Episerver Subscription End-User License Agreement ("SEULA")

BY ACCEPTING, SIGNING (DIGITALLY OR OTHERWISE), OR IN ANY WAY AFFIRMING THE MASTER SUBSCRIPTION LICENSE AGREEMENT ("MSLA") OR ORDER ("ORDER(S)"), OR BY INTERACTING WITH OR IN ANY OTHER WAY USING THE SUBSCRIPTION LICENSE(S), CUSTOMER ACCEPTS THE TERMS AND CONDITIONS HEREIN. All capitalized terms not defined herein have the meanings attributed in the Order(s).

Definitions

"Agreement" means this Subscription End User License Agreement.

"Development License(s)" means a limited License Type that can only be used for non-commercial purpose(s). They cannot be used for any public facing Site or Server and are typically labeled as, but not limited to, "Partner", "Developer", "Demo", "Demonstration" or "Evaluation" license(s). Developer Licenses are limited to Sites, Instances and/or other usage restrictions.

"Entitlement" means the collective set of applicable documents, including, but not limited to, all (including digital) agreement(s), exhibit(s), attachment(s), addendum(s), schedule(s), and/or invoice(s) authorized and/or provided by Episerver evidencing Customer's obligations within this Agreement.

"Order" means Entitlements issued to Customer from either an Episerver entity or Episerver reseller, as defined in the Order.

"Customer" means the customer licensing the Software in accordance with this Agreement, as defined in the Order.

"License Type" means the license types, each with its own capability, functionality, limitations and fees, provided by Episerver from time to time.

"CCDXP" or "Customer-Centric Digital Experience Platform" means the online digital content management, eCommerce and/or marketing platform as specified in any Order(s) to be made available pursuant to the terms and conditions of this Agreement by Episerver to Customer during the term of this Agreement, through on-premises or hosted Subscription License(s), bound by subscription end-service license agreement(s) ("SEULA").

"Instance(s)" means a single (1) web application running on either; platform as a service ("PaaS"), infrastructure as a service ("IaaS"), Virtual or Physical Server, which must be able to persistently contact the Episerver license service.

"Physical Server(s)" means a physical hardware system capable of running server software. A hardware partition or blade is considered to be a separate single physical hardware system. Thus, one (1) Physical Server, for purposes of Episerver licensing, is equal to one (1) Server. "Site(s)" is a unique collection of content associated with one or more domain names, using the same start page, also defined under the Episerver root node. This can be found under the [CMS] tab, then [Admin], then [Config], then [Manage Websites]. In this view, under [Manage Websites], each Site listed under [Websites] constitutes one (1) Site.

"Use" or "Using" means to access, install, download and/or execute the Software in order to utilize the functionality of the Software.

"Server(s)" means either a Physical Server or a Virtual Server. As they are treated equally in terms of Episerver licensing, the term Server can reference either. Server(s) must provide a MAC or IP address to which the Subscription License(s) is bound.

"Site(s)" is a unique collection of content associated with one or more domain names, using the same start page, also defined under the

Episerver root node. This can be found under the [CMS] tab, then [Admin], then [Config], then [Manage Websites]. In this view, under [Manage Websites], each Site listed under [Websites] constitutes one (1) Site.

"Subscription License(s)" means the term-based software license(s) provided by Episerver to Customer as defined in an Order as part of Customer's Subscription, each subject to the applicable SEULA.

"Usage Terms" means for Software License(s) the maximum usage rights and parameters Customer shall be provided by Episerver under an Order(s).

"Virtual Server(s)" mean a virtual operating system environment where the operating system instance is used to run hardware virtualization software (e.g. Microsoft Virtual Server, VMWare or similar technologies) or to provide hardware virtualization services (e.g. Microsoft virtualization technology or similar technologies) and is considered equal to a single physical operating system environment. A virtual operating system environment is configured to run on a virtual (or otherwise emulated) hardware system and thus one (1) Virtual Server.

