



Upland Police Department

SPIDR Tech Agreement

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Prepared for:
Chief Marcelo Blanco

Prepared by:
Elon Kaiserman, Co-Founder, SPIDR Tech

Executive Summary



We give law enforcement the technology they need to provide people with service they deserve.

SPIDR Tech was founded by former law enforcement officers to help law enforcement agencies leverage their own data to improve public perception and increase efficiency by providing excellent customer service. Following extensive market research, we designed and built the world's first comprehensive, customer service infrastructure for law enforcement with the goal of improving communication and transparency between agency and community.

Overview of the Technology

The SPIDR Tech Platform is designed to incorporate relevant data from your agency's Records Management System (RMS) and/or Computer Aided Dispatch (CAD) system to automatically generate and send customized text and email messages to victims of crime and reporting parties. Subsequently, customers will receive mobile-friendly surveys comprised of questions chosen by your agency that can be utilized to measure community trust and satisfaction.

The platform offered in this proposal is entirely Software-as-a-Service (SaaS) and requires no hardware to be installed locally with the agency. The software can be accessed using any modern browser, such as Chrome, Firefox, Safari, and Edge.

Your agency can push data to the SPIDR Tech Platform via our Application Program Interface (API), or the SPIDR Tech deployment team can read data from a server through a secure connection.

Supporting Customer CJIS and Security Requirements

Working with law enforcement data requires special security considerations, and SPIDR Tech supports these requirements. We perform background checks on all employees and will subject all project personnel to a agency background checks if requested. Our teams have passed all FBI screenings in the past for projects with other law enforcement agencies.

SPIDR Tech uses Amazon Web Services (AWS) GovCloud for data hosting. AWS follows Criminal Justice Information Services (CJIS) compliance guidelines and we possess all supporting documentation detailing our compliance. Our data center is in the USA, an isolated AWS region, and is used for highly sensitive workloads.

It is important to note that SPIDR Tech does not install, own, or manage any equipment within your agency's network. Our services are hosted in the cloud, and the networks talk to each other via a secure Virtual Private Network (VPN) or API.

SPIDR Tech utilizes a Federal Information Processing Standard (FIPS) 140-2 compliant encryption method to encrypt CJIS data at rest, including database backups and volumes. As an additional precaution, The SPIDR Tech Platform encrypts CJI data such as driver's licenses and social security numbers if an agency chooses to provide those items as part of the data transfer.

Description of the SPIDR Tech Platform Modules

9-1-1 Module

Hello,

You contacted Redondo Beach Police Department on May 20, 2018 at 09:57 PM. Your Incident Number is 18030806.

Thank you for calling us. We strive to provide our citizens excellent service. Please call our non-emergency line at (310) 379-2477 to follow up if necessary. Please call 9-1-1 for all emergencies.

If you find your vehicle at a later date, please notify the local law enforcement agency where your vehicle is found to report its recovery. If the RBPD recovered your vehicle, please review the following policy.
http://www.redondo.org/depts/police/police_services/records/vehicle_release.asp

To obtain a copy of the report, please read
http://www.redondo.org/depts/police/police_services/records/default.asp#CrimeReports

For Marry's law information
https://oag.ca.gov/victimservices/content/bill_of_rights

Thank you,
Redondo Beach Police Department

Text 'STOP' to cancel.

The 9-1-1 Module integrates with your Computer Aided Dispatch (CAD) to automatically send text messages to your reporting parties (RPs) after a CAD Event is generated. Your agency can customize these messages based on CAD event type to provide RPs with a "receipt" for their call. You can also include helpful information, such as a link to online reporting or a non-emergency number to call if the RP has an update.

Delayed Arrival Messages

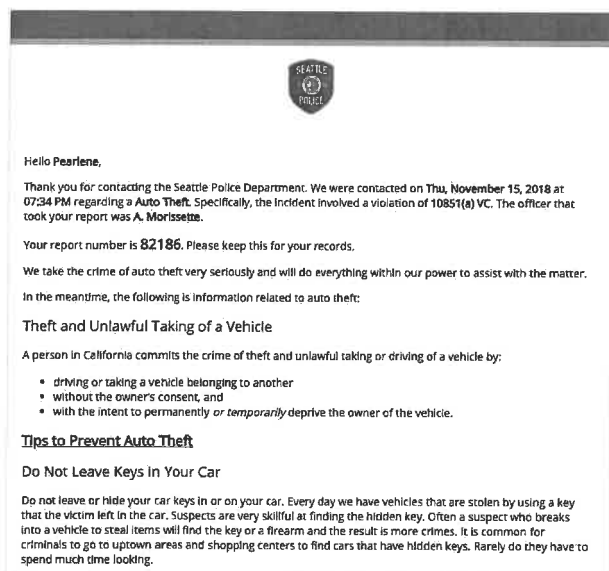
Delayed Arrival Messages automatically update an RP if an officer has not marked themselves on scene for a predetermined period of time. For example, if a loud party call has been queued for 60 minutes, the SPIDR Tech platform can send an automated text message to the RP, explaining that priority call volume is high and an officer will respond to their incident as soon as one is available.

