

**HONORLOCK, INC.**  
**MASTER SUBSCRIPTION AGREEMENT**

This Master Subscription Agreement (this "Agreement"), dated \_\_\_\_\_, 2018 (the "Effective Date"), is between Honorlock, Inc. ("Honorlock," or "we"), with a business address of 2500 N Military Trail, Suite 210, Boca Raton, Florida 33431; and \_\_\_\_\_ ("Subscriber," or "you"), with a business address of \_\_\_\_\_, each of which may sometimes be referred to in this Agreement as a "Party" or collectively as the "Parties."

The Parties hereby agree as follows:

**1. DEFINITIONS.** The definitions for some of the defined terms are set forth below. The definitions for other defined terms are set forth elsewhere in this Agreement.

**1.1** "Affiliate" means, with respect to any entity, any other entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such entity.

**1.2** "Authorized User" means: (i) Student Users; and (ii) Subscriber Users. You are responsible for the acts and omissions of your Authorized Users and any other person who accesses and uses the Platform using any of your or your Authorized Users' Sign-In Names, Passwords, and Unique Identifiers.

**1.3** "Beta Features" means features, functionalities, and/or modules of the Platform which are not generally available to our customers for production use.

**1.4** "Confidential Information" means: (i) with respect to Honorlock, the Platform and any and all source code relating thereto and any other non-public information or material regarding our legal or business affairs, financing, customers, properties, pricing, or data; (ii) with respect to you, the Subscriber Content and any other non-public information or material regarding your legal or business affairs, financing, Authorized Users, properties, or data; and (iii) with respect to each Party, the terms and conditions of this Agreement. Notwithstanding any of the foregoing, Confidential Information does not include information which: (a) is or becomes public knowledge without any action by, or involvement of, the Party to which the Confidential Information is disclosed (the "Receiving Party"); (b) is documented as being known to the Receiving Party prior to its disclosure by the other Party (the "Disclosing Party"); (c) is independently developed by the Receiving Party without reference or access to the Confidential Information of the Disclosing Party and is so documented; or (d) is obtained by the Receiving Party without restrictions on use or disclosure from a third party.

**1.5** "Destructive Elements" means computer code, programs, or programming devices that are designed to disrupt, delete, damage, deactivate, disable, harm, or otherwise impede in any manner, including aesthetic disruptions or distortions, the operation of the Platform or any other associated software, firmware, hardware,

computer system, or network.

**1.6** "Documentation" means the manuals, specifications, and other materials describing the functionality, features, and operating characteristics, and use of the Platform, as provided or made available by Honorlock to you.

**1.7** "Fees" means the fees set forth in the applicable Order Form for the Services and/or the fees set forth in the applicable Statement of Work for Professional Services.

**1.8** "Order Form" means an order form for the Services mutually executed by the Parties that sets forth, among other things, the Subscription Term and the Fees.

**1.9** "Platform" means our proprietary, cloud-based proctoring platform, which we deliver within your learning management system.

**1.10** "Professional Services" means the professional services ordered by you pursuant to a Statement of Work.

**1.11** "Prohibited Content" means content that: (i) is illegal under applicable law; (ii) violates any third party's intellectual property rights; (iii) contains indecent or obscene material; (iv) contains libelous, slanderous, or defamatory material, or material constituting an invasion of privacy or misappropriation of publicity rights; (v) promotes unlawful or illegal goods, services, or activities; (vi) contains false, misleading, or deceptive statements, depictions, or sales practices; (vii) contains Destructive Elements; or (viii) is otherwise objectionable to us in our reasonable, discretion.

**1.12** "Services" means our provision to you of access to, and usage of, the Platform and the Support Services as set forth in this Agreement and the applicable Order Form.

**1.13** "Statement of Work" means a statement of work for Professional Services mutually executed by the Parties that sets forth, among other things, the specific Professional Services that you are ordering and the Fees.

**1.14** "Student Users" means your student users whom you authorize to access and use the Platform.

**1.15** "Subscriber Content" means any data, media, and other materials that Subscriber and its Authorized Users submit to the Platform pursuant to this Agreement, including, without limitation, schedules, curricula, tests, test answers, and logos, but excluding, however, any Feedback (as defined

below).

**1.16** “Subscriber Users” means your current employees, faculty, contractors, or agents whom you authorize to access and use the Platform; provided, however, that any contractors’ or agents’ access to and use of the Platform will be limited to their provision of services to you.