1.   Right to Use the Subscription License(s)

1.1   During the term of subscription with Episerver, Episerver grants to Customer a non-transferable, non-exclusive, worldwide right to permit for the sole purpose of supporting Customer's use of Subscription License(s), Customer or Affiliates employees, agents or contractors who work directly for the Customer ("Users"), to access and use the Subscription License(s) subject to the terms of the Agreement. Users must be a minimum of eighteen (18) years of age or the minimum local regulatory age of consent.

1.2   General Use of Subscription License. Each Subscription License has a License Type. Further definitions, terms, conditions and restrictions shall apply depending on the License Type as described below:

1.2.1   CCDXP Subscription License. Customer may install and Use the Software in machine-readable, object code form on the number of Instance(s) for the number of Site(s) as defined in the Order for the duration of the Subscription Term.

1.2.2   Development License(s). During the Subscription Term, Customer may install Development License(s) of the Software in machine-readable, object code form on non-public facing physical developer computer(s) or on non-public facing virtual developer instance in a virtual operating system environment for non-production, non-commercial Use in a non-Server environment for a single named user and development purposes only. Development License(s) are not subject to a fee, are limited to a maximum of one (1) year, and, with the exception of Section 5.2 and 5.7, are not subject to Section 5 herein, they are provided AS—IS.

1.2.3   Demonstration License(s). During the Subscription Term, Customer may install Demonstration License(s) of the Software in machine-readable, object code form on non-public facing physical developer computer(s) or on non-public facing virtual developer instance in a virtual operating system environment for non-production, non-commercial Use and for demonstration purposes only. Demonstration License(s) are not subject to a fee, are limited to a maximum of thirty (30) days, and, with the exception of Section 5.2 and 5.7, are not subject to Section 5 herein, they are provided AS—IS.

1.2.4   Intranet License(s). Customer may install Episerver Intranet License(s) in machine-readable, object code form on the number of Server(s) or Instance(s) for the number of Site(s) purchased. Episerver Intranet License(s) are a limited License Type that can only be used for internal purposes by Customer and only by personnel within Customer's organization. They cannot be used for any public facing Site or Instance and are typically labeled as, but not limited to, "Intranet" licenses.

1.2.5   Find Virtual Appliance/RAW License(s). Customer may install Episerver Find Virtual Appliance/RAW License(s) for the number of index(s) on the number of Virtual Server(s) purchased. Episerver Find Virtual Appliance/RAW may not be used to create a hosted index for third-parties. Episerver Find Virtual Appliance/RAW License(s) must allow Episerver remote administrative access at all times.

1.3   General Use of Supplemental Products. Add-Ons, Modules, Connectors, and packages of software developed by Episerver made available through NuGet™ packages and all derivative works shall remain the property of Episerver. Customer may install the Supplemental Products in machine-readable, object code form on the number of Subscription License Instance(s) for the number of Site(s) purchased. Supplement Products can only be used in combination with a Product, may include Third-Party Product(s) and may require acceptance of additional and/or third-party license and/or service agreements.

1.4   Backup copy. Customer may make one (1) backup machine-readable, object code copy of the Software it has purchased for non-productive, archiving purposes.

1.5   Modifications. Customer may modify the disclosed parts of the Software solely in connection with Customer's internal business purposes.

1.6   Service Channel. Episerver Software has a build-in service channel used for license key activation, installation, verification and/or updates, security announcements and other information. Information shall be transmitted and stored at Episerver, including but not limited to the Subscription License key information, software version, hostname (website URL), host IP/MAC-address and machine name. Failure to allow such service channel to operate correctly will impede Use of the Software.

2.   Restrictions and Representations

2.1   Unless explicit contract bound permission is given by Episerver, or to the extent expressly permitted by applicable law, Customer shall not, directly or indirectly: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Subscription License(s) or any software, documentation or data related to or provided by Episerver as part of the Subscription License(s) ("Software"), or provided by Episerver but not created or owned by Episerver ("Other Software"); (ii) modify, translate, or create derivative works based on the Subscription License(s), Software or Other Software; or copy (except for archival or Episerver-authorized purposes), resell, rent, lease, distribute, pledge, assign, or otherwise transfer or encumber rights to the Subscription License(s), Software or Other Software; (iii) use or access the Subscription License(s) to build or support, and/or assist a third-party in building or supporting, products or services competitive to Episerver; or (iv) remove any proprietary notices or labels from the Subscription License(s), Software or Other Software. Customer shall use the Subscription License(s), Software and Other Software only for its own internal business operations (including, but not limited to development, support and launching of public-facing websites), not for the operation of a service bureau or timesharing service, and shall in no way circumvent Episerver license restriction software, code, processes and/or methods, including but not limited to use of internal redirects.