When there is a delay in service, proactively sending an RP information regarding the status of an officer response will help set expectations and prevent frequent call-backs that occupy dispatch lines and resources.

Example CAD Event Categories:

Disturbances	Battery	Dead Body Report	Hit and Run
Suspicious Circumstances	Assault Deadly Weapon	Found Person	Drunk Driver
Thefts	Indecent Exposure	Found Property	Violation Restraining Order
Illegal Parking	Criminal Threats	Found Weapon	Annoyance/Threat
Animal Incidents	Arson	Group Fight	Abandoned Vehicle
Vehicle Accidents	Embezzlement	Harassment/Stalking	Animal Bite
Patrol Requests	Identity Theft	Hazard	Missing Person
Transient Person	Defrauding an Innkeeper	Illegal Dumping	Health and Safety
Burglary	Vandalism	Keep Peace	Shots Heard
Mentally Ill	Graffiti	Lost Animal	Mandown
Forgeries	Trespassing	Lost Person	Drunk/Drugs in Public
Robbery	Lewd Conduct	Lost Property	Stolen Vehicle

Investigations Module



The Investigations Module will integrate with your RMS to automatically generate and send customized text and email messages to victims of crime.

These messages will decrease administrative calls to your records and investigations departments by proactively providing the most commonly requested information. Case studies have shown that victims of crime who receive SPIDR Tech emails and texts are 43% less likely to call asking for more information regarding their case.

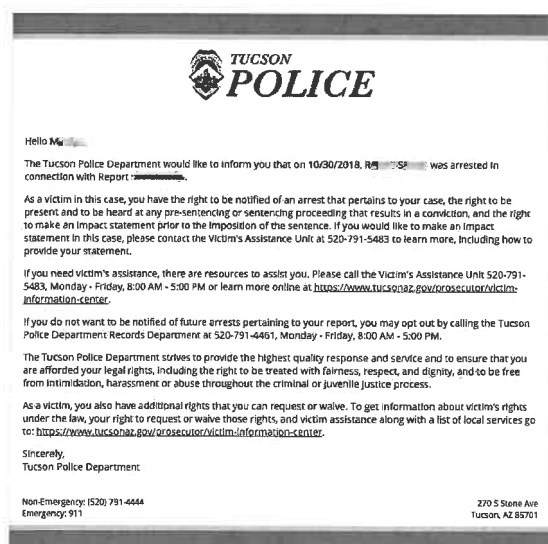
For specific crime categories, the system will send the victim a tailored message that can include critical report information, including (but not limited to):

- Date and time of report filing
- Name of officer/deputy who took the report
- Who to contact and when
- Investigation criteria
- Crime definitions
- Advocacy information
- Social media links
- General category of the crime
- Report number
- Next step in investigation process
- Crime prevention tips
- Victim resources information
- Community outreach/program information
- Upcoming events

Example Crime Categories:

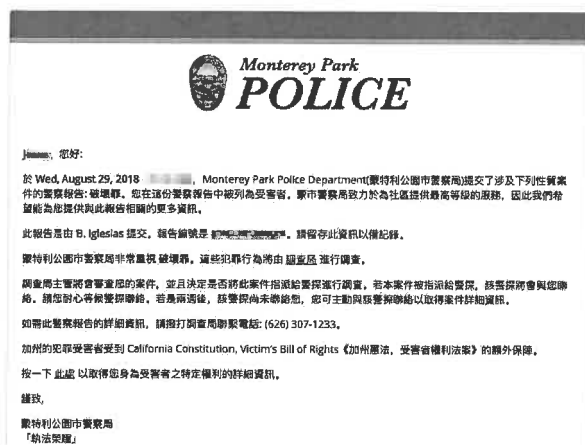
Auto Burglary	Burglary	Theft
Assault/Battery	Robbery	Forgery
Arson	Assault with a Deadly Weapon	Brandishing a Weapon
Carjacking	Court Order Violation	Criminal Threats
Fraud	False Imprisonment	Hit and Run
Vandalism	Prowling	Shoplifting
Stalking	Trespassing	Traffic Accident Report
Fraud	Forgery	Identity Theft

Arrest Notifications



Arrest Notifications are automated messages that can be sent to victims of any crime. These notifications automatically inform victims that an arrest has been made pertaining to their report. Today, many agencies don't inform victims when an arrest has been made and those that do, do so manually via phone call, or through the use of an opt-in, victim registration system. Doing so manually is difficult to track and is costly due to the amount of necessary labor. Using a victim registration system puts the burden of work on the crime victim. By automatically notifying victims of an arrest, you can decrease the amount of administrative effort required by your agency while raising the bar for customer service.

Para ver este mensaje en español, haga clic aquí
View this email in English



Multi-Lingual Functionality

Your message templates can be sent in up to three languages. For example, Monterey Park Police Department in California sends all of their messages in English, Traditional Mandarin, and Spanish. The agency can also solicit survey responses in multiple languages.