**1.17** “Subscription Term” means the term for which you are subscribing to the Platform as set forth in the applicable Order Form.

**1.18** “Support Services” means the support services provided by us that are incidental to your use of the Platform.

## **2. PROVISION OF SERVICES AND PROFESSIONAL SERVICES.**

**2.1 Services.** During a Subscription Term, we will provide you the Services subject to the terms and conditions of this Agreement, the applicable Order Form, and our then-current privacy policy (the “Privacy Policy”), which is hereby incorporated by reference.

**2.2 Modifications.** We modify the Platform from time to time by adding, deleting, or modifying features to improve the user experience; provided, however, that during any Subscription Term, such additions, deletions, or modifications to features will not materially decrease the overall functionality of the Platform.

**2.3 Support.** We will provide the Support Services pursuant to and in accordance with Schedule A.

**2.4 Beta Features.** From time to time, we may invite you to try Beta Features at no charge. You may accept or decline any such trial in your sole discretion. Beta Features are for evaluation purposes only and not for production use, are not considered part of the Services, are not supported, and may be subject to additional terms. Unless otherwise expressly agreed to by us, any Beta Feature trial period will expire upon the date that a version of the Beta Feature becomes generally available to all of our customers for production use or upon the date that we elect to discontinue such Beta Feature. We may discontinue Beta Features at any time in our sole discretion and may never make them generally available as part of the Platform. We will have no liability for any harm or damage arising out of or in connection with any use of a Beta Feature, and you use any Beta Feature at your own risk.

**2.5 Professional Services.** Subscriber may elect to have Honorlock provide Professional Services. All such Professional Services will be covered by one or more Statements of Work agreed on by the Parties. Each Statement of Work will be in writing, signed by an authorized representative of each Party, will reference this Agreement, and will specify for the project covered by that Statement of Work: (i) a unique project number; (ii) a contact for each party; (iii) a description of the project, including any

applicable specifications, service levels, milestones, and deliverables to be developed (“Deliverables”); and (iv) the Fees that apply to such Project. Unless otherwise set forth in a Statement of Work, Honorlock shall own all right, title, and interest in and to all Deliverables and other work product created in the performance of the Professional Services; provided, however, that upon the full payment of the applicable Fees, Subscriber shall have a license to the Deliverables as set forth in the applicable Statement of Work.

## **3. FEES AND PAYMENT.**

**3.1 Fees and Taxes.** The Fees and other charges described in the Order Form and any Statement of Work do not include any federal, provincial, or local sales, PST, GST, HST, VAT, foreign withholding, use, property, excise, service, or similar transaction taxes (“Taxes”), all of which will be for your account. Any applicable direct pay permits or valid tax-exempt certificates must be provided to us prior to the execution of this Agreement. If we are required to collect and remit Taxes on your behalf, we will invoice you for such Taxes, and you will pay us for such Taxes in accordance with Section 3.2. We shall be responsible for any taxes related to our income, property, franchise, or employees.

**3.2 Payments.** In connection with the Services, we will invoice you for the Fees and any applicable Taxes in advance of the Subscription Term and any Renewal Periods (as defined in the Order Form) on the periodic basis set forth in the applicable Order Form. In connection with the Professional Services, we will invoice you monthly in arrears. Unless otherwise provided for in the applicable Order Form or Statement of Work, all amounts are due and payable to us within thirty (30) days from your receipt of the invoice.

**3.3 Late Payments.** In the event that any invoiced amount is not received by us by the due date as set forth in Section 3.2, then without limiting our rights and remedies, we may: (i) charge interest on the outstanding balance (at a rate not to exceed the lesser of one percent (1%) per month or the maximum rate permitted by law); (ii) condition future Services renewals and additional Order Forms and Statements of Work on payment terms shorter than those specified in Section 3.2; and/or (iii) suspend the Services and the Professional Services pursuant to Section 4.3.

**3.4 Non-Refundable.** Unless otherwise expressly provided for in this Agreement or the applicable Order Form or Statement of Work, (i) all Fees are based on Services and Professional Services purchased and not on actual use; and (ii) all Fees paid under this Agreement are non-refundable.

**3.5 No Contingency for Future Commitments.** You agree that payment of the Fees under this Agreement and any applicable Order Form or Statement of Work is not contingent on the delivery of any future Platform functionalities or features or any other future commitments, except as set forth in Sections 2.1 and 2.3 of this Agreement.