3.   Ownership and Intellectual Property Rights

3.1   Episerver shall have sole and exclusive ownership of all right, title and interest in and to the Subscription License(s) and Software, documentation, all copies, improvements, and derivative works thereof (regardless of form, access or distribution medium in or on which the original and other copies may exist), including all copyright, trademark, patent, trade secret, know-how and other intellectual property rights pertaining thereto, subject solely to the limited right expressly granted to Customer herein. Software, owned by Episerver, is protected by international copyright and intellectual property legislations. Episerver shall retain all rights to its name and trademarks. Except for the limited Subscription License(s) granted under the Agreement, the Customer obtains no other rights in or to the Subscription License(s), Software or Other Software. Episerver reserves any rights not expressly granted to Customer under the Agreement. This Section 3 shall survive termination of this Agreement.

3.2   With regard to Other Software included in Subscription License(s) or Order(s) all mentioned rights in this Section 3 shall be owned by the third-party from whom Episerver has acquired the right to use the Other Software, subject solely to the limited right expressly granted to Customer herein. Other Software can be found here - http://www.episerver.com/implemented_software; which Customer is subject to such terms and conditions. The structure and code of the Software are valuable trade secrets of Episerver and remain the sole property of Episerver or, respectively the third-party who owns the Other Software and Services.

3.3   The information or material displayed, generated or collected through Customer's use of Subscription License(s) and any code or software used by Customer not provisioned by Episerver is entirely within Customer's control, Episerver is not responsible for damages arising out of or related to Customer's actions, inactions or faults in Customer's applications, infringement, misappropriation, libel, defamation, privacy or human rights-related claims through Customer's use of Subscription License(s) or customer data, information, material, code or non-Episerver software used in or with Subscription License(s).

4. Term, Suspension and Termination

4.1   Unless otherwise stated in the MSLA and/or Order(s), the term of the Agreement shall be as follows –

    4.1.1   Initial Subscription Term - The total months stated in each Order (or line item within each Order) from and including a specified date within the Order, or if no date given, the Effective Date (hereby "Initial Subscription Term"), and thereafter will automatically renew on a yearly basis until notice is given by either Party (hereby "Subscription Term"). Written notice for terminating the Agreement for convenience during the Initial Subscription Term may be given by Customer, however the notice period required is no less than three (3) months prior to the end of the Initial Subscription Term. If Customer terminates the Agreement for convenience during the Initial Subscription Term, Customer shall be responsible for payment of any outstanding and remaining fees of the Initial Subscription Term.

    4.1.2   Auto Renewal – After the Initial Subscription Term, Customer's Subscription, subject to the rights of termination and suspension in this Agreement, will auto-renew for each subsequent Subscription Term on an annual basis, with invoicing and payments for the base Usage Terms and Rights invoiced annually in advance. Such auto-renewal will take effect unless this Agreement is terminated in accordance with the Agreement terms and shall include all Subscription License(s) agreed to in the relevant Subscription Term. Written notice for terminating the Agreement for convenience during the Subscription Term may be given by either Party, however the notice period required is three (3) months prior to the end of the then Subscription Term. If Customer terminates the Agreement for convenience during the Subscription Term, Customer shall be responsible for payment of outstanding and remaining fees of the Subscription Term.

    4.1.3   Price Index Adjustment – Following the Initial Subscription Term, increase of Subscription fees may be adjusted based on the previous Contract Year by, the applicable consumer price index (based on contracting region), in conjunction with the then renewal Subscription Term, provided Episerver gives Customer sixty (60) days' notice of all such change(s) and opportunity within the aforementioned notice period to terminate the Subscription.