This feature allows your agency to be inclusive of minority or majority members of the community, ensuring people receive the information they need in a language they understand.

Insights Module

Surveys are delivered to the RP and crime victim via email and/or text message following an interaction with your agency. These surveys enable you to benchmark and track community perception. Requesting feedback is a common and valuable practice for the private sector. Companies use this data to improve services, track initiatives, and identify weaknesses. Today, agencies understand they cannot improve without measuring their interactions with the community.

It's important to note that these surveys are sent based on incident, allowing you to measure each community interaction independently. This is different from public sentiment surveys, which include survey responses from individuals who have never interacted with your agency.

By surveying your customers regularly, you can include monthly survey trends in your CompStat model, relay officer/dispatcher commendations that reinforce positive community interactions, and identify issues before they become liabilities.

SPIDR Tech will provide agency personnel with daily survey updates containing survey responses, as well as more in-depth survey analysis reports on a periodic basis. All survey response data can be broken down by area, crime type, call type and date.



Seattle Police Department Victim Services Survey

Did the police respond in a timely manner in regard to your report?

- ☐ Yes
☐ No

How would you rate the professionalism of the department in regard to your police report?

- ☐ Very high quality
☐ High quality
☐ Neither high nor low quality
☐ Low quality
☐ Very low quality

Overall, how do you feel about the Seattle Police Department?

- ☐ Not at all satisfied
☐ Somewhat satisfied
☐ Satisfied
☐ Very satisfied
☐ Delighted

Victim Portal



The Victim Portal is an application embedded in your website that enables victims of crime to access case details with authentication. As part of the deployment of this module, SPIDR Tech will migrate both historic and new data, as well as cold cases.

Community Engagement Module

This module is a one-to-many text message response through our SPIDR Engage platform and is currently being utilized by the San Antonio Police Department. This additional module is called the Community Engagement Module, and allows an agency to utilize the survey sent at the end of an interaction to ask if the recipient would like to opt-in to additional message “blasts” from the agency. The Community Engagement Module automatically builds a list of opted-in individuals for which the agency can create additional messaging campaigns in a one-to-many message format. For further information, please visit the [San Antonio Police Department](#) website to see press releases detailing this new module.

SAPD: The San Antonio Police Department is seeking the public's assistance in finding 3-year-old Lina Sardar Khil.

SAPD: El departamento de policía de San Antonio solicita la ayuda del público para encontrar a la niña de tres años Lina Sardar Khil.

پولیس د ورک شوي درې کلن ماشوم په اړه معلومات غواړي

<https://bit.ly/3stN0aO>

Text STOP to cancel. Responda con 'ALTO' para cancelar.

Pricing

SPIDR Tech software pricing has two components: The initial, one-time deployment fee and the annual subscription cost. The deployment fee includes all technical and non-technical interfaces and the subscription cost includes all messages (text and email), data storage, feature updates, maintenance and professional services.

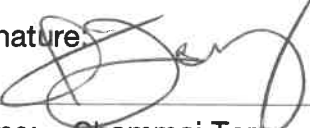
Platinum Package

SPIDR Tech: Year 1		Price
SPIDR Platform Subscription	Includes: • 9-1-1 Module • Investigations Module • Insights Module • Portal Module • Community Engagement Module • Choice of custom short code or long code • Custom interfaces built by SPIDR Tech or pair-programmed with your team • Unlimited User Acceptance Testing • Custom reporting available • Daily Survey Update Emails • Standard monthly report • Assigned SPIDR Tech Account Manager • Unlimited adjustments to the interface • 24/7 interface monitoring • Initial translation service included for up to 2 additional languages	\$19,305
Deployment and Installation	Deployment and installation fee (one-time setup/integration fee)	\$10,000
Full Maintenance and Support	Unlimited maintenance and support, unlimited changes to settings, messages, surveys, and configurations post go-live, assigned Customer Success Manager	FREE
Discount	Pending technical discovery meeting	-\$7,500
Total:		\$21,805
SPIDR Tech: Optional Years 2 and 3		Price
SPIDR Platform Subscription	Annual subscription fee for each additional year of service	\$19,305
Full Maintenance and Support	Unlimited maintenance and support, unlimited changes to settings, messages, surveys, and configurations post go-live, assigned Customer Success Manager	FREE
Total:		\$19,305

TERM:

Please note: All pricing and discounts described in this Order Form are contingent upon Customer's execution and return of this Order Form no later than **10/31/2022** (unless countersigned by SPIDR Tech).

By signing below, each party acknowledges that it has carefully read and fully understood this Agreement, and each agrees to be bound by the terms of the Agreement. The Agreement becomes effective upon the date of last signature (the "**Effective Date**"). The individuals signing this Agreement represent that they have the authority to bind the respective parties to the terms of this Agreement.

