

General Terms and Conditions (GTC) for Mindbreeze InSpire

Valid as of September 30, 2026



Copyright ©

Mindbreeze Corporation, 2026.

All rights reserved. All hardware and software names are brand names and/or trademarks of their respective manufacturers.

These documents are strictly confidential. By sole transmission and presentation of these documents, no rights to our software, our services and service results, nor to other propriety rights are substantiated.

The transfer, publication or duplication is prohibited.

For reasons of legibility gender specific differentiation is omitted. Relevant terms in the name of equal treatment apply in principle to both genders.

Content

1.	Applicability	4
2.	Provision of Service Package; Grant of License to Access and Use Software; License Restrictions; Ownership of Service Package	4
3.	Subscription Fee	6
4.	Term and Termination	6
5.	Updates	7
7.	Confidential Information	9
8.	Limited Warranty and Disclaimer	9
9.	LIMITATION OF LIABILITY	10
10.	Indemnification	11
11.	Miscellaneous	12

1. Applicability

- (a) These terms and conditions (the “Terms”) for a service package are the only terms governing the provision of services by Mindbreeze Corporation (“Mindbreeze”) and customers’ (each, a “Customer”) use of the service package for the virtual cloud appliance “Mindbreeze InSpire” and corresponding hardware appliance(s) (together, referred to as “service package”), as well as the mutual rights and obligations of the parties. The parties acknowledge and agree that the virtual cloud appliance “Mindbreeze InSpire” and corresponding hardware appliance(s) constitute a single integrated solution and are available only as part of a combined service package. Neither the virtual cloud appliance “Mindbreeze InSpire” nor the corresponding hardware appliance(s) may be ordered, licensed, sold, or provided separately unless otherwise agreed in writing by the parties.
- (b) Any order (each, an “Order”), as confirmed by a written order confirmation (each, an “Order Confirmation”), and these Terms (collectively, this “Agreement”) comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. In the event of any conflict, ambiguity or inconsistency between these Terms and an Order, as confirmed by an Order Confirmation, the Order, as confirmed by an Order Confirmation, shall prevail over these Terms to the extent of such conflict, ambiguity or inconsistency.
- (c) Accompanying the service package, Mindbreeze provides to Customer the necessary user manuals, handbooks, and installation guides relating to the software and hardware that Mindbreeze provides or makes available to Customer, in any form or medium, which describe the functionality, components, features, or requirements of the software or hardware appliance, as applicable, including any aspect of the installation, configuration, integration, operation, or use of the software or hardware appliance, as applicable, which may be amended from time to time at Mindbreeze’s sole discretion, in the version applicable at the time of execution of this Agreement by Customer (“Documentation”). The Documentation forms an integral part of this Agreement.
- (d) These Terms prevail over any of Customer’s general terms and conditions, regardless whether or when Customer has submitted its request for proposal, order, or such terms. Provision of services to Customer does not constitute acceptance of any of Customer’s terms and conditions and does not serve to modify or amend these or further Terms.

2. Provision of Service Package; Grant of License to Access and Use Software; License Restrictions; Ownership of Service Package

- (a) Provision of Hardware. As applicable, Mindbreeze provides the service package to Customer for the Term (as defined below) and in accordance with the terms and conditions of this Agreement and solely for the Permitted Use (as defined below).
- (b) Grant of License. Mindbreeze grants to Customer a non-exclusive, non-sublicensable and non-transferable license to use the software solely for the Permitted Use (as defined below) in the Territory (as defined below) for the Term (as defined below), in accordance with the terms and conditions of this Agreement (the “License”).
- (c) Permitted Use. The service package may be used for internal business operations only (the “Permitted Use”). The Permitted Use is further specified in the Documentation.
- (d) License Restrictions. Except as this Agreement expressly permits, and subject to any restrictions in the Documentation, Customer shall not, and shall not permit any other person to:
 - (i) copy the software, in whole or in part;
 - (ii) modify, correct, adapt, alter, translate, enhance, or otherwise prepare derivative works or improvements of any software;