#### **4. TERMINATION AND SUSPENSION.**

**4.1 Term.** The term of this Agreement (the “Term”) commences on the Effective Date and will continue in effect thereafter until terminated in accordance with Section 4.2. The Subscription Term will be set forth in the applicable Order Form.

**4.2 Termination.** Either Party may terminate this Agreement on written notice to the other Party at any time when there are no Order Forms or Statements of Work then in effect. In addition, either Party may terminate this Agreement, any Order Forms, and/or any Statements of Work: (i) upon thirty (30) days’ notice to the other Party if the other Party breaches a material term of this Agreement, and the breach remains uncured at the expiration of such thirty (30) day period; or (ii) immediately, if the other Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, liquidation, or assignment for the benefit of creditors. We may also terminate this Agreement upon written notice to you under the limited circumstances set forth in Section 11.3 below.

**4.3 Suspension for Non-Payment.** We may suspend the Services and/or the Professional Services upon written notice to you if any undisputed invoiced amount due to us is more than sixty (60) days past due. We will not suspend the Services or the Professional Services while you are disputing any invoiced amount due to us reasonably and in good faith and are cooperating diligently to resolve the dispute. You will promptly reimburse us for any reasonable expenses of collection, including costs, disbursements, and legal fees we incur, to the extent necessitated by your refusal to pay any invoiced amounts that you are not disputing in good faith.

**4.4 Effect of Termination.** Upon termination of this Agreement as set forth in Section 4.2: (i) we will stop providing the Services and the Professional Services, and you will stop all access to and use of the Platform and Deliverables; (ii) if we have terminated this Agreement, you will promptly pay all unpaid Fees and applicable Taxes due through the end of the Term; (iii) if you have terminated this Agreement, we will promptly refund you a pro-rata portion of any pre-paid Fees; and (iv) upon written request and subject to Section 6.1 and Section 6.3, each Party will either return to the Disclosing Party (or, at such Disclosing Party’s instruction, destroy and provide such Disclosing Party with written certification of the destruction of) all documents, computer files, and other materials containing any of such Disclosing Party’s Confidential Information that are in the Receiving Party’s possession or control.

**4.5 Survival.** The following provisions will survive termination of this Agreement: Section 1 (“Definitions”), Section 3 (“Fees and Payment”) until you have paid all Fees and applicable Taxes, Section 4.4 (“Effect of Termination”), Section 5 (“Confidentiality; Feedback”), Section 6.3 (“Aggregated Data”), Section 7 (“Intellectual Property”),

Section 9.4 (“Our Disclaimer”), Section 10 (“Limitation of Liability”), Section 11 (“Indemnification”), Section 12 (“General Provisions”), and this Section 4.5 (“Survival”).

#### **5. CONFIDENTIALITY; FEEDBACK.**

**5.1 Confidentiality.** The Receiving Party will protect and preserve the Confidential Information of the Disclosing Party as confidential, using no less care than that with which it protects and preserves its own confidential and proprietary information (but in no event less than a reasonable degree of care), and will not use the Confidential Information for any purpose except to perform its obligations and exercise its rights under this Agreement and applicable Order Forms and Statements of Work. The Receiving Party may disclose, distribute, or disseminate the Disclosing Party’s Confidential Information to any of its officers, directors, members, managers, partners, employees, contractors, or agents (its “Representatives”), provided that the Receiving Party reasonably believes that its Representatives have a need to know and such Representatives are bound by confidentiality obligations at least as restrictive as those contained herein. The Receiving Party will not disclose, distribute, or disseminate the Confidential Information to any third party, other than its Representatives, without the prior written consent of the Disclosing Party. The Receiving Party will at all times remain responsible for any violations of this Agreement by any of its Representatives. If the Receiving Party is legally compelled to disclose any of the Disclosing Party’s Confidential Information, the Receiving Party will provide the Disclosing Party prompt prior written notice of such requirement so that the Disclosing Party may seek a protective order or other appropriate remedy and/or waive compliance with the terms of this Section. If such protective order or other remedy is not obtained or the Disclosing Party waives compliance with the provisions of this Section, the Receiving Party may furnish only that portion of the Confidential Information which it is advised by its counsel is legally required to be disclosed, and will use commercially reasonable efforts to insure that confidential treatment will be afforded such disclosed portion.