SPIDR Tech, Inc.	Agency
Signature: 	Signature: 
Name: Shammai Terry	Name: Bill Velto
Title: Vice President of Sales	Title: Mayor
Date Signed: 10/12/2022	Date signed: 11/14/22

SUBSCRIPTION AGREEMENT

This Subscription Agreement (this "Agreement") is made as of [Nov. 14], 202[2] (the "Effective Date"), by and between SPIDR Tech Inc., a Delaware corporation addressable at P.O. Box 3448, Manhattan Beach, CA, 90266 ("SPIDR Tech"), and the Customer identified in the attached Sales Proposal. SPIDR Tech and Customer may be referred to as a "Party" herein and together as the "Parties." The Sales Proposal executed by and between SPIDR Tech and the Customer (the "Sales Proposal") and the terms therein shall be deemed incorporated herein.

WHEREAS, SPIDR Tech's proprietary systems, applications and related APIs permit police departments to gather, review and analyze data in connection with law enforcement intelligence, officer productivity and related community engagement.

WHEREAS, Customer desires to access and use SPIDR Tech's proprietary system, and SPIDR Tech desires to provide such access, in accordance with the terms and conditions herein;

NOW, THEREFORE, in consideration of the covenants set forth herein, SPIDR Tech and Customer hereby agree as follows:

1. Provision of the Service.

1.1. Provision Generally. SPIDR Tech will provide Customer with access to SPIDR Tech's proprietary service for the modules specified in the Sales Proposal (collectively the "Service") in accordance with the terms and conditions of this Agreement. In order to access and use the Service, Customer is responsible at its own expense for obtaining its own Internet access, and any hardware and software required therefor.

1.2. Grant of Rights. Subject to the terms and conditions of this Agreement, SPIDR Tech hereby grants to Customer a limited, non-exclusive, non-transferable right to access and use the Service, solely for Customer's purposes during the Term. All rights not expressly granted to Customer are reserved by SPIDR Tech and its licensors. There are no implied rights.

1.3. Restrictions. Customer shall not (and shall not allow any third party to): (a) use the Service for the benefit of any third party, or to develop or market any product, software or service that is functionally similar to or derivative of the Service, or for any other purpose not expressly permitted herein; (b) permit any third party or individual to access or use the Service; (c) sell, distribute, rent, lease, service bureau, post, link, disclose or provide access to the Service, directly or indirectly, to any third party; (d) alter, modify, debug, reverse engineer, decompile, disassemble, or otherwise attempt to derive or gain access to any software (including source code) associated with the Service; or (e) use any robot, spider, scraper or other automated means to access the Service, or engage in any scraping, data-mining, harvesting, screen-scraping, data aggregating or indexing of the Service. Customer shall keep all passwords and API Keys provided to it safe and secure, and shall be responsible for all use of the Service using passwords or API keys issued to Customer. Customer shall notify SPIDR Tech immediately of any actual or suspected unauthorized use of its passwords or API keys for the Service. Without limiting any of its other rights or remedies, SPIDR Tech reserves the right to suspend access to the Service if SPIDR Tech reasonably believes that Customer has materially violated the restrictions and obligations in this Agreement (in which case, it shall provide Customer prompt written notice of such suspension).

1.4. Customer Cooperation. Customer shall: (a) reasonably cooperate with SPIDR Tech in all matters relating to the Service; (b) respond promptly to any SPIDR Tech request to provide information, approvals, authorizations or decisions that are reasonably necessary for SPIDR Tech to provide the Service in accordance with this Agreement; and (c) provide such Customer materials or information as SPIDR Tech may reasonably request to provide the Service and ensure that such materials or information are complete and accurate in all material respects.

2. **SPIDR Tech Technology.** In connection with providing the Service, SPIDR Tech and its licensors shall operate and support the hosted environment used by SPIDR Tech to provide the Service, including the SPIDR Tech Technology, the server hardware, disk storage, firewall protection, server operating systems, management programs, web server programs, documentation and all other technology or information so used by SPIDR Tech. As used herein, "SPIDR Tech Technology" means all of SPIDR Tech's proprietary technology (including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) made available to Customer by SPIDR Tech in providing the Service.