- (iii) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the software to any third party;
 - (iv) reverse engineer, disassemble, decompile, decode, or adapt the software, or otherwise attempt to derive or gain access to the source code of the software, in whole or in part;
 - (v) bypass or breach any security device or protection used for or contained in the software or Documentation;
 - (vi) remove, delete, efface, alter, obscure, translate, combine, supplement, or otherwise change any trademarks, terms of the Documentation, warranties, disclaimers, or intellectual property rights, proprietary rights or other symbols, notices, marks, or serial numbers on or relating to any copy of the software or Documentation;
 - (vii) use the software in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law;
 - (viii) use the Software for purposes of (A) benchmarking or competitive analysis of the software; (B) developing, using, or providing a competing software product or service; or (C) any other purpose that is to Mindbreeze's detriment or commercial disadvantage;
 - (ix) use the software in or in connection with the design, construction, maintenance, operation, or use of any hazardous environments, systems, or applications, any safety response systems or other safety-critical applications, or any other use or application in which the use or failure of the software could lead to personal injury or severe physical or property damage; or
 - (x) use the software or Documentation other than for the Permitted Use or in any manner or for any purpose or application not expressly permitted by this Agreement.
- (e) Compliance; Books and Records; Audit Right. Mindbreeze may request appropriate documentation confirming Customer's use of the service package in accordance with this Agreement, the Documentation, an Order, as confirmed by the applicable Order Confirmation, and/or applicable law. Customer shall maintain complete and accurate books and records reasonably necessary to demonstrate its compliance with this Agreement during the Term and for a period of three (3) years thereafter. Upon prior notice reasonably in advance, Mindbreeze may audit such books and records to verify Customer's compliance with this Agreement. Any such audit shall be conducted during normal business hours and in a manner that minimizes disruption to Customer's operations. If an audit reveals a material breach of this Agreement, Customer shall remedy such breach in accordance with this Agreement and reimburse Mindbreeze for the reasonable costs of the audit.
- (f) Intellectual Property Ownership to Software. Customer acknowledges and agrees that:
- (i) the software and Documentation are licensed, not sold, to Customer by Mindbreeze and Customer does not have under or in connection with this Agreement any ownership interest in the software or Documentation, or in any related intellectual property rights;
 - (ii) Mindbreeze is the sole and exclusive owner of all rights, title, and interest in and to the software and Documentation, including all intellectual property rights relating thereto, subject only to the License granted under this Agreement; and
 - (iii) Customer hereby unconditionally and irrevocably assigns to Mindbreeze, its entire right, title, and interest in and to any intellectual property rights that Customer may now or hereafter have in or relating to the software or Documentation (including any rights in derivative works or patent improvements relating to either of them), whether held or acquired by operation of law, contract, assignment or otherwise.
- (g) Use of Service Package, Ownership to Service Package; Risk of Loss. Mindbreeze is the sole and exclusive owner of all rights, title, and interest in and to the service package, subject only to the Permitted Use granted to Customer in accordance with as set forth herein. Customer must handle the service package in accordance with the Documentation, which includes a handling that is proper and with care. Customer bears the risk of loss or damage of the service package upon delivery of the service package to Customer until return to Mindbreeze upon termination or expiration of this Agreement.

Customer shall adequately insure the service package against damage or loss with a reputable insurer and shall provide certification of such insurance to Mindbreeze upon request.