**5.2 Specific Performance and Injunctive Relief.** The Receiving Party acknowledges that in the event of a breach of Section 5.1 by the Receiving Party or its Representatives, substantial injury could result to the Disclosing Party and money damages will not be a sufficient remedy for such breach. Therefore, in the event that the Receiving Party or its Representatives engage in, or threaten to engage in, any act which violates Section 5.1, the Disclosing Party will be entitled, in addition to all other remedies which may be available to it under law, to seek injunctive relief (including, without limitation, temporary restraining orders or preliminary or permanent injunctions) and specific enforcement of the terms of Section 5.1. The Disclosing Party will not be required to post a bond or other security in connection with the granting of any such relief.

**5.3 Feedback.** During the Term, you may elect to provide us with feedback, comments, and suggestions with respect to the Platform, the Services, or the Professional Services (“Feedback”). You hereby authorize Honorlock to directly solicit such Feedback from You and any Authorized Users during the Subscription Term through the use of an anonymous survey; provided, there shall be no obligation to respond to such solicitations. You agree that Honorlock will be free to use, reproduce, disclose, and otherwise exploit any and all such Feedback without compensation or attribution to you.

## **6. SUBSCRIBER CONTENT.**

**6.1 Subscriber Content.** You hereby grant us during the applicable Subscription Term a non-exclusive, worldwide, fully paid-up, royalty-free right and license, with the right to grant sublicenses through multiple tiers to vendors providing services to us (such as hosting providers), to reproduce, execute, use, store, archive, modify, perform, display, and distribute to Authorized Users the Subscriber Content via the Platform. We and our vendors will use the Subscriber Content only to provide the Services and only as permitted by this Agreement, including, without limitation, Section 8.4, and our Privacy Policy. After an exam is proctored on the Platform, we shall retain an archival copy of the Subscriber Content related to such exam for a period of six (6) months (the “Retention Period”). After the Retention Period, we shall destroy such Subscriber Content unless, prior to the expiration of the Retention Period, you request that we transfer such Subscriber Content to you and either (i) provide us the removable media onto which you would like us to transfer such Subscriber Content; or (ii) purchase such removable media from us, in which case we shall promptly transfer such Subscriber Content onto such removable media and provide the same to you at no cost. If you fail to provide us notice and the removable media during the Retention Period and we destroy the Subscriber Content, we shall not be liable for such destruction. You will have sole responsibility for the accuracy, quality, and legality of the Subscriber Content.

**6.2 Data Security.** We (and any third-party hosting provider that we may engage) will employ commercially reasonable physical, administrative, and technical safeguards to secure the Subscriber Content on the Platform from unauthorized use or disclosure.

**6.3 Aggregated Data.** We monitor the performance and use of the Platform by our customers and collect data in connection therewith (the “Usage Data”). We may combine this Usage Data with other data (including anonymized elements of the Subscriber Content), and use such combined data, or a subset thereof, in an aggregate and anonymous manner (the “Aggregate Data”). You hereby agree that we may collect, use, publish, and vend such Aggregate Data; provided, however, that such usage shall not, directly or

indirectly, identify you or your Authorized Users or contain your Confidential Information.

**7. INTELLECTUAL PROPERTY.** All right, title, and interest in and to the Platform, the Usage Data, the Aggregate Data, and the Deliverables (unless otherwise set forth in a Statement of Work with respect to a Deliverable), including all modifications, improvements, adaptations, enhancements, or translations made thereto, and all proprietary rights therein, will be and remain the sole and exclusive property of Honorlock and our licensors. Subject to Section 6.1 and Section 6.3, as between the Parties, all right, title, and interest in and to the Subscriber Content, including all modifications, improvements, adaptations, enhancements, or translations made thereto, and all proprietary rights therein, will be and remain your sole and exclusive property.