3. **Downtime.** Subject to the terms and conditions of this Agreement, SPIDR Tech shall use commercially reasonable efforts to provide access to the Service for twenty-four (24) hours a day, seven (7) days a week throughout the term of this Agreement. Customer agrees that from time to time the Service may be inaccessible or inoperable for various reasons, including (i) equipment malfunctions; (ii) periodic maintenance procedures or repairs which SPIDR Tech may undertake from time to time; or (iii) causes beyond the control of SPIDR Tech or which are not reasonably foreseeable by SPIDR Tech, including interruption or failure of telecommunication or digital transmission links, hostile network attacks or network congestion or other failures, or failures or issues experienced by the Hosting Contractors independent of and not related to the Service or SPIDR Tech (collectively "Downtime"). SPIDR Tech shall use commercially reasonable efforts to provide twenty-four (24) hour advance notice to Customer in the event of any scheduled Downtime. SPIDR Tech shall have no obligation during performance of such operations to mirror Customer Data on any other server or to transfer Customer Data to any other server. SPIDR Tech shall use commercially reasonable efforts to minimize any disruption, inaccessibility and/or inoperability of the service in connection with Downtime, whether scheduled or not.
4. **Ownership.** Customer acknowledges and agrees that as between SPIDR Tech and Customer, all right, title and interest in and to the Service (including the data, information, text, images, designs, sound, music, marks, logos, compilations (meaning the collection, arrangement and assembly of information) and other content on or made available through the Service, other than Customer Data), the SPIDR Tech Technology and all improvements and derivatives of the foregoing (including all intellectual property and proprietary rights embodied therein or associated therewith) are and shall remain owned by SPIDR Tech or its licensors, and this Agreement in no way conveys any right, title or interest in the Service or the SPIDR Tech Technology other than a limited right to use the Service in accordance with the terms and conditions herein. No right or license is granted hereunder to Customer under any trademarks, service marks, trade names or logos. Customer shall not remove any SPIDR Tech trademark, service mark or logo, or any proprietary notices or labels (including any copyright or trademark notices) from the Service.
5. **Fees; Payments; Taxes.**
 - 5.1. Fees. In consideration of the provision of the Service hereunder, Customer shall pay SPIDR Tech the fees as set forth and the scheduled laid out on the Sales Proposal.
 - 5.2. Taxes. All amounts due hereunder are exclusive of all sales, use, excise, service, value added, or other taxes, duties and charges of any kind (whether foreign, federal, state, local or other) associated with this Agreement, the Service, or Customer's access to the Service. Customer shall be solely responsible for all such taxes, duties and charges (except for taxes imposed on SPIDR Tech's income), which may be invoiced by SPIDR Tech from time-to-time.

5.3. Payment Method. Customer shall make all payments hereunder, in US dollars, in the manner specified by SPIDR Tech, and without deduction of any charges, taxes or other amounts.

5.4. Late Payments. Customer shall pay interest on all late payments at the lesser of (a) 1.5% per month or (b) the highest rate permissible under applicable law, calculated daily and compounded monthly. Customer shall reimburse SPIDR Tech for all costs and expenses, including attorneys' fees, incurred in collecting any unpaid amounts owed by Customer hereunder.

6. **Term; Termination.**

6.1. Term. The term of this Agreement shall commence on the Effective Date and, unless earlier terminated as set forth herein, shall continue for three (3) fiscal years. Either Party may terminate this Agreement by providing the other Party 30 days advance written notice of its desire to terminate. The entire term before termination is collectively referred to as the "Term" herein.

6.2. Termination for Breach. Either Party may terminate this Agreement by written notice thereof to the other Party, if the other Party materially breaches this Agreement and does not cure such breach within 30 days after written notice thereof.

6.3. Effects of Termination; Survival. Upon any termination of this Agreement: (a) all rights granted to Customer hereunder shall terminate and SPIDR Tech shall no longer provide access to the Service to Customer, and (b) Customer shall cease using the Service. Any obligations that have accrued prior to termination shall survive termination of this Agreement. In addition, the following Sections, as well as any other provisions herein which by their nature should survive, shall survive termination of this Agreement: Sections 4 through 12.

7. **Customer Data.**

7.1. Data Generally. All data and information which the Customer inputs or provides to the Service (the "Customer Data") is stored in a private and secure fashion (as regulated by CJIS requirements), and will not be used by SPIDR Tech except as permitted herein. Customer hereby grants to SPIDR Tech a limited, non-exclusive, non-transferable, royalty-free right to use, reproduce, manipulate, display, transmit and distribute the Customer Data solely in connection with providing the Service to Customer, and improving and developing the Service. In addition, SPIDR Tech may analyze Customer Data, and data of other customers, to create aggregated or anonymized statistics or data that do not identify Customer or any individual, and SPIDR Tech may during and after the Term use and disclose such statistics or data in its discretion. Except as specified otherwise in this Agreement (including the Sales Proposal), Customer shall be solely responsible for providing, updating, uploading and maintaining all Customer Data. The content of Customer Data shall be Customer's sole responsibility. SPIDR Tech shall operate the Service in a manner that provides

reasonable information security for Customer Data, using commercially reasonable data backup, security, and recovery protections (as regulated by CJIS requirements).

7.2. Additional Customer Responsibilities. Customer is solely responsible for all Customer Data. SPIDR Tech does not guarantee the accuracy, integrity or quality of Customer Data. Customer shall not: (a) upload or otherwise make available to SPIDR Tech any Customer Data that is unlawful or that violates the rights of any third parties; (b) upload or otherwise make available to SPIDR Tech any Customer Data that Customer does not have a right to transmit due to any law, rule, regulation or other obligation; (c) use, upload or otherwise transmit any Customer Data that infringes any intellectual property or other proprietary rights of any third party; (d) upload or otherwise make available to SPIDR Tech any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy, limit the functionality of any computer software or hardware or telecommunications equipment; (e) interfere with or disrupt the Service or servers or networks connected to the Service; (f) upload or otherwise make available to SPIDR Tech any Customer Data that constitutes protected health information subject to the Health Insurance Portability and Accountability Act or any regulation, rule or standards issued thereunder; or (g) violate any applicable law, rule or regulation, including those regarding the export of technical data.

