

Fluree Enterprise Terms of Service

Last Update: November 5, 2019

PLEASE READ THIS TERMS OF USE AGREEMENT (“**AGREEMENT**”) CAREFULLY. THIS AGREEMENT IS A LEGAL CONTRACT BETWEEN YOU (“**USER**”) AND FLUREE, PBC (“**FLUREE**,” “**COMPANY**,” “**WE**,” OR “**US**”).

By accessing or using <https://flur.ee>, or any other website with an authorized link to this Agreement (“**Site**”) or accessing or using any content, information, services, features or resources available or enabled via the Site (collectively, the “**Services**”), or clicking on a button or taking another action to signify your acceptance of this Agreement, you: (1) agree to be bound by this Agreement and any future amendments and additions to this Agreement as published through the Services; (2) represent you are of legal age in your jurisdiction of residence to form a binding contract; and (3) represent that you have the authority to enter into this Agreement personally and, if applicable, on behalf of any company, organization or other legal entity on whose behalf you use the Services. **Except as otherwise provided herein, if you do not agree to be bound by this Agreement, you may not access or use the Services.**

IF YOU SUBSCRIBE TO THE SERVICES FOR A TERM (THE “INITIAL TERM”), THEN THE TERMS WILL BE AUTOMATICALLY RENEWED FOR ADDITIONAL PERIODS OF THE SAME DURATION AS THE INITIAL TERM AT FLUREE’S THEN-CURRENT FEE FOR SUCH SERVICES UNLESS YOU DECLINE TO RENEW YOUR SUBSCRIPTION IN ACCORDANCE WITH SECTION 3.6 BELOW.

SECTION 10 OF THIS AGREEMENT IS AN ARBITRATION CLAUSE THAT REQUIRES MOST DISPUTES BETWEEN US TO BE RESOLVED ON AN INDIVIDUAL, NON-CLASS ACTION BASIS THROUGH BINDING AND FINAL ARBITRATION INSTEAD OF IN COURT. SEE SECTION 10 FOR MORE INFORMATION REGARDING THIS ARBITRATION CLAUSE, AND HOW TO OPT OUT.

Your use of the Services is also subject to any additional terms, conditions and policies that we separately post on the Services (“**Supplemental Terms**”), which are incorporated by reference into this Agreement. To the extent there is any conflict between this Agreement and the Supplemental Terms, the Supplemental Terms will control with respect to the subject matter of such agreement.

Fluree reserves the right to modify this Agreement or its policies relating to the Services at any time, effective upon posting of an updated version of this Agreement or any applicable Supplemental Terms on the applicable Services. You should regularly review this Agreement, as your continued use of the Services after any such changes constitutes your agreement to such changes.

A. Terms Applicable to All Services

“Affiliate” means a person or entity that owns, is owned by, or is under common control with a Party, and “control” in this definition means that a person or entity owns more than 50% of the equity interest of any entity and/or has the ability to control the management of such entity.

“Authorization Form” means a document issued by us and executed or otherwise agreed upon by your authorized representative that specifies, among other things and as applicable, a description of the Services, the Fees, the number of Seats and/or units purchased, and any other details specifically related to the Services.

“Customer Content” means all information and data (including, but not limited to, text, images, photos, videos, audio, and documents) or any other content in any media and format that you, directly or indirectly, provide or make available to us in connection with your use of the Services, but excluding Customer Information.

“Customer Information” means information and data submitted by or for you to us in connection with the creation and management of your account for the Services.

“End Users” means individuals who you have authorized to use the Services with varying levels of control and access specified by you and who have been supplied user identifications and passwords. Authorized Users may include your and your Affiliates’ employees, consultants, contractors, agents, or other designees, but shall not include any employee or agent of any Fluree competitor.

“Mentions” means the information, including links, posts, and excerpts, that has been made publicly available and obtained by Fluree on your behalf from the Internet, and data derived therefrom, including reports, summaries, graphs, and charts.

“Party” means either of you or us and “Parties” means, collectively, you and us.

“Seat” means a single subscription associated with a single log-in to a Service, assigned by you to one Authorized User.

“Service Start Date” means, for each Authorization Form, the earlier of (i) the date set forth on the Authorization Form and (ii) the first date on which Customer is granted access to the Services purchased pursuant to the Authorization Form.

“Supported Platform(s)” means the social networking site(s) supported by the Services, including Twitter, Facebook, LinkedIn, Instagram, and other social networking sites as described further on the Site.

“Taxes” means all taxes, assessments, charges, fees, and levies that may be levied or based upon the sale or license of goods and/or services, as the case may be, including all sales, use, goods and services, value added, and excise taxes, custom duties, and assessments together with any installments with respect thereto, and any interest, fines, and penalties with respect thereto, imposed by any governmental authority (including federal, state, provincial, municipal, and foreign governmental authorities).

1. Fluree Services.

1.1 Services. During the Term (as defined herein), subject to the terms and conditions of this Agreement, and solely for your internal business purposes, we shall make the Services available to you in accordance with the applicable Authorization Form describing such Services. You acknowledge that the Services may be subject to usage limits, including any quantities specified in an Authorization Form. If you exceed a usage limit, we may work with you to seek to reduce your usage so that it conforms to that limit. If, notwithstanding our efforts, you are unable or unwilling to abide by a usage limit, you will execute an Authorization Form for additional

quantities of the applicable Services and promptly pay any invoice for excess usage in accordance with Article 4.

12 Customer Affiliates. Each Customer Affiliate that wishes to have a separate account or to be billed separately for its use of the Services shall enter into a separate Authorization Form substantially in the form of the initial Authorization Form, which incorporates the terms of this Agreement by reference.