## **8. USE AND LIMITATIONS OF USE; ONBOARDING; COPYRIGHT AND TEST INTEGRITY ISSUES.**

**8.1 Restrictions on Use.** You will not (and will not authorize, permit, or encourage any third party to): (i) allow anyone other than Authorized Users to access and use the Platform; (ii) allow an Authorized User to share his or her access credentials with other Representatives or any third party; (iii) reverse engineer, decompile, disassemble, or otherwise attempt to discern the source code or interface protocols of the Platform or the Deliverables; (iv) modify, adapt, or translate the Platform or the Deliverables; (v) make any copies of the Platform or the Deliverables (unless otherwise set forth in a Statement of Work with respect to a Deliverable); (vi) resell, distribute, or sublicense the Platform or the Deliverables or use any of the foregoing for the benefit of anyone other than you or the Authorized Users unless expressly provided for in the applicable Order Form or Statement of Work; (vii) save, store, or archive any portion of the Services (including, without limitation, any data contained therein) outside the Platform other than those outputs generated through the intended functionality of the Platform as set forth in the Documentation without the prior, written permission of Honorlock in each instance; (viii) remove or modify any proprietary markings or restrictive legends placed on the Platform or the Deliverables; (ix) use the Platform or the Deliverables in violation of any applicable law or regulation, in order to build a competitive product or service, or for any purpose not specifically permitted in this Agreement; (x) introduce, post, or upload to the Platform any Prohibited Content; or (xi) circumvent any processes, procedures, or technologies that we have put in place to safeguard the Platform or protect the integrity of the exam-taking process. Upon our request, you will use commercially reasonable efforts to assist us in preventing and enforcing these restrictions.

**8.2 Compliance.** We have the right to monitor your compliance with this Agreement. If any such monitoring reveals that you are not using the Platform or the Deliverables in compliance with this Agreement, then you will

remedy any such non-compliance within five (5) business days of receiving notice from us, including, if applicable, through the payment of additional Fees.

### **8.3 Onboarding and Validation of Authorized Users.**

Authorized Users must log into the Platform and accept our Terms of Service and Privacy Policy, which shall govern their access to, and usage of, the Platform. A link to the Student Users' Terms of Service is available here <https://honorlock.com/legal/student>; a link to the Subscriber Users' Terms of Service is available here <https://honorlock.com/legal/faculty>; and a link to the Privacy Policy is available here <https://honorlock.com/legal/privacy>. During the initial registration, an Authorized User may be prompted to create an account, which may include a sign-in name ("Sign-In Name"), a password ("Password"), and certain additional information that will assist in authenticating the Authorized User's identity when he or she logs-in in the future ("Unique Identifiers"). When creating an account, an Authorized User must provide true, accurate, current, and complete information. You and your Authorized Users are responsible for the confidentiality and use of Authorized Users' Sign-In Names, Passwords, and Unique Identifiers, as well as for any use, misuse, or communications entered through the Platform. You will promptly inform us of any need to deactivate a Password or Sign-In Name or change any Unique Identifier. Upon our request, in order for us more effectively proctor exams, Student Users may be required to validate their identities, their surroundings, and their equipment, and we shall use various processes, procedures, and technologies to authenticate, validate, and monitor the same, all as set forth in our Terms of Service and Privacy Policy.

### **8.4 Copyright and Test Integrity Issues.**

**(a) DMCA Takedown Notices.** In the course of providing the Services, we may identify infringements of Subscriber Content owned by you, a Subscriber User, or a third party (e.g., an educational publisher of test materials). A Subscriber User may, through the functionality of the Platform, identify the copyright owner of such Subscriber Content and authorize us to act as your or such Subscriber Subscriber's authorized agent, as applicable, to file a DMCA takedown notice with respect to such infringing content. For Subscriber Content owned by a third party, such third party may provide us a similar authorization. With respect to any information and authorization provided by a Subscriber User, you hereby acknowledge and agree that we can rely on such authorization in order to file a DMCA takedown notice and, upon our request, you will (and will cause any applicable Subscriber User to) execute and file any documents necessary to establish and/or validate such authorization. Upon receiving any such authorizations, we may, in our discretion, file a DMCA takedown notice as the authorized agent of the applicable copyright owner. We cannot guarantee that any DMCA takedown notice will be acknowledged or honored,

and we disclaim all representations, warranties, and liabilities with respect thereto.

**(b) Test Integrity Issues.** In the course of providing the Services, we may, with your permission (e-mail acceptable), employ certain mechanisms to improve and safeguard the integrity of the test-taking process. For example, we may temporarily seed test questions on controlled web pages in order to identify attempts of unauthorized access during an active assessment. Upon receiving any such permission from you, we may, in our discretion, employ such measures for such purposes. We cannot guarantee that any such measures will be successful, and we disclaim all representations, warranties, and liabilities with respect thereto.

## **9. REPRESENTATIONS AND WARRANTIES; OUR DISCLAIMER.**

**9.1 Mutual Representations and Warranties.** Each Party represents and warrants that: (i) it is duly organized, validly existing, and in good standing under its jurisdiction of organization and has the right to enter into this Agreement, Order Forms, and Statements of Work; (ii) the execution, delivery, and performance of this Agreement, Order Forms, and Statements of Work are within the corporate powers of such Party and have been duly authorized by all necessary corporate action on the part of such Party, and constitute a valid and binding agreement of such Party; and (iii) it has the full power, authority, and right to perform its obligations and grant the rights it grants hereunder.