8. **Representations and Warranties; Disclaimer.**

8.1. General Representations and Warranties. Each Party hereby represents and warrants to the other Party that: (a) it is a corporation, company or other entity (as applicable) duly organized, validly existing and in good standing in its jurisdiction of organization; (b) its execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary organizational action on its part; (c) the provisions set forth in this Agreement constitute legal, valid, and binding obligations of such Party enforceable against such Party in accordance with their terms, subject to bankruptcy, insolvency and other laws affecting creditors' rights generally; and (d) its execution, delivery and performance of this Agreement do not and will not conflict with, result in a breach of, constitute a default under, or require the consent of any third party under, any agreement or other obligation to which such Party is subject.

8.2. SPIDR Tech Limited Warranty. SPIDR Tech warrants that it will provide the Service in a competent and workmanlike manner. SPIDR Tech does not warrant that it will be able to correct all reported defects or that use of the Service will be uninterrupted or error free. SPIDR Tech makes no warranty regarding features or services provided by any third parties. SPIDR Tech retains the right to modify its services and the SPIDR Tech Technology in its sole discretion; provided that doing so does not have a material adverse impact on the Service hereunder. Customer's sole remedy for SPIDR Tech's breach of the warranty in this paragraph shall be that SPIDR Tech shall remedy the applicable error, or if SPIDR Tech is unable to do so in a timely manner, refund to Customer actual damages

up to a limit of the fees paid for the Service for the 6-month period immediately prior to when the breach of warranty occurred.

8.3. Disclaimer. EXCEPT FOR THE WARRANTIES SET FORTH IN SECTIONS 8.1-8.2 ABOVE, SPIDR TECH MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, AND HEREBY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, WITH RESPECT TO THE SERVICE (IN EACH CASE WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE), INCLUDING ANY WARRANTY (A) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT, (B) THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS, WILL ALWAYS BE AVAILABLE, ACCESSIBLE, UNINTERRUPTED, TIMELY, SECURE OR OPERATE WITHOUT ERROR, (C) AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE, OR (D) AS TO THE ACCURACY OR RELIABILITY OF ANY INFORMATION OBTAINED FROM THE SERVICE.

9. **Limitations of Liability.**

9.1. Damages Cap. TO THE FULLEST EXTENT PERMISSIBLE BY LAW, SPIDR TECH'S TOTAL LIABILITY FOR ALL DAMAGES ARISING OUT OF OR RELATED TO THE SERVICE OR THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL NOT EXCEED THE TOTAL AMOUNT OF FEES PAID BY CUSTOMER TO SPIDR TECH UNDER THIS AGREEMENT DURING THE PRIOR 6 MONTHS.

9.2. Disclaimer of Indirect Damages. EXCEPT FOR (A) CUSTOMER'S OBLIGATION TO PAY ALL AMOUNTS DUE HEREUNDER, (B) ITS INDEMNIFICATION OBLIGATIONS OR (C) ITS BREACH OF ANY INTELLECTUAL PROPERTY OR CONFIDENTIALITY OBLIGATIONS OR RESTRICTIONS HEREIN (INCLUDING ANY LIMITATIONS OR RESTRICTIONS ON USE OF THE SERVICE), IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES (INCLUDING LOSS OF DATA, PROFITS OR REVENUE) ARISING OUT OF OR RELATED TO THE SERVICE OR THIS AGREEMENT, WHETHER SUCH DAMAGES ARISE IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE.

9.3. Basis of the Bargain. THE PARTIES AGREE THAT THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION 9 ARE A FUNDAMENTAL BASIS OF THE BARGAIN, THAT SPIDR TECH HAS SET ITS FEES IN RELIANCE ON THE ENFORCEABILITY OF THESE PROVISIONS, AND THAT THEY SHALL APPLY NOTWITHSTANDING THAT ANY REMEDY SHALL FAIL ITS ESSENTIAL PURPOSE.

10. **Indemnification.**

10.1. SPIDR Tech Indemnification. SPIDR Tech shall defend, indemnify and hold harmless Customer and its directors, officers, employees and agents ("Customer Indemnified Parties") from and against any third party claims, actions,

proceedings, demands, lawsuits, damages, liabilities and expenses (including reasonable attorneys' fees and court costs) (collectively, "Claims") to the extent based on any claim that the Service infringes, misappropriates or otherwise violates (collectively, "Infringes") any third party intellectual property or proprietary right (excluding patents).