13 Updates and Functionalities. You acknowledge that from time to time we may apply updates to any of the Services and that such updates may result in changes in the appearance and/or functionality of such Services (including the addition, modification, or removal of functionality, features, or content). Excluding the addition of wholly new products, we will provide, implement, configure, install, support, and maintain at our own cost any and all updates, upgrades, enhancements, improvements, releases, corrections, bug fixes, patches, and modifications to the Services (collectively, the "Updates"). You acknowledge that the Services may interoperate with several Supported Platforms and that such Services are highly dependent on the availability of such Supported Platforms. If at any time any Supported Platforms cease to make their features or programs available to us on reasonable terms, we may cease to provide access to such features or programs without entitling you to a refund, credit, or other compensation.

14 Acceptable Use. You shall:

- (i) be responsible for your Authorized Users' compliance with this Agreement and for any breach of this Agreement by your Authorized Users as if it were your breach;
- (ii) be solely responsible for the accuracy, quality, integrity, and legality of Customer Content and of the means by which you acquire or generate Customer Content;
- (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, including keeping passwords and user names confidential and not permitting any third party to access or use your (or any of your Authorized Users') user name, password, or account for the Services;
- (iv) be solely responsible and liable for all activity conducted through your account in connection with the Services;
- (v) promptly notify us if you become aware of or reasonably suspect any security breach relating in any way to the Services, including any loss, theft, or unauthorized disclosure or use of your (or any of your Authorized Users') user name, password, or account;
- (vi) use, or otherwise access in connection with your use thereof, the Services only in accordance with applicable laws and government regulations; and
- (vii) comply in all respects with all applicable terms of the Third-Party Services that you access or subscribe to in connection with the Services, including, but not exclusively, the applicable terms for Supported Platforms, such as the Twitter Terms of Service published at www.twitter.com/tos, the Facebook Statement of Rights and Responsibilities published at www.facebook.com/legal/terms, the LinkedIn User Agreement published at www.linkedin.com/legal/user-agreement, and the YouTube Terms of Service published at

www.youtube.com/t/terms, as applicable.

You must not:

- (a) make the Services available to anyone other than your Authorized Users;
- (b) except as expressly provided herein, allow more than one individual Authorized User to use a Seat (if applicable);
- (c) sell, trade, or otherwise transfer or your Seats, or assign your rights therein, to another party;
- (d) use the Services to store or transmit any content, including Customer Content, that may be infringing, defamatory, threatening, harmful, or otherwise tortious or unlawful, including any content that may violate intellectual property, privacy, rights of publicity, or other laws, or send spam or other unsolicited messages in violation of applicable law;
- (e) upload to, or transmit from, the Services any data, file, software, or link that contains or redirects to a virus, Trojan horse, worm, or other harmful component;
- (f) attempt to reverse engineer, de-compile, hack, disable, interfere with, disassemble, modify, copy, translate, or disrupt the features, functionality, integrity, or performance of the Services or the Supported Platforms (including any mechanism used to restrict or control the functionality of the Services or the Supported Platforms), any third-party use of the Services or the Supported Platforms, or any third-party data contained therein (except to the extent such restrictions are prohibited by applicable law);
- (g) attempt to gain unauthorized access to the Services, the Supported Platforms, or related systems or networks or to defeat, avoid, bypass, remove, deactivate, or otherwise circumvent any software protection or monitoring mechanisms of the Services or the Supported Platforms;
- (h) access the Services in order to build a similar or competitive product or service or copy any ideas, features, functions, or graphics of the Services or the Supported Platforms; or
- (i) authorize, permit, or encourage any third party to do any of the above. You agree that we may temporarily suspend your access to the Services for a violation of this Section 1.4 or for any abusive practices that degrade the performance of any Service for you and/or our other customers. Examples of abusive practices include tracking singular high-frequency terms such as “love”, “yes”, or “the” and using the Services for redistribution, syndication, or deceitful activities.

1.5 Mentions. You understand that, by using the Services, you may be exposed to third-party content, information, and Mentions that might be unlawful, offensive, harmful, inaccurate, or otherwise inappropriate. Unless you create the content of the Mentions, Mentions shall not be considered “Customer Content” under any circumstances. We have no obligation to preview, verify, flag, modify, filter, or remove any Mentions, even if requested to do so, although we may do so in our sole discretion. Your use of Mentions is at your sole risk, and we shall not be liable to you or any third party in relation to Mentions.

1.6 Agency. If you operate as an agency (an “**Agency Customer**”) representing various

clients (“**Clients**”), you shall also contractually bind each of your Clients for which you are acting as agent in your use of the Services or that you otherwise permit to use the Services under your account to the terms of this Agreement and you will be liable for any breach of this Agreement by your Clients. In addition, as an Agency Customer, you represent and warrant that: (i) you have obtained all necessary authorizations, consents, and licenses from each Client to bind such Client to this Agreement (including each Authorization Form) and act as such Client’s agent and, more particularly, you have obtained all necessary approvals for the use and subscription to the Services by, and on behalf of, such Client; and (ii) all of your actions related to this Agreement will be within the scope of your agency with your Clients. You shall defend, indemnify, and hold harmless Fluree from all damages, liabilities, costs, and expenses (including reasonable attorneys’ fees) arising from your breach of this Section 1.6.