4.2   Unless otherwise states in the MSLA and/or Order(s), termination and suspension rights shall be as follows –

    4.2.1   Termination – Unless otherwise provided in this Agreement, either Party may terminate this Agreement for cause, as to any or all Subscription License(s): (i) upon thirty (30) days' written notice to the other Party of a breach if such breach remains uncured for thirty (30) days following the written notice, or (ii) immediately, if the other Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, liquidation, receivership, or assignment for the benefit of creditors or if Customer infringes on Episerver intellectual property rights.

    4.2.2   Effects of Termination – The following provisions apply if this Agreement expires or is terminated for any reason:

    4.2.2.1   Return of Confidential Information – Parties shall promptly return or destroy all copies (in whatever form, whether full or partial) of all Confidential Information, which is in a Party's possession or under its control. Within thirty (30) days after termination, Parties shall provide written confirmation to the other Party that all copies of the Confidential Information have been returned or have been destroyed. Parties shall also implement appropriate measures to safeguard the confidentiality of any intangible Confidential Information which cannot be physically returned or destroyed.

    4.2.2.2   Payments – Customer shall remain obligated to pay all amounts already owed to Episerver under this Agreement and any related Agreements. All amounts due to Episerver hereunder shall become immediately due and payable upon termination. However, if termination of the Agreement occurs due to Episerver's uncured breach, all pre-paid, unused fees from the date of the termination shall be refunded to Customer.

    4.2.3   Suspension – Episerver may suspend Subscription License(s) should Customer grossly fail to make proper payment of fees.

5. Representations, Disclaimer of Warranties, Indemnities, Limitations of Liability

5.1   Episerver warrants it will ensure Subscription License(s) perform substantially in accordance with the documentation supplied by Episerver with the Subscription License(s)and consistent with generally accepted industry standards. Episerver's sole and exclusive obligation for breach of this limited warranty shall be to use reasonable efforts to remedy or supply a temporary fix or make an emergency bypass. To the extent Episerver cannot perform its obligations according to the forgoing sentence Episerver's maximum liability to Customer per contractual year shall, under all circumstances, shall be an amount corresponding to twelve (12) months fees for the Subscription License(s), which is/are affected by the failure of Episerver's obligations. This limited warranty shall not be valid if the Subscription License(s) was subjected to abuse, misuse, accident, alteration or unauthorized modification or installation by Customer. Customer shall report any defects with the Subscription License(s) to Episerver as soon as possible after such defect is discovered. Episerver's responsibility does not cover defects due to the Customer's customizations, edits, or modifications of Subscription License(s), Software, Other Software, external service(s).

5.2   Customer shall be responsible and liable for all other, third-party or otherwise, software, components, services, web sites, integrations and code that are not provided by Episerver that Customer opts to use with Subscription License(s).

5.3   EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH HEREIN, EPISERVER AND ITS THIRD-PARTY PROVIDERS HEREBY DISCLAIM ALL EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS, INCLUDING BUT NOT LIMITED TO ANY IMPLIED

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WARRANTIES OF MERCHANTABILITY, INTEGRATION, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT AND QUALITY. THE RELIABILITY, AVAILABILITY, TIMELINESS, SUITABILITY, ACCURACY OR COMPLETENESS OF THE SOFTWARE SERVICES OR THE RESULTS CUSTOMER MAY OBTAIN BY USING THE SOFTWARE SERVICES. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING OR EPISERVER SLA OBLIGATIONS, EPISERVER AND ITS THIRD-PARTY PROVIDERS DO NOT REPRESENT OR WARRANT THAT (A) THE OPERATION OR USE OF THE SOFTWARE SERVICES WILL BE TIMELY, UNINTERRUPTED OR ERROR-FREE; OR (B) THE QUALITY OF THE SOFTWARE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS. THE SOFTWARE SERVICES MAY BE SUBJECT TO DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND COMMUNICATIONS FACILITIES. THE SOFTWARE SERVICES ARE PROVIDED "AS IS".