**9.2 Our Additional Representations and Warranties.** In addition to the representations and warranties set forth in Section 9.1, we represent and warrant to you that the Professional Services and Support Services will be performed in a professional and workmanlike manner.

**9.3 Your Additional Representations and Warranties.** In addition to the representations and warranties set forth in Section 9.1, you represent and warrant to us that: (i) the Subscriber Content contains no Prohibited Content; (ii) you have the right to provide us the Subscriber Content in accordance with this Agreement; and (iii) your use of the Services and the Platform, including, without limitation, the submission and processing of the Subscriber Content, complies with all applicable laws and regulations.

**9.4 Our Disclaimer.** EXCEPT AS EXPRESSLY SET FORTH IN SECTION 9.1 AND SECTION 9.2, THE SERVICES, THE PLATFORM, ANY BETA FEATURES, THEIR COMPONENTS, ANY DOCUMENTATION, THE DELIVERABLES, AND ANY OTHER MATERIALS PROVIDED HEREUNDER ARE PROVIDED "AS IS" AND "AS AVAILABLE," AND HONORLOCK MAKES NO WARRANTIES WITH RESPECT TO THE SAME OR OTHERWISE IN CONNECTION WITH THIS AGREEMENT, ANY ORDER FORM, OR ANY STATEMENT OF WORK AND HEREBY DISCLAIMS ANY AND ALL EXPRESS, IMPLIED, OR STATUTORY WARRANTIES. TO THE EXTENT THAT HONORLOCK MAY NOT AS A MATTER

OF APPLICABLE LAW DISCLAIM ANY IMPLIED WARRANTY, THE SCOPE AND DURATION OF SUCH WARRANTY WILL BE THE MINIMUM PERMITTED UNDER SUCH LAW.

**10. LIMITATION OF LIABILITY.** EXCEPT IN CONNECTION WITH A PARTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR INDEMNIFICATION OBLIGATIONS OR YOUR BREACH OF SECTION 8.1 OR YOUR FAILURE TO PAY ANY AMOUNTS DUE AND OWING: (I) IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY OTHER PARTY FOR ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND ARISING FROM OR RELATING TO THIS AGREEMENT, ANY ORDER FORM, OR ANY STATEMENT OF WORK REGARDLESS OF WHETHER SUCH PARTY WAS ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY THEREOF; AND (II) EACH PARTY'S AGGREGATE LIABILITY FOR DIRECT DAMAGES UNDER THIS AGREEMENT, ANY ORDER FORM, OR ANY STATEMENT OF WORK WILL NOT EXCEED THE FEES PAID BY YOU UNDER THE APPLICABLE ORDER FORM OR STATEMENT OF WORK DURING THE PERIOD TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO THE CLAIM. NO ACTION, REGARDLESS OF FORM, ARISING FROM OR PERTAINING TO THIS AGREEMENT, ANY ORDER FORM, OR ANY STATEMENT OF WORK MAY BE BROUGHT BY A PARTY MORE THAN ONE (1) YEAR AFTER SUCH ACTION HAS ACCRUED.

**11. INDEMNIFICATION.**

**11.1 Indemnification by Honorlock.** Subject to Section 11.2, we will defend, indemnify, and hold harmless you and your Representatives from any and all liabilities, costs, and expenses, including reasonable attorneys' fees ("Losses") in connection with any third-party action, claim, or proceeding alleging that your access and use of the Platform and/or a Deliverable in accordance with this Agreement infringes or misappropriates any United States patents, copyrights, or trade secrets (each a "Third-Party Claim"); provided, however, that the foregoing obligation will be subject to your: (i) promptly notifying us of the Third-Party Claim; (ii) providing us, at our expense, with reasonable cooperation in the defense of the Third-Party Claim; and (iii) providing us with sole control over the defense and negotiations for a settlement or compromise of the Third-Party Claim.

**11.2 Exceptions to Our Indemnification Obligations.** We are not obligated to indemnify, defend, or hold you and your Representatives harmless with respect to any Third-Party Claim to the extent: (i) the Third-Party Claim arises from or is based upon your or your Authorized Users' use of: (a) the Platform or a Deliverable not in accordance with the Documentation, this Agreement, an Order Form, or a Statement of Work; or (b) any unauthorized modifications, alterations, or implementations of the Platform or a Deliverable made by you or at your request (other than by us); (ii) the Third-Party Claim arises from use of the Platform or a Deliverable in combination with unauthorized modules,

apparatus, hardware, software, or services not supplied or specified in writing by us; or (iii) the Third-Party Claim arises from any use of the Platform or a Deliverable for which they were not designed.