17 Third-Party Products and Services. You acknowledge that the Services may enable or assist you to access, interact with, and/or purchase services from Supported Platforms and other third parties via third-party websites or applications (collectively, the “**Third-Party Services**”). When you access the Third-Party Services, you do so at your own risk. Any use of Third-Party Services is subject solely to the terms and conditions governing such Third-Party Services (and you shall comply with all such terms and conditions), and any contract entered into, or any transaction completed via any Third- Party Services, is between you and the relevant third party, and not Fluree. We make no representation and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such Third-Party Services or any contract entered into and any transactions completed by you with any such third party. Further, you acknowledge and agree that, if you install or enable a Third-Party Service, you grant us permission to allow the provider of such Third-Party Service to access your Customer Content and Customer Information solely to the extent required for the interoperation of the Third-Party Service with the Services or as you may otherwise authorize or direct. Without limiting the generality of the foregoing, if you subscribe in an Authorization Form to any Third-Party Services references, you are expressly agreeing to be bound by the terms and conditions applicable to such services.

18 Non-Exclusivity. You acknowledge that the rights granted to you under this Agreement and any Authorization Form are non-exclusive and that nothing in this Agreement or any Authorization Form will be interpreted or construed to prohibit or in any way restrict our right to license, sell, or otherwise make available the Services to any third party or perform any services for any third party.

19 Beta Testing. From time to time, we may offer you the opportunity to install, use and test (the “Beta Testing”) certain of our services prior to their commercial release (the “Beta Services”). Beta Services are intended for evaluation purposes and not for production use and are subject to following terms: (i) we grant you a limited right to use the Beta Services for Beta Testing purposes during the applicable testing period; (ii) you agree to provide suggestions, comments, or other feedback with respect to the Beta Services as reasonably requested, including ideas for modifications and enhancements (the “Beta Feedback”). You hereby assign to us all right, title and interest in and to the Beta Feedback. All Beta Services and your Beta Feedback are Fluree’s Confidential Information, and Fluree may use your Beta Feedback in advertising and promotional materials with your prior consent (not to be unreasonably withheld); (iii) we reserve the right to modify the Beta Services or terminate your participation in the Beta Testing for any reason, without liability to you. We will use commercially reasonable efforts to provide you with reasonable

advance notice of such termination; (iv) you acknowledge that the Beta Services are not at the level of performance or compatibility of a final, generally available product offering, and may be substantially modified prior to commercial availability, or withdrawn. We are under no obligation to provide technical support with regards to the Beta Services, and we provide no assurance that any specific errors or performance issues in the Beta Services will be corrected; and (v) the Beta Services are provided on an “as is” and “as available” basis without any warranties or conditions of any kind, whether express, implied, statutory or otherwise. Use of the Beta Services is at your sole risk. In no event will we be liable to you for any damage whatsoever arising out of the use of or inability to use the Beta Services.

2. Intellectual Property.

21 Services. As between you and us, we retain all right, title, and interest in and to the Services. Nothing herein shall be construed to restrict, impair, encumber, alter, deprive, or adversely affect the Services or any of our rights or interests therein or any other of our intellectual property, brands, information, content, processes, methodologies, products, goods, services, materials, or rights, tangible or intangible. All rights, title, and interest in and to the Services not expressly granted in this Agreement are reserved by us.

22 Trademarks. Fluree’s stylized logo and all related graphics, logos, service marks and trade names used on or in connection with any Services or in connection with the Services are the trademarks of Fluree and may not be used without permission in connection with your or any third-party products or services. Other trademarks, service marks and trade names that may appear on the Services are the property of their respective owners.

23 Feedback. You may from time to time provide suggestions, comments, or other feedback to us with respect to the Services (“Feedback”). Feedback, even if designated as confidential by you and notwithstanding Article 5 of this Agreement, shall not create any confidentiality obligation for us. You shall, and hereby do, grant to us a non-exclusive, worldwide, perpetual, irrevocable, transferable, sublicensable, royalty- free, fully paid-up license to use and exploit the Feedback for any purpose.

24 Customer Content and Customer Information. You hereby grant us a fully-paid, royalty-free, perpetual, irrevocable, worldwide, non-exclusive license access, use, reproduce, electronically distribute, transmit, perform, format, display, store, archive, and index your Customer Content for the purpose of providing the Services to you and supporting your use of the Services. We may also use Customer Content for the purpose of developing the Services, provided that when doing so, we shall only use Customer Content in an anonymized and aggregated way. Subject only to the limited license expressly granted herein, you and your Authorized Users shall retain all right, title, and interest in and to, and all intellectual property rights in, your Customer Content and your Customer Information. Nothing in this Agreement will confer on us any right of ownership or interest in or to, or the intellectual property rights in, the Customer Content or the Customer Information.

25 Responsibility for Customer Content and Mentions. You are solely responsible for the Customer Content that Authorized Users upload, publish, display, link to, or otherwise make available via the Services, and you agree that the Services are only a passive conduit for the

online distribution and publication of the Customer Content and the online display of Mentions. We will not review, share, distribute, or reference any Customer Content or Mentions, except as provided herein, as provided in our privacy policy published at <https://flur.ee/legal/privacy> (the "Privacy Policy") or as may be required by law. Notwithstanding the foregoing, we retain the authority to remove any Customer Content uploaded that we deem in violation of this Agreement, in our sole discretion.

3. **Fluree Products and Fees.**

3.1 Fees. You agree to pay all fees or charges to your Account in accordance with the fees, charges and billing terms in effect at the time a fee or charge is due and payable. You must provide Fluree with valid payment information as a condition to subscribing to the Services. By providing Fluree with your payment information, you agree that Fluree is authorized to immediately invoice you for all fees and charges due and payable to Fluree hereunder and that no additional notice or consent is required. You agree to immediately notify Fluree of any change in your billing address or the payment information hereunder. Fluree reserves the right at any time to change its prices and billing methods, either immediately upon posting on the Services or by e-mail delivery to you.