3. Subscription Fee

- (a) Fee and Payment. Customer shall pay Mindbreeze a subscription fee (the "Subscription Fee") as set forth in the applicable Order Confirmation for the service package provided under this Agreement. Unless otherwise set forth in the applicable Order Confirmation, payment of the Subscription Fee and any additional fee, as applicable, shall be made upon issuance of an invoice by Mindbreeze, and Customer shall make payment of any amounts set forth in an invoice so issued within thirty (30) days from the date of the invoice. Additional fees may apply.
- (b) Adjustment. The Subscription Fee, as set forth in the applicable Order Confirmation, will be increased in accordance with the United States of America Consumer Price Index (the "CPI-U Index") on each anniversary, calculated from the Effective Date for that one (1)-year period, (each, a "Reference Period") as reflected in the applicable Order Confirmation. For the purposes of this Agreement, the Index at a particular time shall be the CPI-U Index most recently published by the United States Bureau of Economics and Statistics at that time. In case of a decrease of the CPI-U Index as compared to the last Reference Period, the Subscription Fee will not be adjusted compared to the last Reference Period.
- (c) Account Information. The Customer shall pay the Subscription Fee and any additional fee when due in immediately available funds, and to the account Mindbreeze so designates via the Order Confirmation or otherwise designated by Mindbreeze in writing upon reasonable prior notice to Customer.
- (d) Taxes. Payment amounts under this Agreement do not include taxes. Customer shall be responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Customer hereunder, other than any taxes imposed on Mindbreeze's income. Notwithstanding the foregoing, Mindbreeze reserves the right to collect and charge any applicable sales and use taxes unless Customer provides a valid exemption certificate, resale certificate, or other documentation sufficient to establish an exemption under the laws of the applicable taxing jurisdiction (including the applicable ship-to state or end-user location) prior to invoicing.
- (e) Interest on Late Payments. Any amount not paid when due will bear interest from the due date until paid at a rate equal to one and a half percent (1.5%) per month, or the maximum amount permitted by applicable law, whichever is lower.
- (f) No Set-Off. The Customer is not permitted to set off its claims against claims of Mindbreeze.

4. Term and Termination

- (a) Term and Termination. This Agreement begins on the delivery date of the service package, as set forth on the applicable Order Confirmation (the "Effective Date"), and remains in effect for the initial period as stated therein (the "Initial Term"). Unless terminated in writing by either party, by providing three (3) months written notice to the other party, in case the Initial Term is one (1) year or less, or by providing six (6) months prior written notice to the other party, in case the Initial Terms if more than one (1) year, the Agreement shall automatically renew for a period equal to the Initial Term (the "Renewal Term", together with the Initial Term, the "Term").

In the event of a termination by the Customer, Customer must give written notice to the following email address, including setting forth the Customer's name, address, any Customer identifiers and a statement that Customer intends to terminate (including stating a cause for termination) or not to renew this Agreement, as the case may be, to cancel@mindbreeze.com.

- (b) Each party may terminate this Agreement with immediate effect upon written notice to the respective other party, if such other party:
 - (i) fails to pay any amount when due under this Agreement and such failure continues for fourteen (14) days after the other party's receipt of written notice of nonpayment;
 - (ii) materially breaches this Agreement, and such breach: (A) is incapable of cure; or (B) being capable of cure, remains uncured for thirty (30) days after the non-breaching party provides the breaching Party with written notice of such breach; or
 - (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors.
- (c) Effect of Termination. Upon the expiration or termination of the Term, Mindbreeze informs the Customer about the intended collection date for the service package that has been made available for use. For the purpose of collection Mindbreeze has the right of access to the customer's premises on which the service package is located, to be exercised in Mindbreeze's reasonable discretion.

After the termination or expiration of this agreement, the Customer is obliged to put the service package out of service consistent with applicable law and to immediately provide a written statement to Mindbreeze in proof of legally compliant abandonment / shut down of the service package. Upon (by Mindbreeze confirmed) receipt of such statement and upon further instructions of Mindbreeze, Customer is entitled to destroy or otherwise dispose the service package. Customer must comply with all applicable export control regulations and restrictions which are under the sole responsibility of Customer.