5.4 NEITHER PARTY SHALL BE LIABLE UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY HOWEVER CAUSED FOR: (A) ERROR OR INTERRUPTION OF USE, INACCURACY OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, OR SERVICE OR DATA LOSS, BUSINESS PROFITS OR REVENUE; (B) ANY INDIRECT, EXEMPLARY, PUNITIVE, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) ANY MATTER BEYOND ITS REASONABLE CONTROL (including, without limitation, acts of God, Government or other regulatory authority, telecommunications network operators, war, national emergency, riots, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes and other industrial disputes (in each case, whether or not relating to that Party's workforce)), HOWEVER CAUSED ON ANY OTHER THEORY OF LIABILITY NOT STATED HEREWITHIN AND ANY CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ITS SUBJECT MATTER, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

5.5 EXCEPT FOR CUSTOMER'S LIABILITY FOR PAYMENT OF FEES, LIABILITY ARISING FROM OBLIGATIONS UNDER SECTIONS 5.6 AND 5.7, LIABILITY FOR VIOLATION OF EPISERVER INTELLECTUAL PROPERTY RIGHTS, WILLFUL MISCONDUCT OR GROSS NEGLIGENCE, IF, NOTWITHSTANDING THE OTHER TERMS OF THIS AGREEMENT, EITHER PARTY IS DETERMINED TO HAVE ANY LIABILITY TO THE OTHER PARTY OR ANY THIRD PARTY, THE PARTIES AGREE THE AGGREGATE LIABILITY OF A PARTY WILL BE LIMITED TO THE TOTAL AMOUNTS CUSTOMER HAS ACTUALLY PAID FOR SOFTWARE SERVICES IN THE TWELVE MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO A CLAIM.

5.6 Episerver shall indemnify, defend and hold Customer harmless (including Customer's officers, directors, agents, representatives and employees) from any direct: claim, liability, loss, expense or demand, including reasonable legal fees and costs and including without limitation third-party claims based on infringement caused solely by the Software owned by Episerver. This indemnity requires Episerver receive notice immediately of any third-party claims and is in sole control of the defense of such claim, including but not limited to Episerver's own choice of counsel and any settlement arrangement. Settlements which require Customer consent are those that (i) impose an obligation on Customer; or (ii) require Customer to make an admission. To the extent Customer seeks or will seek indemnity from Episerver in connection with a third-party allegation or claim against Customer, Customer shall not identify Episerver to the third-party without prior consent of Episerver. Further, to the extent Episerver indemnifies Customer under this Section 5, Episerver is not responsible for any fees, expenses, or costs incurred by Customer in

its retainer and use of its own counsel. Customer shall comply with reasonable requests from Episerver in connection with Episerver's defense of the claim on which indemnity is based. Should Customer's actions, but not limited to including that of its counsel's, interfere with Episerver's ability to exercise sole control of the defense of the claim on which indemnity is based, Episerver shall be discharged of any further indemnification obligation to Customer.

5.7 Customer shall indemnify, defend and hold Episerver harmless (including Episerver's officers, directors, agents, representatives and employees) from any direct: claim, liability, loss, expense or demand, including reasonable legal fees and costs and including without limitation third-party claims based upon or arises out of (a) unauthorized or illegal use of the Subscription License(s) by Customer, (b) infringement claims, related to Customer's modifications of the Software or Customer's merging or including the Software with other software or other violation of this Agreement. This indemnity requires that Customer receive notice immediately of any third-party claims and is in sole control of the defense of such claim, including but not limited to any settlement. Settlements which require Episerver consent are those that (i) impose an obligation on Episerver; or (ii) require Episerver to make an admission.

5.8 If Customer's use of any Subscription License is enjoined, or if in Episerver's sole judgment is likely to be enjoined, Episerver may, at its sole option, and expense, and as a complete remedy to Customer, either (a) substitute equivalent non-infringing Software for the infringing Software, (b) modify the Software so it no longer infringes but remains functionally equivalent, (c) obtain for Customer the right to continue using such Software, or (d) if Episerver deems none of the foregoing are commercially practicable, terminate the license granted herein with respect to the applicable Software Services, and accept return of the Subscription License and grant Customer a pro-rated credit of the unused portion of the fees paid with respect to the Software Services.