3.2 Late Fees. If any amounts invoiced hereunder are not received by us by the due date, then at our discretion, such charges may accrue late interest at the rate of 10% per year or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid. In addition, upon 30 days' written notice to you provided after the due date, we may suspend your access to the Services if we have not received the amounts invoiced hereunder at the expiration of such period.

3.3 Taxes. You are responsible for paying all Taxes associated with your subscription to the Services. If we have the legal obligation to pay or collect Taxes for which you are responsible under this Section 3.3, the appropriate amount shall be invoiced to and paid by you, unless you provide us with a valid tax exemption certificate authorized by the appropriate taxing authority.

3.4 Withholdings. Any and all payments by or on account of the compensation payable under this Agreement shall be made free and clear of and without deduction or withholding for any Taxes. If you are required to deduct or withhold any Taxes from such payments, then the sum payable shall be increased as necessary so that, after making all required deductions or withholdings, we receive an amount equal to the sum we would have received had no such deduction or withholding been made.

3.5 Service Subscription Fees. You will be responsible for payment of the applicable fee for any Services (each, a "**Service Subscription Fee**") at the time you subscribe and select your annual package (each, a "**Service Commencement Date**"). Except as set forth in the Agreement, all fees for the Services are non-refundable. No contract will exist between you and Fluree for the Services until Fluree accepts your order by a confirmatory e-mail, SMS/MMS message, or other appropriate means of communication.

3.6 Automatic Renewal. Your subscription will continue indefinitely until terminated in accordance with the Agreement. **After your initial subscription period, and again after any subsequent subscription period, your subscription will automatically commence on the**

first day following the end of such period (each, a “Renewal Commencement Date”) and continue for an additional equivalent period, at Fluree’s then-current price for such subscription. You agree that your Account will be subject to this automatic renewal feature unless you cancel your subscription at least thirty (30) days prior to the Renewal Commencement Date (or in the event that you receive a notice from Fluree that your subscription will be automatically renewed, you will have thirty days from the date of the Fluree notice). If you do not wish the Services to renew automatically, or if you want to change or terminate your subscription, please contact Fluree at [INSERT EMAIL]. If you cancel your subscription, you may use your subscription until the end of your then-current subscription term; your subscription will not be renewed after your then-current term expires. However, you will not be eligible for a prorated refund of any portion of the subscription fee paid for the then-current subscription period. By subscribing, you authorize Fluree to charge you now, and again at the beginning of any subsequent subscription period. Upon renewal of your subscription, if Fluree does not receive, (a) you agree to pay all amounts due upon demand and/or (b) you agree that Fluree may either terminate or suspend your subscription until payment is received (upon receipt of payment, the Services will be activated and for purposes of automatic renewal, your new subscription commitment period will begin as of the day payment was received).

4. Term and Termination.

4.1 Term of Agreement. The Agreement commences on the date when you accept them (as described in the preamble above) and remain in full force and effect while you use Services, unless terminated earlier in accordance with the Agreement. Notwithstanding the foregoing, you hereby acknowledge and agree that the Agreement commenced on the earlier to occur of (a) the date you first used Services or (b) the date you accepted the Agreement and will remain in full force and effect while you use any Services, unless earlier terminated in accordance with the Agreement.

4.2 Termination of Services by Fluree. You will have thirty (30) days from the Service Commencement Date, or any Renewal Commencement Date, for any Services hereunder, to cancel such Service, in which case Fluree will refund your Service Subscription Fee, if already paid, for the applicable Service. Except as set forth above, the Service Subscription Fee for any Service shall be non-refundable. If timely payment cannot be charged to your Payment Provider for any reason, if you have materially breached any provision of the Agreement, or if Fluree is required to do so by law (e.g., where the provision of the Site or the Services is, or becomes, unlawful), Fluree has the right to, immediately and without notice, suspend or terminate any Services provided to you. You agree that all terminations for cause shall be made in Fluree’s sole discretion and that Fluree shall not be liable to you or any third party for any termination of your Account.

4.3 Termination of Services by You. If you want to terminate the Services provided by Fluree, you may do so by (a) notifying Fluree at any time and (b) closing your Account for all of the Services that you use. Your notice should be sent, in writing, to Fluree’s address set forth below. THE SERVICES WILL CONTINUE AT THE END OF EACH SUBSCRIPTION PERIOD UNLESS YOU CANCEL YOUR SUBSCRIPTION IN ACCORDANCE WITH THE PROCEDURE SET FORTH IN SECTION 3.6.

4.4 Survival. Any provision of this Agreement that, either by its terms or to give effect to

its meaning, must survive and such other provisions that expressly or by their nature are intended to survive termination shall survive the expiration or termination of this Agreement. Without limiting the foregoing, Sections 2.1, 2.3, 2.4, 3, 4.4, 5, 6, 7, 10 and 11 shall survive the expiration or termination of this Agreement.