**11.3 Infringement Claims.** In the event that we reasonably determine that the Platform or a Deliverable is likely to be the subject of a Third-Party Claim, we will have the right (but not the obligation), at our own expense, to: (i) procure for you the right to continue to use the Platform or Deliverable as provided in this Agreement, any applicable Order Form, and any applicable Statement of Work; (ii) replace the infringing components of the Platform or Deliverable with other components with equivalent functionality; or (iii) suitably modify the Platform or Deliverable so that it is non-infringing and functionally equivalent. If none of the foregoing options is available to us on commercially reasonable terms, we may terminate this Agreement, any applicable Order Form, and/or any applicable Statement of Work without further liability to you and refund you a pro-rated portion of any pre-paid Fees. This Section 11.3, together with the indemnity provided under Section 11.1, states your sole and exclusive remedy, and our sole and exclusive liability, regarding any Third-Party Claim.

**11.4 Indemnification by You.** You will defend, indemnify, and hold harmless us, our licensors, our hosting providers, and our and their respective officers, directors, managers, employees, contractors, and agents from any and all Losses in connection with any third-party action, claim, or proceeding arising from your or any of your Authorized Users' breach or violation of this Agreement, any Order Form, and/or any Statement of Work; provided, however, that the foregoing obligation will be subject to our: (i) promptly notifying you of the claim; (ii) providing you, at your expense, with reasonable cooperation in the defense of the third-party action, claim or proceeding; and (iii) providing you with sole control over the defense and negotiations for a settlement or compromise of the third-party action, claim or proceeding.

**12. GENERAL PROVISIONS.**

**12.1 Assignment.** Neither Party may assign or otherwise transfer any of its rights or obligations under this Agreement, any Order Form, or any Statement of Work without the prior, written consent of the other Party; provided, however, that a Party may, upon written notice to the other Party and without the consent of the other Party, assign or otherwise transfer this Agreement, any Order Form, or any Statement of Work: (i) to any of its Affiliates; or (ii) in connection with a change of control transaction (whether by merger, consolidation, sale of equity interests, sale of all or substantially all assets, or otherwise), provided that in all cases, the assignee agrees in writing to be bound by the terms and conditions of this Agreement. Any assignment or other transfer in violation of this Section will be null and void. Subject to the foregoing, this Agreement, any Order Form, and any Statement of Work will be binding upon and inure to

the benefit of the Parties hereto and their permitted successors and assigns.

**12.2 Waiver.** Subject to the last sentence in Section 10, no failure or delay by either Party in exercising any right or remedy under this Agreement will operate, or be deemed to operate, as a waiver of any such right or remedy.

**12.3 Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Florida, without regard for choice of law provisions thereof.

**12.4 Exclusive Forum.** The Parties hereby consent and agree to the exclusive jurisdiction of the state and federal courts located in Miami Florida for all suits, actions, or proceedings directly or indirectly arising out of or relating to this Agreement, any Order Form, or any Statement of Work and waive any and all objections to such courts, including but not limited to, objections based on improper venue or inconvenient forum, and each Party hereby irrevocably submits to the exclusive jurisdiction of such courts in any such suits, actions, or proceedings.

**12.5 Notices.** All notices required under this Agreement (other than routine operational communications) must be in writing and will be delivered either personally or by e-mail (other than notices under Section 4.2 which may not be delivered by e-mail), national overnight courier or the U.S. Postal Service to each Party's notices contact and address listed in the applicable Order Form or Statement of Work. Notices will be effective upon: (i) actual delivery to the other Party, if delivered in person or by e-mail (other than notices under Section 4.2, which may not be made via e-mail), or national overnight courier; or (ii) five (5) business days after being mailed via the U.S. Postal Service, postage prepaid.

**12.6 Independent Contractors.** The Parties are independent contractors, and neither Party will be deemed to be an employee, agent, partner, joint venturer, or legal representative of the other Party.

**12.7 Severability.** If any provision of this Agreement, any Order Form, or any Statement of Work is found invalid or unenforceable by a court of competent jurisdiction, that provision will be amended to achieve as nearly as possible the same economic effect as the original provision, and the remainder of this Agreement, Order Form, or Statement of Work will remain in full force and effect.