5. Service Package Updates

For each advancement to and further development of the service package ("updated service package"), Mindbreeze provides written updated service package Documentation to the Customer. This updated service package Documentation sets forth the intended use, the application conditions, as well as features and properties of the updated service package. The customer receives any such Documentation through announced updates on the internet (see: <http://inspire.mindbreeze.com>). The Customer receives updates (in the form of software updates or service packages) as they become available. Delivery will be made by providing downloads on the internet or similar. The service package Documentation of the latest service package version applies. If an updated service package becomes available to the Customer, the Customer must return the previous version of the service package used by the Customer, and all copies thereof or must fully erase it from its data carriers, data storage devices or processing equipment within three (3) months after receipt of the updated service package, as instructed by Mindbreeze. Customer must follow all other instructions provided by Mindbreeze thereto, including providing written proof of any actions that Mindbreeze requires the Customer to take for this purpose.

6. Support Services and Customer Obligations

- (a) During the Term, the Customer will receive the following technical support:
 - a. The Customer receives the applicable Documentation through announced updates on the internet (see: <https://inspire.mindbreeze.com>).
 - b. The Customer has the option for electronic support, by means of an electronic portal set up by Mindbreeze (see <https://support.mindbreeze.com>), for which additional fees depending on the performance requirements of the Customer become due, as instructed by Mindbreeze. If the Customer makes use of the option to receive electronic support by means of this electronic portal, the following applies:
 - i. Mindbreeze provides support based on a separate order placed by the Customer. The Customer has the right to direct a limited, agreed upon number of support requests to Mindbreeze, which Mindbreeze will process under these conditions. A support request is defined as follows: The support request is a problem that cannot be broken down into sub-areas (the smallest unit). If a problem (support request) consists of different parts/areas, each of these parts/areas is considered a single support request. The correction of deficiencies in the software products does not constitute a use of a support request.
 - ii. Prior to Mindbreeze providing support to a support request, the Customer's contact person and the responsible expert at Mindbreeze will agree upon the qualification of the problem, define the parameters for an acceptable solution, and define when this solution is to be provided. A support request may require multiple contacts and investigations until a solution is found. Mindbreeze ensures that the information provided is adequate with state-of-the-art technology.
- (b) The Customer shall collaborate with Mindbreeze. The Customer shall provide information in regard to the precise system configuration and convey additional information, as requested by Mindbreeze.
- (c) Customer shall be responsible for obtaining and maintaining all hardware appliances, software, and communication equipment needed to internally access the service package, and paying all third-party access charges incurred while using the service package. Customer shall be responsible for implementing, maintaining, and updating all necessary and proper procedures and software for safeguarding against computer infection, viruses, worms, Trojan horses, and other code that manifest contaminating or destructive properties (collectively "Viruses").
- (d) The Customer must handle the service package in accordance with the operating instructions made available by Mindbreeze (see applicable Documentation), properly and with care.
- (e) If a support request relates to a technological issue, in accordance with the software or hardware appliances, or Documentation of the relevant Mindbreeze software or hardware appliances that is a part of this Agreement, which is not supported (other technology), Mindbreeze will endeavor to provide support to such a support request. However, it is clear, by mutual agreement, that Mindbreeze cannot assume guarantees and/or warranties of any kind for such requests.
- (f) Notwithstanding the parties' obligations set forth in Section 7. below, the Customer agrees to keep all Confidential Information of Mindbreeze strictly confidential, especially all access addresses, access numbers and access codes, which were revealed through Mindbreeze's support services and support materials under this Agreement. Mindbreeze will maintain reasonable secrecy measures to protect Confidential Information concerning source code parts of software or hardware appliances that the Customer provides.
- (g) In the case of use of the Mindbreeze website, the Customer fully accepts the terms and conditions of the site and services of Mindbreeze ([Terms of Use | Mindbreeze InSpire](#)), in particular in terms of participation in discussion forums.