5. Disclaimer of Warranties.

SOME COUNTRIES AND JURISDICTIONS DO NOT ALLOW THE DISCLAIMER OF IMPLIED TERMS IN CONTRACTS WITH CONSUMERS AND AS A RESULT THE CONTENTS OF THIS SECTION 5 MAY NOT APPLY TO YOU. EXCEPT AS EXPRESSLY PROVIDED HEREIN, TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, WE EXPRESSLY EXCLUDE AND DISCLAIM ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, WE SPECIFICALLY DISCLAIM ALL EXPRESS OR IMPLIED WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUALITY, AND NONINFRINGEMENT, THAT THE SERVICES WILL MEET YOUR REQUIREMENTS, OR THAT OUR SERVICES WILL ALWAYS BE AVAILABLE, ACCESSIBLE, UNINTERRUPTED, TIMELY, SECURE, ACCURATE, COMPLETE, OR ERROR-FREE. IN ADDITION, WE DO NOT WARRANT ANY CONNECTION TO OR TRANSMISSION FROM THE INTERNET. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM US OR ELSEWHERE WILL CREATE ANY WARRANTY OR CONDITION NOT EXPRESSLY STATED IN THIS AGREEMENT. EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED HEREIN.

WE DISCLAIM ANY AND ALL RESPONSIBILITY OR LIABILITY IN RELATION TO THE CONTENT MADE AVAILABLE THROUGH THE SERVICES, INCLUDING CUSTOMER CONTENT, MENTIONS, AND ANY CONTENT OR SERVICES PROVIDED BY THIRD PARTIES. WE DO NOT CONTROL OR VET CUSTOMER CONTENT OR MENTIONS AND WE ARE NOT RESPONSIBLE FOR WHAT OTHER USERS POST, TRANSMIT, OR SHARE ON OR THROUGH THE SERVICES. WE ARE NOT RESPONSIBLE OR LIABLE IN ANY MANNER FOR ANY SUPPORTED PLATFORMS OR THIRD-PARTY SERVICES ASSOCIATED WITH OR UTILIZED IN CONNECTION WITH THE SERVICES, INCLUDING THE FAILURE OF ANY SUCH SUPPORTED PLATFORMS OR THIRD-PARTY SERVICES. WE EXPRESSLY DENY ANY RESPONSIBILITY RESULTING FROM HACKING, TAMPERING, OR OTHER UNAUTHORIZED ACCESS OR USE OF THE SERVICES OR YOUR ACCOUNT OR THE INFORMATION CONTAINED THEREIN.

6. Indemnification

You shall defend, indemnify, and hold harmless us and our directors, officers, employees, and agents from and against all claims, losses, damages, penalties, liability, and costs, including reasonable attorneys' fees, of any kind or nature that are in connection with or arising out of a claim (a) alleging that Customer Content or your use of the Services infringes or violates the intellectual property rights, privacy rights, or other rights of a third party or violates any applicable law; (b) relating to, or arising from, Customer Content, Customer Information or your breach of Section 1.4 or 1.7; or (c) relating to, or arising from, your use of any Third-Party Services (including your breach of any terms or conditions applicable to any Third-Party Services).

7. Limitation of Liability.

EXCEPT AS EXPRESSLY PROVIDED HEREIN, IN NO EVENT SHALL OUR AGGREGATE LIABILITY TO YOU FOR ALL CLAIMS OF ANY KIND, INCLUDING ANY CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER BY STATUTE, CONTRACT, TORT, OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE FEES PAID BY YOU, OR PAID ON YOUR BEHALF, FOR THE SERVICES SUBJECT TO THE CLAIM DURING THE THREE (3) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE CAUSE OF ACTION AROSE. YOUR EXCLUSIVE REMEDIES FOR ANY INTERRUPTION OR CESSATION OF ACCESS OR TRANSMISSION TO OR FROM THE SERVICES ARE SET FORTH IN THE APPLICABLE SERVICE LEVEL AGREEMENT.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL WE, OUR DIRECTORS, EMPLOYEES, AGENTS, OR LICENSORS BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING DAMAGES FOR LOSS OF PROFITS, GOODWILL USE, OR DATA OR OTHER INTANGIBLE LOSSES, THAT RESULT FROM THE USE OF, OR INABILITY TO USE, THE SERVICES OR ANY OTHER ASPECT OF THIS AGREEMENT. UNDER NO CIRCUMSTANCES WILL WE BE RESPONSIBLE FOR ANY DAMAGE, LOSS, OR INJURY RESULTING FROM HACKING, TAMPERING, OR OTHER UNAUTHORIZED ACCESS OR USE OF THE SERVICES OR YOUR ACCOUNT OR THE INFORMATION CONTAINED THEREIN.

THE PARTIES ACKNOWLEDGE AND AGREE THAT THE ESSENTIAL PURPOSE OF THIS SECTION 7 IS TO ALLOCATE THE RISKS UNDER THESE TERMS BETWEEN THE PARTIES AND LIMIT THEIR POTENTIAL LIABILITY GIVEN THE FEES CHARGED UNDER THIS AGREEMENT, WHICH WOULD HAVE BEEN SUBSTANTIALLY HIGHER IF WE WERE TO ASSUME ANY FURTHER LIABILITY OTHER THAN AS SET FORTH HEREIN. THE PARTIES HAVE RELIED ON THESE LIMITATIONS IN DETERMINING WHETHER TO ENTER INTO THESE TERMS. NOTHING IN THIS AGREEMENT IS INTENDED TO EXCLUDE OR RESTRICT OR SHALL BE CONSTRUED AS EXCLUDING OR RESTRICTING OUR LIABILITY FOR (I) DEATH OR PERSONAL INJURY CAUSED BY OUR NEGLIGENCE OR THE NEGLIGENCE OF OUR EMPLOYEES; (II) OR OUR EMPLOYEES' WILLFUL MISCONDUCT; OR (III) ANY LIABILITY THAT CANNOT BE LIMITED OR EXCLUDED BY APPLICABLE LAW.