5.9 The foregoing provisions of this Section 5 notwithstanding, Episerver shall not have any liability to Customer under Section 5.6(a) to the extent that any infringement or claim thereof is based upon (i) use of the Subscription License(s) in combination with equipment or software not supplied hereunder where the Subscription License would not itself be infringing, (ii) claims related to Customer data or information presented using Subscription Licenses (iii) use of Subscription License(s) in an application or environment for which it was not designed, not provided for in the documentation or not contemplated under this Agreement, (iv) use of other than the most recent release of the Subscription License provided to Customer by Episerver, and (v) use of the Subscription License(s) in breach of this Agreement.

6. Maintenance and Support

6.1 During the Subscription Term, Customer shall be eligible for maintenance and support of Subscription License(s). Details can be found at https://www.episerver.com/legal/ms-description/ . Subscription License(s) on Software versions beyond three (3) years from its public release date may be subject to sunsetting, and maintenance and support may be suspended until Customer updates its Subscription License(s) to a more recent version of Software.

7. Confidential Information

7.1 Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose

information relating to the Disclosing Party's business (hereinafter referred to as "Confidential Information"). The Receiving Party agrees: (i) to take reasonable precautions to protect such Confidential Information; and (ii) not to use or divulge to any third person any such Confidential Information except for the Receiving Party's contractors or agents who have agreed in writing to terms protecting such Confidential Information. The foregoing shall not apply to Confidential Information after seven years following the termination of the Agreement. Confidential Information does not include information that (a) is or becomes generally available to the public; (b) was in its possession or known prior to receipt (c) was rightfully disclosed to it by a third-party; (d) was independently developed without use of or reference to any Confidential Information of the Disclosing Party; or (e) is required by law, court order or subpoena. The content of the Agreement, information regarding negotiations, judicial proceedings, awards, settlement amounts or mediation following the Agreement shall also be Confidential Information.

8.   Disputes, Venue, Governing Law and Jurisdiction

8.1   All disputes, claims or controversies arising out of or related to this Agreement, including any claims under any statute or

regulation, but excluding for any such disputes, claims or controversies arising out of Episerver's intellectual property rights for which a provisional remedy or equitable relief is sought ("Disputes"), shall be submitted first to non-binding mediation. If the Disputes are not resolved through mediation within sixty (60) days, then, upon the election of either Party, the Disputes shall be submitted to the courts in the Jurisdiction and under the Governing Law below.

8.2   Governing Law shall be the respective law indicated below, based on the domicile of Customer. Each Party to the Agreement consents to personal and exclusive jurisdiction for any equitable or other action sought in the location indicated below. Each Party will bear its own costs with respect to any disputes arising under this Agreement, except where such disputes arise from unpaid fees to Episerver, where Customer shall bear all reasonable legal and administrative costs required to collect such unpaid fees. The United Nations Convention on Contracts for the International Sale of Goods, the Uniform Computer Information Transactions Act (as enacted in any jurisdiction), the Uniform Commercial Code (as enacted in any jurisdiction), and the conflict of law rules of any jurisdiction, is expressly excluded.

If Customer is Domiciled in:	United States of America, Canada, Mexico or any country in Central or South America or the Caribbean	United Kingdom (including England, Northern Ireland, Scotland and Wales), Ireland, Australia and New Zealand	Germany, Austria and Switzerland	Rest of the World
Governing Law:	New Hampshire and controlling U.S. Federal Law.	Laws of England and Wales	Laws and Regulations under Berlin, Germany	Laws of Sweden
Jurisdiction:	U.S. District Court in New Hampshire or any court of the State of New Hampshire having subject matter jurisdiction.	Competent courts of London, England.	Berlin, Federal Republic of Germany	Competent courts of Stockholm, Sweden. English will be the language used.

9.   Force majeure

9.1   The Parties are released from liability for sanctions due to omission to fulfil a certain obligation according to the Agreement, if the omission is due to circumstances, which are outside the control of respective Party and which prevent the fulfilment of the obligation. As soon as the obstacle is removed, the obligation shall be fulfilled in the agreed way. Circumstances include will be war, action of war, authority's act or omission, newly added or changed legislation, conflict in the labor market, electrical, internet, or telecommunication outage that is not caused by the obligated Party and therewith equal circumstances. If a Party desires an exemption according to Section 9.1, the requesting Party shall, without delay, give such notice to the other Party. Notwithstanding the foregoing, the Parties have a right to immediately terminate the Agreement if the fulfilment of a certain obligation is delayed more than two (2) weeks. If Customer terminates the Agreement under this Section then all pre-paid, unused fees will be refunded at the date of such termination.