7. Confidential Information

- (a) All non-public, confidential or proprietary information of the parties, including, but not limited to, trade secrets, technology, information pertaining to business operations and strategies, and information pertaining to customers, pricing, and marketing (collectively, "Confidential Information"), disclosed by either party to the other, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," in connection with the provision and use of the service package and this Agreement is confidential, and shall not be disclosed or copied by the receiving party without the prior written consent of the disclosing party. Confidential Information does not include information that, at the time of disclosure, established by clear and convincing evidence, is:
 - a. in the public domain;
 - b. known to the receiving party at the time of disclosure;
 - c. independently developed by the receiving party; or
 - d. rightfully obtained by the receiving party on a non-confidential basis from a third party.
- (b) Both parties agree to use the Confidential Information for purposes of using the service package.
- (c) Both parties acknowledge that breach of this Section 7 would cause the other party irreparable harm for which monetary damages would not provide an adequate remedy and the non-breaching party will, in addition to any other available remedies, be entitled to temporary and permanent injunctive relief with respect to such breach without proof of actual damages or the posting of bond or other security.

8. Limited Warranty and Disclaimer

- (a) Mindbreeze warrants that any service package supplied pursuant to this Agreement performs materially as described in the Documentation provided for such service package for a period of six (6) months from receipt of such service package.
- (b) Mindbreeze shall not be liable for a breach of the warranty set forth in Section 8(a) unless Customer gives written notice of any defects in the provision of the service package, reasonably described, to Mindbreeze within ten (10) days of the time when Customer discovers or ought to have discovered any major defects of the service package. For purposes of this Section 8, a "major defect" is any defect that Customer would have discovered, had Customer inspected the service package upon receipt in accordance with Mindbreeze's instructions and recommendations.
- (c) If, during the period specified in Section 8(a), any service package fails to comply with the warranty in Section 8(a), and such failure is not excluded from warranty pursuant to Section 8(b), Mindbreeze shall, subject to Mindbreeze promptly notifying Licensor in writing of such failure, at its sole option, either: (i) repair or replace the service package, provided that Customer provides Mindbreeze with all information Mindbreeze requests to resolve the reported failure, including sufficient information to enable Mindbreeze to recreate such failure; or (ii) refund the fees paid for such service package, as the case may be, subject to Customer's ceasing all use of and, if requested by Mindbreeze, returning to Mindbreeze all copies of the service package, as the case may be. During repair or replacement of the service package, the warranty period set out in Section 8(a) shall not be tolled or extended. The remedies set forth in this Section 8(c) are Customer's sole remedies and Mindbreeze's sole liability under the limited warranty set forth in Section 8(a).

- (d) The Customer has to consider the Documentation provided by Mindbreeze, when determining limitations and reports of errors or defects. The Customer shall, within reason, take necessary measurements to determine the localization, limitation and documentation of errors and other defects. This includes especially the creation of a defect report, system logs and dumps, the provision of the relevant input and output data, intermediate and test results, and other appropriate documentation to illustrate the error. In any event, the limited warranty set forth in Section 8(c) applies only for such errors and/or other defects that can be re validated by Mindbreeze.
- (e) The warranty set forth in this Section 8 does not apply to damages or defects caused by: (a) transportation; (b) storage; (c) improper use contrary as instructed in the Documentation; (d) failure to follow the service package instructions or to perform any preventive maintenance as set forth in the Documentation; (e) modifications; (f) unauthorized repair; (g) normal wear and tear; or (h) external causes such as accidents, abuse, or other actions or events beyond Mindbreeze's reasonable control. In addition, the limited warranty set forth in Section 8 (c) shall be void if the service package is dealt with in a manner described in clauses (c), (d), (e), or (f) of this section 8(e),
- (f) EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 8(C), THE SERVICE PACKAGE, OR THE SERVICE PACKAGE DOCUMENTATION ARE PROVIDED "AS IS" AND MINDBREEZE HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. MINDBREEZE SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 8(C), MINDBREEZE MAKES NO WARRANTY OF ANY KIND THAT THE SERVICE PACKAGE OR THE SERVICE PACKAGE DOCUMENTATION, OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SERVICE PACKAGE, SYSTEM OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE. THE REMEDY SET FORTH IN SECTION 8(C) SHALL BE THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND MINDBREEZE'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 8(A).