8. Procedure for Making Claims of Copyright Infringement.

It is Fluree's policy to terminate membership privileges of any Registered User who repeatedly infringes copyright upon prompt notification to Fluree by the copyright owner or the copyright owner's legal agent. Without limiting the foregoing, if you believe that your work has been copied and posted on Services in a way that constitutes copyright infringement, please provide our Copyright Agent with the following information: (a) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest; (b) a description of the copyrighted work that you claim has been infringed; (c) a description of the location on Services of the material that you claim is infringing; (d) your address, telephone number and e-mail address; (e) a written statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent or the law; and (f) a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf. Contact information for Fluree's Copyright Agent for notice of claims of copyright infringement is as follows: Brian Platz,

Fluree, PBC, 450 Design Avenue, Winston-Salem, NC, 27101.

9. International Users.

The Services can be accessed from countries around the world and may contain references that are not available in your country. The Services are controlled and offered by Fluree from its facilities in the United States of America. Fluree makes no representations that the Services are appropriate or available for use in other locations. Those who access or use the Services from other countries do so at their own volition and are responsible for compliance with local law.

10. Dispute Resolution. *Please read the following arbitration agreement in this Section ("Arbitration Agreement") carefully. It requires you to arbitrate disputes with Fluree and limits the manner in which you can seek relief from us.*

10.1 Applicability of Arbitration Agreement. You agree that any dispute or claim relating in any way to your access or use of the Website, to any products sold or distributed through the Website, or to any aspect of your relationship with Fluree, will be resolved by binding arbitration, rather than in court, except that (1) you may assert claims in small claims court if your claims qualify; and (2) you or Fluree may seek equitable relief in court for infringement or other misuse of intellectual property rights (such as trademarks, trade dress, domain names, trade secrets, copyrights, and patents). **This Arbitration Agreement shall apply, without limitation, to all claims that arose or were asserted before the effective date of this Agreement or any prior version of this Agreement.**

10.2 Arbitration Rules and Forum. The Federal Arbitration Act governs the interpretation and enforcement of this Arbitration Agreement. To begin an arbitration proceeding, you must send a letter requesting arbitration and describing your claim to our registered agent. The arbitration will be conducted by JAMS, an established alternative dispute resolution provider. Disputes involving claims and counterclaims under \$250,000, not inclusive of attorneys' fees and interest, shall be subject to JAMS's most current version of the Streamlined Arbitration Rules and procedures available at <http://www.jamsadr.com/rules-streamlined-arbitration/>; all other claims shall be subject to JAMS's most current version of the Comprehensive Arbitration Rules and Procedures, available at <http://www.jamsadr.com/rules-comprehensive-arbitration/>. JAMS's rules are also available at www.jamsadr.com or by calling JAMS at 800-352-5267. If JAMS is not available to arbitrate, the parties will select an alternative arbitral forum. If the arbitrator finds that you cannot afford to pay JAMS's filing, administrative, hearing and/or other fees and cannot obtain a waiver from JAMS, Fluree will pay them for you. In addition, Fluree will reimburse all such JAMS's filing, administrative, hearing and/or other fees for claims totaling less than \$10,000 unless the arbitrator determines the claims are frivolous. You may choose to have the arbitration conducted by telephone, based on written submissions, or in person in the country where you live or at another mutually agreed location. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

10.3 Authority of Arbitrator. The arbitrator shall have exclusive authority to (a) determine the scope and enforceability of this Arbitration Agreement and (b) resolve any dispute related to the interpretation, applicability, enforceability or formation of this Arbitration Agreement including, but not limited to, any claim that all or any part of this Arbitration Agreement is void or voidable. The arbitration will decide the rights and liabilities, if any, of you and Fluree. The arbitration proceeding will not be consolidated with any other matters or joined with any other cases or parties. The arbitrator shall have the authority to grant motions dispositive of all or part of any claim. The arbitrator shall have the authority to award monetary damages and to grant any non-monetary remedy or relief available to an individual under applicable law, the arbitral forum's

rules, and the Agreement (including the Arbitration Agreement). The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding upon you and us.

10.4 Waiver of Jury Trial. YOU AND FLUREE HEREBY WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO SUE IN COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY. You and Fluree are instead electing that all claims and disputes shall be resolved by arbitration under this Arbitration Agreement, except as specified above. An arbitrator can award on an individual basis the same damages and relief as a court and must follow this Agreement as a court would. However, there is no judge or jury in arbitration, and court review of an arbitration award is subject to very limited review.

10.5 Waiver of Class or Other Non-Individualized Relief. ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS OR COLLECTIVE BASIS, ONLY INDIVIDUAL RELIEF IS AVAILABLE, AND CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER. If a decision is issued stating that applicable law precludes enforcement of any of this subsection's limitations as to a given claim for relief, then the claim must be severed from the arbitration and brought into the State or Federal Courts located in the State of North Carolina. All other claims shall be arbitrated.

10.6 30-Day Right to Opt Out. You have the right to opt out of the provisions of this Arbitration Agreement by sending written notice of your decision to opt out to: [INSERT EMAIL], within 30 days after first becoming subject to this Arbitration Agreement. Your notice must include your name and address, your Fluree username (if any), the email address you used to set up your Fluree account (if you have one), and an unequivocal statement that you want to opt out of this Arbitration Agreement. If you opt out of this Arbitration Agreement, all other parts of this Agreement will continue to apply to you. Opting out of this Arbitration Agreement has no effect on any other arbitration agreements that you may currently have, or may enter in the future, with us.

