept such Donations. As a result, Capturepoint has certain obligations set forth in this Disclosure Agreement that are legally required by the Act.

2. **Consent to Use Name on Platform.** Pursuant to the Act, Client hereby gives Capturepoint express consent to identify Client’s name on the Platform with respect to any solicitation for Donations which Client facilitates through the use of the Platform.

3. **Disclosure Requirements.** Pursuant to the Act, Capturepoint discloses the following information:

- a. The total amount of fees charged by Capturepoint for each Donation shall be as set forth in the Agreement or Quote (including any documents or agreements incorporated therein);
- b. The time period for sending the Donations to the Client shall be as set forth by Client’s payment processor, but typically is between two and five days. Client should confirm with its payment processor the exact timing;
- c. Client has the right to review and approve information on the Platform with respect to the Client’s solicitation; and
- d. Client is allowed to acknowledge persons who make Donations if the donors choose to share their information with Client.

Additionally, Client must provide a conspicuous disclosure to donors about the instances in which it will be deemed ineligible to receive funds as a result of not being in good standing as set forth in Section 4(b) below.

4. **Obligation to Remain in Good Standing.**

- a. Client shall maintain good standing with the applicable state and federal reporting agencies, including the IRS and, if Client solicits donations from California residents, the California Attorney General and the California Franchise Tax Board.

b. **If Client is not in good standing, Capturepoint cannot legally permit donations to be made to Client through the Platform. Accordingly, if the Client is not in good standing with the IRS, the California Attorney General, and the California Franchise Tax Board, Capturepoint will disable the donation feature on the Platform, or if it is unable to disable such feature, will prohibit Client from processing any transactions through its payment processor, until Client regains its good-standing status.**

5. **Cooperation.** The Client shall cooperate with Capturepoint to provide any information reasonably required by Capturepoint to ensure its compliance with the Act with respect to Donations received through the Platform.

6. **Privacy.** All information submitted to the California Attorney General pursuant to the Act shall be subject to the Privacy Notice found here:  
<https://oag.ca.gov/system/files/media/Privacy.pdf>