9. LIMITATION OF LIABILITY

- (a) EXCEPT AS MAY OTHERWISE SPECIFICALLY PROVIDED FOR HEREIN, IN NO EVENT WILL MINDBREEZE BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY (i) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES OR PROFITS, (ii) LOSS OF GOODWILL OR REPUTATION, (iii) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY LICENSED SOFTWARE, OR (iv) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, IN EACH CASE REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.
- (b) IN NO EVENT WILL THE AGGREGATE LIABILITY OF MINDBREEZE ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING UNDER OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE TOTAL AMOUNTS PAID FOR THE THEN-CURRENT AND PAID TERM TO MINDBREEZE UNDER THIS AGREEMENT PRECEDING THE EVENT GIVING RISE TO THE CLAIM OR THE ANNUAL SUBSCRIPTION FEE, WHICHEVER IS LESS. THE FOREGOING LIMITATIONS APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

- (c) FURTHER, TO THE EXTENT ALLOWABLE UNDER APPLICABLE LAW, THE AGGREGATE LIABILITY OF MINDBREEZE SHALL BE REDUCED, DOLLAR FOR DOLLAR, BY ANY AMOUNT RECEIVED BY CUSTOMER FROM ITS INSURER THAT RELATES TO THE EVENT GIVING RISE TO THE CLAIM. NOTWITHSTANDING THE FORGOING, IN THE EVENT OF CLAIMS OF IP INFRINGEMENT, MINDBREEZE MAY IN ITS SOLE DISCRETION AND AT NO COSTS TO CUSTOMER (I) MODIFY THE SERVICE PACKAGE SO THAT THEY ARE NO LONGER CLAIMED TO INFRINGE OR MISAPPROPRIATE, OR (II) OBTAIN A LICENSE FOR THE CUSTOMER'S CONTINUED USE FOR THE SERVICE PACKAGE IN ACCORDANCE WITH THIS AGREEMENT. IF MINDBREEZE IS UNABLE TO MODIFY THE SERVICE PACKAGE OR OBTAIN ANOTHER LICENSE IN (I) AND (II), CUSTOMER MAY TERMINATE THE AGREEMENT WITH IMMEDIATE EFFECT AND CUSTOMER SHALL BE REFUNDED ANY PREPAID FEES COVERING THE TERM OF THE TERMINATED AGREEMENT.
- (d) THE FOREGOING LIMITATIONS APPLY EVEN IF MINDBREEZE'S REMEDIES UNDER THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE.
- (e) NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE EXCLUSIONS AND LIMITATIONS IN THIS AGREEMENT DO NOT APPLY TO MINDBREEZE'S LIABILITY FOR BREACH OF CONFIDENTIALITY, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

10. Indemnification

- (a) Customer Indemnification. Customer shall indemnify, hold harmless, and, at Mindbreeze's option, defend Mindbreeze from and against any all losses, damages, liabilities, and costs (including reasonable attorneys' fees) ("Losses") resulting from any third-party claim, suit, action, or proceeding ("Third-Party Claim") based on Customer's (i) negligence or willful misconduct; (ii) use of the service package or service package Documentation in a manner not authorized or contemplated by this Agreement; (iii) use of the service package or service package Documentation in combination with data, software, hardware appliance, equipment, or technology neither provided nor authorized by Mindbreeze in writing; (iv) modifications to the service package not made by Mindbreeze; or (v) use of any version other than the most current version of the service package or service package Documentation delivered to Customer, provided that Customer may not settle any Third-Party Claim against Mindbreeze unless such settlement completely and forever releases Mindbreeze from all liability with respect to such Third-Party Claim or unless Mindbreeze consents to such settlement, and further provided that Mindbreeze will have the right, at its option, to defend itself against any such Third-Party Claim or to participate in the defense thereof by counsel of its own choice.
- (b) Sole Remedy. THIS SECTION 10 SETS FORTH CUSTOMER'S SOLE REMEDIES AND MINDBREEZE'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SERVICE PACKAGE OR SERVICE PACKAGE DOCUMENTATION INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY. IN NO EVENT WILL LICENSOR'S LIABILITY UNDER THIS SECTION 10 EXCEED THE AMOUNT SET FORTH IN 9(B).