10.7 Severability. Except as provided above, if any part or parts of this Arbitration Agreement are found under the law to be invalid or unenforceable, then such specific part or parts shall be of no force and effect and shall be severed and the remainder of the Arbitration Agreement shall continue in full force and effect.

10.8 Survival of Agreement. This Arbitration Agreement will survive the termination of your relationship with Fluree.

10.9 Modification. Notwithstanding any provision in this Agreement to the contrary, we agree that if Fluree makes any future material change to this Arbitration Agreement, you may reject that change within thirty (30) days of such change becoming effective by writing Fluree at the following address: Fluree, PBC, 450 Design Avenue, Winston-Salem, NC, 27101.

11. General.

11.1 Assignment. Neither Party may assign or otherwise transfer any of its rights or

obligations hereunder, whether by merger, sale of assets, change of control, operation of law, or otherwise, without the prior written consent of the other Party (not to be unreasonably withheld), and any attempted assignment without such consent will be void. Notwithstanding the foregoing, we may assign this Agreement in its entirety (including all Authorization Forms), without your consent, to one of our Affiliates or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of our shares or assets.

11.2 Relationship of the Parties. No agency, partnership, joint venture, or employment relationship is created as a result of this Agreement and neither Party has any authority of any kind to bind the other in any respect.

11.3 Publicity. You agree that we may use your name and may disclose that you are a customer of the Services in our advertising, press, promotion, and similar public disclosures, including at trade shows and similar events. In addition to the foregoing, you hereby grant us a non-exclusive license during the Term to list your name and display your logo as a Fluree customer on our website.

11.4 Force Majeure. Except for payment obligations, neither Party shall be liable for any failure to perform its obligations hereunder where such failure results from any cause beyond such Party's reasonable control, including the elements; fire; flood; severe weather; earthquake; vandalism; accidents; sabotage; power failure; denial of service attacks or similar attacks; Internet failure; acts of God and the public enemy; acts of war; acts of terrorism; riots; civil or public disturbances; strikes lock-outs or labor disruptions; and any laws, orders, rules, regulations, acts or restraints of any government or governmental body or authority, civil or military, including the orders and judgments of courts.

11.5 Amendment. We reserve the right to modify, supplement, or replace this Agreement, effective upon posting on the Site or otherwise notifying you. Your continued use of the Services after the effectiveness of that update will be deemed to represent your agreement with, and consent to be bound by, the new Agreement. Except for changes made by us as described here, no other amendment or modification of this Agreement shall be effective unless set forth in a written agreement bearing a written signature by Fluree and Customer.

11.6 Severability. Each provision of this Agreement is severable. If any provision of this Agreement is or becomes illegal, invalid, or unenforceable in any jurisdiction, the illegality, invalidity, or unenforceability of that provision will not affect the legality, validity, or enforceability of the remaining provisions of this Agreement or of that provision in any other jurisdiction.

11.7 Notices. For purposes of service messages and notices about the Services, we may place a banner notice across the Services or the Site to alert you of certain changes such as modifications to this Agreement. Alternatively, notice may consist of an email from us to an email address associated with your account, even if we have other contact information. For communication about your Fluree account and services associated with us, we may contact you or your Authorized Users through your Fluree account or through other means including email, mobile number, telephone, or delivery services such as the postal service. You acknowledge and agree that we shall have no liability associated with or arising from your failure to maintain accurate contact or other information, including your failure to receive critical information about the Services.

11.8 Waivers. No waiver of any provision of this Agreement is binding unless it is in writing and signed by all Parties to this Agreement, except that any provision that does not give rights or benefits to particular Parties may be waived in writing, signed only by those Parties who have rights under, or hold the benefit of, the provision being waived if those Parties promptly send a copy of the executed waiver to all other Parties. No failure to exercise, and no delay in exercising, any right or remedy under this Agreement will be deemed to be a waiver of that right or remedy. No waiver of any breach of any provision of this Agreement will be deemed to be a waiver of any subsequent breach of that provision or of any similar provision.

11.9 Governing Law. This Agreement and each of the documents contemplated by or delivered under or in connection with this Agreement are governed exclusively by, and will be enforced, construed, and interpreted exclusively in accordance with the laws applicable in North Carolina, USA. The Parties irrevocably attorn to the exclusive jurisdiction of the courts of North Carolina. In any action or proceeding to enforce rights under this Agreement, (a) the prevailing party shall be entitled to recover costs and attorneys' fees; and (b) if applicable, the parties irrevocably waive any right to a trial by jury.

11.10 Entire Agreement. The terms of this Agreement, together with any applicable Authorization Forms, our Privacy Policy, and our Copyright Policy, constitute the entire agreement between the Parties with respect to the subject matter thereof and supersede any prior or inconsistent agreements, negotiations, representations, and promises, written or oral, with respect to the subject matter and is binding upon the Parties and their permitted successors and assigns. In the event of any conflict between this Agreement and the terms of an Authorization Form, the provisions of the Authorization Form shall prevail. The terms of this Agreement will apply to all orders submitted to us and shall supersede any additional terms that may be incorporated in a purchase order form or any other Customer-generated form. Any such Customer terms shall be null and void.

B. Fluree Advocate– Additional Terms

If you purchase FlureeAdvocate, in an Authorization Form, the following Additional Terms apply to your access to, and use of, such Services in addition to the Terms Applicable to All Services contained herein.

1. Additional Definition.

“FlureeAdvocate” means our proprietary software, content, text, images, media, and other materials delivered through our web platform www.flur.ee (including successor domain names and sites) and mobile applications that provide for a single log-in, centralized dashboard that enables Authorized Users to manage and publish social media content to multiple Supported Platforms, including any modifications or Updates but which, for greater certainty, does not include any Third-Party Services.