**12.8 Force Majeure.** Except for your obligations to pay any Fees and Taxes hereunder, neither Party will be deemed to be in breach of this Agreement, any Order Form, or any Statement of Work for any failure or delay in performance to the extent caused by reasons beyond its reasonable control, including, but not limited to, acts of God, acts of any governmental body, war, insurrection, sabotage, armed conflict, terrorism, embargo, fire, flood, strike or other labor disturbance, unavailability of or interruption or delay in

telecommunications or third-party services, or virus attacks or hackers (each, a "Force Majeure Event").

**12.9 Third-Party Beneficiaries.** There are no other third-party beneficiaries under this Agreement, any Order Form, or any Statement of Work.

**12.10 Publicity.** During the Term, we may refer to you as a customer and user of the Platform. In connection therewith, we may use your name and, with your prior written consent, your corporate logos. Any goodwill arising from the use of such name and logos will inure solely to your benefit. Subject to your prior written consent (such consent not to be unreasonably withheld), Honorlock may provide your contact information to third parties, in order for you to provide comments on your experience utilizing Honorlock's Services. All other publicity regarding this Agreement will be mutually coordinated and approved by the Parties.

**12.11 Export.** You will not export or re-export, either directly or indirectly, the Platform or any copies thereof in such manner as to violate the export laws and regulations of the United States or any other applicable jurisdiction in effect from time to time (including, without limitation, when such export or re-export requires an export license or other governmental approval without first obtaining such license or approval). Without limiting the foregoing, you will not permit Authorized Users or any third parties to access or use the Platform in violation of any United States export embargo, prohibition, or restriction.

**12.12 Complete Understanding.** This Agreement, the Schedules, the Privacy Policy, and all executed Order Forms and Statements of Work constitute the final and complete agreement between the Parties regarding the subject matter hereof, and supersede any prior or contemporaneous communications, representations, or agreements between the Parties, whether oral or written, including, without limitation, any confidentiality or non-disclosure agreements. To the extent of any conflict or inconsistency between this Agreement and any term contained in an Order Form or Statement of Work, the terms of this Agreement will govern, unless such Order Form or Statement of Work includes the section numbers of this Agreement that the Parties expressly agree no longer govern or are modified for the matters covered thereby. No term included in any confirmation, acceptance, purchase order, or any other similar document from you will change this Agreement, any Order Form, or any Statement of Work or have any force or effect.

**12.13 Counterparts.** This Agreement, any Order Form, and any Statement of Work may be executed in counterparts (which may be exchanged by fax or PDF), each of which will be deemed an original, but all of which together will constitute the same Agreement or Order Form.

**[End of MSA Terms]**

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

**HONORLOCK, INC.**

**SUBSCRIBER**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_



## SCHEDULE A – SUPPORT SERVICES

We shall use commercially reasonable efforts to make the Platform accessible to Authorized Users twenty four (24) hours per day, seven (7) days per week, three hundred sixty-five (365) days per year at least 99.7% of the time (measured on a monthly basis), except for: (i) scheduled maintenance; (ii) required repairs; and (iii) any loss or interruption due to a Force Majeure Event.

We shall provide online, telephone, and/or e-mail support to Subscriber and its Authorized Users twenty four (24) hours per day, seven (7) days per week, three hundred sixty-five (365) days per year relating to any failure of the Platform to operate substantially in accordance with the Documentation.

For any continuous outage which (i) renders the Platform inoperative or intermittently operative; (ii) substantially degrades performance of the Platform; or (iii) causes a complete failure of the Platform, Honorlock will credit you a pro-rated refund of pre-paid Fees for scheduled exams, commencing on the date and time of the opening of a trouble ticket and ending at the close of the same by Honorlock's technical support as follows:

<b>Outage</b>	<b>Credits Per Outage - % of Monthly Fees</b>
0-8 hours duration	No Credit
8-16 hours	2.5%
16-24 hours	5%
In excess of 24 hours	7.5%

Notwithstanding the foregoing, no credit shall be given for an outage directly or indirectly resulting from: (i) the acts and omissions of you or your Authorized Users; (ii) scripts, applications, equipment or services provided by you; (iii) outages initiated by Honorlock at your request or direction for maintenance, backup, or other purposes; or (iv) any Force Majeure Event. In addition, no credit in any given month shall exceed the Fees for such month.