10.2. Customer Indemnification. Customer shall defend, indemnify and hold harmless SPIDR Tech and its directors, officers, employees, agents and providers ("SPIDR Tech Indemnified Parties") from and against any Claims to the extent based on any claim that the Customer Data Infringes any third party intellectual property or proprietary right (excluding patents).

10.3. Indemnification Process. As conditions of the indemnification obligations in Sections 10.1-10.2 above: (a) the applicable Customer Indemnified Party or SPIDR Tech Indemnified Party (the "Indemnitee") will provide the indemnifying Party (the "Indemnitor") with prompt written notice of any Claim for which indemnification is sought (provided that failure to so notify will not remove the Indemnitor's indemnification obligations except to the extent it is prejudiced thereby), (b) the Indemnitee will permit the Indemnitor to control the defense and settlement of such Claim, and (c) the Indemnitee will reasonably cooperate with the Indemnitor in connection with the Indemnitor's evaluation, defense and settlement of such Claim. In defending any Claim, the Indemnitor shall use counsel reasonably satisfactory to the other Party. The Indemnitor shall not settle or compromise any such Claim or consent to the entry of any judgment without the prior written consent of the other Party (not unreasonably withheld).

10.4. Exclusions. SPIDR Tech's obligations in Section 10.1 above shall not apply to any Claim to the extent arising from or relating to (a) misuse of the Service (including any use not strictly in accordance with the documentation therefor, SPIDR Tech's instructions, and this Agreement), (b) any modification, alteration or conversion of the Service not created or approved in writing by SPIDR Tech, (c) any combination of the Service with any computer, hardware, software or service not provided by SPIDR Tech, (d) SPIDR Tech's compliance with specifications or other requirements of Customer, or (e) any third party data or Customer Data. If the Service is or may be subject to a Claim of Infringement described in Section 10.1 above, SPIDR Tech may, at its cost and sole discretion: (i) obtain the right for Customer to continue using the Service as contemplated herein; or (ii) replace or modify the Service so that it becomes non-Infringing without substantially compromising its principal functions; or (iii) to the extent the foregoing are not commercially reasonable, terminate this Agreement and return to Customer any pre-paid fees for the Service associated with the then-remaining Term. SPIDR Tech's obligations in this Section 10 shall be SPIDR Tech's sole obligations, and Customer's sole remedies, in the event of any Infringement of intellectual property or proprietary rights by or related to the Service.

11. **Confidentiality.**

11.1. Definition. "Confidential Information" means information that is disclosed by either Party (the "Disclosing Party") to the other Party (the "Receiving Party")

hereunder during the Term that is clearly labeled or identified as confidential or proprietary when disclosed, or that, under the circumstances, should reasonably be treated as confidential, except that "Confidential Information" shall not include any information that (a) is or becomes generally known to the public through no fault of, or breach of this Agreement by, the Receiving Party; (b) is rightfully in the Receiving Party's possession at the time of disclosure without an obligation of confidentiality; (c) is independently developed by the Receiving Party without use of the Disclosing Party's Confidential Information; or (d) is rightfully obtained by the Receiving Party from a third party without restriction on use or disclosure. In addition, (i) the terms and conditions of this Agreement shall be deemed to be Confidential Information of both Parties; and (ii) the Service and SPIDR Tech Technology shall be deemed Confidential Information of SPIDR Tech, regardless of whether or not they are labeled or identified, or would reasonably be considered confidential.

11.2. General Obligations. Each Party agrees that it will during the Term and thereafter (a) not disclose the other Party's Confidential Information to any third party (other than as permitted in the last sentence of this paragraph); (b) use the other Party's Confidential Information only to the extent reasonably necessary to perform its obligations or exercise its rights under this Agreement; (c) disclose the other Party's Confidential Information only to those of its employees and independent contractors who reasonably need to know such information for purposes of this Agreement and who are bound by confidentiality obligations offering substantially similar protection to those in this Section 11; and (d) protect all Confidential Information of the other Party from unauthorized use, access, or disclosure in the same manner as it protects its own confidential information of a similar nature, and in no event with less than reasonable care. Notwithstanding the above, this paragraph shall not prohibit: (i) a Party from disclosing Confidential Information of the other Party to the extent required by applicable law, rule or regulation (including a court order or other government order) or the rules and regulations of the SEC or any national securities exchange; provided that such Party provides the other Party prior written notice of such disclosure, to the extent practicable, and reasonably cooperates with efforts of the other Party to seek confidential treatment thereof, to the extent such cooperation is requested by the other Party; or (ii) a Party from disclosing the terms and conditions of this Agreement to its attorneys and financial advisors, or current or potential lenders, other sources of financing, investors or acquirors; provided that such third parties are bound by confidentiality obligations offering substantially similar protection to those in this Section 11 (provided further that such third parties are only permitted to use such information for the purpose of advising, lending or providing financing to, or investing in or acquiring, such Party, as applicable).