2. FlureeAdvocate.

2.1 FlureeAdvocate. During the term of any applicable Authorization Form, subject to the terms and conditions of this Agreement, and solely for your internal business purposes, we shall

make the FlureeAdvocate available to you and your Authorized Users for the number of Seats purchased in accordance with the applicable Authorization Form.

2.2 Hosting Services; Service Levels. We shall use commercially reasonable efforts to host and serve FlureeAdvocate in accordance with the service level criteria and performance metrics set forth in the service level agreement published at www.flur.ee/enterprise-service-level-agreement.

C. Fluree Professional Services – Additional Terms

If you purchase Fluree Professional Services in an Authorization Form, the following Additional Terms apply to your access to and use of such Services in addition to the Terms Applicable to All Services.

1. Additional Definitions.

“Background IP” means the various intellectual property, including, but not limited to, content, information, data, tools, processes, methods, designs, and know-how, whether or not copyrightable or patentable, that we may use in connection with the Professional Services and the Deliverable, whether pre-existing or created or invented during the performance of the Professional Services. Background IP specifically excludes any Deliverable and Customer Content.

“Professional Services” means the training or other services set forth in the applicable Authorization Form.

“Deliverables” means the training or other offering to be developed by us and specifically identified by us as a deliverable in the applicable Authorization Form.

2. Professional Services and Deliverables.

2.1 Professional Services and Deliverables. During the term of any applicable Authorization Form, subject to the terms and conditions of this Agreement, and solely for your internal business purposes, we shall provide the Professional Services and the Deliverables, if any, to you as set out in such Authorization Form.

2.2 Cooperation. In order for us to perform the Professional Services and deliver the Deliverables, if any, you shall, in a timely manner: (i) make yourself reasonably available at such times and locations as we may require; (ii) allocate sufficient resources, perform any tasks, and deliver any materials, including Customer Content, reasonably necessary to enable us to perform our obligations under the applicable Authorization Form; (iii) respond to our inquiries related to the Professional Services; and (iv) provide complete, accurate, and timely information, data, and feedback all as reasonably required by us. If you do not comply with your obligations in this Section 2.2 in a timely manner, delays may result or we may charge you additional fees. For greater certainty, Sections 1.4, 2.4 and 2.5 of the Terms Applicable to All Services contained herein apply to Customer Content provided to us in connection with the Professional Services.

2.3 Time of Performance. Subject to Section 11.4 of the Terms Applicable to All Services,

we shall use commercially reasonable efforts to provide the Professional Services and deliver the Deliverables, if any, according to the schedule set forth in the applicable Authorization Form. Notwithstanding the foregoing, we may, in our sole discretion, alter the schedule for the Professional Services or extend the delivery date for any Deliverables by giving reasonable notice to you; provided further that we shall use commercially reasonable efforts to minimize further delays.

2.4 Scope Changes. You may, from time to time, request changes in the scope of the Professional Services (a “**Change Request**”). Upon receipt of a written Change Request, we shall evaluate such requested changes and, within 10 days of such Change Request, submit to you a written response (the “**Change Order**”) to the Change Request. The Change Order shall indicate, among other things, the extent to which the Change Request will impact the Fees, the Deliverables, if any, and/or other terms set forth in the applicable Authorization Form. If you accept such Change Order (such acceptance to be indicated in writing), the Change Order will be incorporated by reference into the applicable Authorization Form and will be deemed to amend and modify the applicable Authorization Form to the extent specified in the Change Order. Should you not accept the Change Order, the applicable Authorization Form shall continue in full force and effect, unamended.

2.5 Term. If an end date is not specified in an applicable Authorization Form, such Authorization Form shall remain in effect until the date on which both Parties have fully performed their obligations thereunder.

2.6 Acceptable Use of Deliverables. You shall use the Deliverables only as permitted herein and in accordance with applicable laws and government regulations.

2.7 Our Employees/Contractors. You will not directly or indirectly at any time during the term of the applicable Authorization Form and for twelve (12) months thereafter, (i) induce or encourage any of our employees or contractors to leave their employment or engagement with us; or (ii) employ, attempt to employ, assist any person to employ, or retain as an employee, consultant, or contractor any of our employees or contractors or former employees or contractors, without our prior written consent.

3. Intellectual Property.

3.1 License for Deliverables. During the term of the applicable Authorization Form, subject to the terms and conditions of this Agreement, and solely for your internal business purposes, we grant to you a limited, worldwide, non-exclusive, non-transferable license, without a right to sublicense, to use and display the Deliverables as set out in such Authorization Form.

3.2 Professional Services and Background IP. As between you and us, we retain all right, title, and interest in and to the Professional Services, the Deliverables, and the Background IP, and any derivative intellectual property developed as a result of this Agreement by either party. Nothing herein shall be construed to restrict, impair, encumber, alter, deprive, or adversely affect any of our rights or interests therein. We reserve all rights, title, and interest in and to the Professional Services, the Deliverables, and the Background IP not expressly granted herein.

4. Additional Warranty.

4.1 Additional Fluree Warranty. Fluree warrants that the Professional Services will be performed in a professional manner in accordance with generally accepted industry standards. For any breach of the above warranty, your exclusive remedy and our entire liability will be the re-performance of the applicable Professional Services. If we are unable to re-perform the Professional Services as warranted, your exclusive remedy will be to seek recovery of any Fees paid to us for the deficient Professional Services. You must make any claim under the foregoing warranty to us in writing within thirty (30) days of performance of such Professional Services in order to receive the foregoing remedies.