10.   Amendment; No Waiver

10.1   Customer will be notified at least ninety (90) days before any changes of these terms and conditions as well as any future price adjustment comes into force. Changes to terms and terms and conditions shall not materially reduce the functionality of the Subscription License(s), nor materially change Section 5,6, 7 and 8 above. Episerver may notify Customer of such new terms and conditions as well as adjustments thereto, via the Customer indicated contact person's email, electronic delivery or in any other way that Parties find suitable. Customer may reject such changes to the SEULA through written notice to Episerver within the ninety (90) day notice period, whereby Customer may terminate the Agreement with no-fault,

and be refunded any pre-paid, unused fees, or Customer may remain on the then-current SEULA, however Parties cannot upgrade the Subscription License(s) until such adherence to the proposed new SEULA is agreed to. Unless otherwise agreed by Parties, price adjustments shall never occur mid-Subscription Term, and shall only take effect upon a new renewal term.

11.   General Provisions

11.1   The Agreement is the Parties' entire understanding relating to the Subscription License(s), and supersedes any prior or contemporaneous, conflicting or additional communications. If any provision of the Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect.

11.2   No joint venture, partnership, employment, or agency relationship exists between the Parties.

11.3   Episerver may audit Customer's use of Subscription License(s), as well as installation and use of Software. Customer shall comply with all reasonable requests for audit assistance. If Episerver has proof of Customer underpayment, Episerver shall notify Customer in writing of this alleged discrepancy and invoiced appropriately.

11.4   All sections of the Agreement which by their nature should survive termination will survive, including without limitation, accrued rights to payment, use restrictions and indemnity obligations, confidentiality obligations, warranty disclaimers, and limitations of liability.

11.5   Customer shall not assign or transfer this Agreement nor any of the rights or obligations under this Agreement to a non-

succeeding or non-acquiring entity without Episerver's prior written consent, and such consent shall not be unreasonably withheld. Any such assignment in violation of this Section will be void. Either Party may assign all or part of its rights under the Agreement to an affiliate or to any entity that succeeds to or acquires all or substantially all of the business or assets of such Party through merger, consolidation, or acquisition of stock or assets. This Agreement is binding on any permitted assignees or transferees. For clarity, Customer has no right to sub-license Subscription License(s).

11.6   The Agreement is for the sole benefit of the Parties hereto and their successors and permitted assigns and nothing herein express or implied shall give or be construed to give any person other than the Parties hereto any legal or equitable rights hereunder.

11.7   All notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) the second business day after mailing or (ii) the first business day after sending by email (provided email shall not be sufficient for notices of termination or an indemnifiable claim). Billing-related notices to the Customer shall be addressed to the relevant billing contact designated by the Customer.

11.8   Export Compliance. Subscription License(s), Software, and other technology Episerver makes available, and derivatives thereof may be subject to export laws and regulations of the United States, European Union ("E.U.") and other jurisdictions. Each Party represents that it is not named on any U.S. government or EU denied-party list. Customer shall not permit Users to access or use Subscription License(s) or Software in a U.S. or E.U. embargoed country or in violation of any U.S. or E.U. export law or regulation.

11.9   United States ("U.S.") Government End-User Notice. If Customer is a U.S. Government entity, the Software, and Subscription License(s), is a "Commercial Item", as that term is defined in as that term is defined at 48 C.F.R. § 2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation," as such terms are used in 48 C.F.R. § 12.212 and 48 C.F.R. § 227.7202, as applicable. Consistent with 48 C.F.R. §§ 12.212, 227.7202-1 through 227,7202-4, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end-users (a) only as Commercial Items and (b) with only those rights as are granted to all other end-users pursuant to the terms and conditions herein.