11.3. Return or Destruction. Except as otherwise expressly provided in this Agreement, the Receiving Party will return to the Disclosing Party, or destroy or erase, the Disclosing Party's Confidential Information in tangible form, upon the termination of this Agreement; provided that (a) Receiving Party may retain a copy

of Disclosing Party's Confidential Information solely for the purposes of tracking Receiving Party's rights and obligations hereunder with respect thereto, (b) Receiving Party may retain copies of Disclosing Party's Confidential Information solely to the extent required by law or by applicable professional standards which require such Party to retain copies of its working papers, and (c) Receiving Party may retain Disclosing Party's Confidential Information solely to the extent reasonably necessary for Receiving Party to exercise rights or perform obligations under this Agreement that survive such termination.

11.4. Feedback. Notwithstanding the above or anything to the contrary herein, to the extent that Customer at any time provides SPIDR Tech with any feedback or suggestions regarding the Service, including potential improvements or changes thereto (collectively, "Feedback"), the Feedback shall not be considered Confidential Information of Customer, and SPIDR Tech shall be free to use, disclose, and otherwise exploit in any manner, the Feedback for any purpose.

12. **Miscellaneous.**

12.1. Compliance with Laws. Each Party shall comply with all laws, rules, regulations and ordinances applicable to its activities hereunder.

12.2. Hosting Providers. Customer acknowledges that the Service is hosted by third party hosting providers (the "Hosting Contractors"). SPIDR Tech may change its Hosting Contractors at any time. Customer's use of the Service is subject to any applicable restrictions imposed by the Hosting Contractors. Notwithstanding any other provision of this Agreement, SPIDR Tech shall not be liable for any problems, failures, defects or errors with the Service to the extent caused by the Hosting Contractors. Customer acknowledges that the fees payable for the Service reflect the fact that SPIDR Tech is not responsible for the acts and omissions of the Hosting Contractors.

12.3. Assignment. Customer may not assign this Agreement, or assign any of its rights or delegate any of its obligations under this Agreement, without the prior written consent of SPIDR Tech. SPIDR Tech may freely assign this Agreement, or assign any of its rights or delegate any of its obligations under this Agreement. Any purported assignment or delegation in violation of this paragraph is null and void. This Agreement will bind and inure to the benefit of each Party's successor and permitted assigns.

12.4. Entire Agreement; Amendment. This Agreement (including the Sales Proposal attached hereto) contains the complete understanding and agreement of the Parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements or understandings, oral or written, with respect thereto. No pre-printed terms on any purchase order, invoice or similar document issued in relation to this Agreement shall have any effect on the Parties or this Agreement. This Agreement may be amended or modified only by an express written agreement signed by duly authorized representatives of both Parties.

12.5. Notices. Unless otherwise specifically provided herein, all notices required or permitted by this Agreement shall be in writing and may be delivered

personally, or may be sent by facsimile, overnight delivery or certified mail, return receipt requested, to the addresses provided in the Sales Proposal.

12.6. Force Majeure. SPIDR Tech shall not be liable or responsible to Customer, nor be considered to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any provision of this Agreement to the extent such failure or delay is caused by or results from any act, circumstance or other cause beyond the reasonable control of SPIDR Tech, including acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to either Party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable technology or components, telecommunication breakdown, or power outage.

12.7. Publicity. SPIDR Tech shall have the right to use Customer's name and logo on client lists published on SPIDR Tech's website and in marketing materials. SPIDR Tech may announce the relationship hereunder in a press release provided that SPIDR Tech obtains Customer's prior approval of the wording of the release (not to be unreasonably withheld).

12.8. Choice of Law. This Agreement is and will be governed by and construed under the laws of California USA, without giving effect to any conflicts of laws provision thereof or of any other jurisdiction that would produce a contrary result. The Parties hereby consent to the jurisdiction of any federal or state court located in the state of California for any claim or other proceeding related to this Agreement or their activities hereunder, and waive any objections of improper venue or inconvenient forum.

12.9. Injunctive Relief. Each Party acknowledges that its breach of any intellectual property or confidentiality obligations or restrictions herein (including any limitations or restrictions on use of the Service) will cause substantial harm to the other Party that could not be remedied by payment of damages alone. Accordingly, the other Party will be entitled to seek preliminary, temporary and permanent injunctive relief, and other equitable relief, for any such breach, without any requirement to post bond, in any court of competent jurisdiction.

12.10. Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise or employment relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

12.11. Waiver. No waiver by either Party of any of the provision of this Agreement is effective unless explicitly set forth in writing and signed by such Party. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof.

No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

12.12. Severability. If any provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or invalidate or render unenforceable such provision in any other jurisdiction.

12.13. Headings: Interpretation. Headings are provided for convenience only and will not be used to interpret the substance of this Agreement. Unless the intent is expressly otherwise in specific instances, use of the words “include,” “includes,” or “including” in this Agreement shall not be limiting and “or” shall not be exclusive.

12.14. Counterparts. This Agreement may be executed in two counterparts (which may be delivered by .pdf or other facsimile format acceptable to the Parties), each of which shall be an original and both of which taken together shall form one agreement.