11. Miscellaneous

- (a) Amendments. Mindbreeze expressly reserves the right to revise these Terms at any time in its sole discretion without prior notice to the Customer. Any changes to this Agreement will be effective fourteen days upon posting of the updated GTCs on Mindbreeze's website at <https://www.mindbreeze.com/contracts-and-information>. Customer's continued use of the Service following the effective date of an amendment will confirm Customer's consent thereto. The Customer is responsible for regularly reviewing these GTCs to remain informed of any changes. Reference is always made to the latest version of these Terms.
- (b) No Assignment. Customer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Mindbreeze. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Customer of any of its obligations under this Agreement.
- (c) Governing Law. All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the State of Illinois without giving effect to any choice or conflict of law provision or rule (whether of the State of Illinois or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Illinois.
- (d) Arbitration. Any controversy or claim arising out of or relating to this Agreement, or the negotiation or breach thereof, except for (a) actions seeking injunctive relief and (b) disputes related to intellectual property, shall be exclusively settled by arbitration in accordance with the International Arbitration Rules of the American Arbitration Association ("AAA"). The award shall be final and binding. Judgment upon the award rendered by the arbitrator or the arbitrators may be entered in any court having jurisdiction thereof. The arbitration shall be held in Chicago, Illinois, shall be conducted in the English language, and shall be conducted (i) if the amount in dispute is less than five hundred thousand U.S. Dollars (\$500,000), before a single arbitrator mutually agreeable to Mindbreeze and Customer, or if no agreement can be reached, then selected by the AAA, or (ii) if the amount in dispute is five hundred thousand U.S. Dollars (\$500,000) or more, before three (3) arbitrators. The losing party shall reimburse the prevailing party for reasonable attorneys' fees and disbursements, the costs of the arbitration (including but not limited to the fees and expenses of the arbitrator and expert witnesses) and the costs incurred by the prevailing party in successfully seeking any preliminary equitable relief or judicially enforcing any arbitration award.
- (e) Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth in the Order Confirmation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or email or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.
- (f) Salvatorian Clause. Should one or more provisions of the Agreement wholly or partially become invalid or unenforceable, the validity and enforceability of the remaining provisions of this Agreement shall not be affected. The invalid or unenforceable provision shall be replaced by that provision which comes closest to the economic and technical purpose. The same applies in the event that the Agreement has a regulatory gap. In this case, an appropriate provision, as the parties would have wanted, applies, provided they had considered the corresponding article in this Agreement.
- (g) Further Contacts. For notifications and communications regarding security and data protection incidents, for any complaints or ambiguities and when requesting support with regard to the Customer's data protection-related obligations (as a controller), the Customer can reach Mindbreeze through the following channels:
- by e-mail: privacy@mindbreeze.com
 - by post mail: Mindbreeze Corp., c/o data protection, 433 W. Van Buren Street, Chicago, Illinois, 60607.

- (h) Survival. Provisions of these Terms, which by their nature should apply beyond the effectiveness of termination, will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions: Confidentiality, Indemnification, Limited Warranty and Disclaimer. Limitation of Liability, Ownership of the service package, Governing Law, Arbitration, and Survival.