

SERVICES AGREEMENT

By signing the Order (defined below) to which this Services Agreement (this “**Agreement**”) is referenced or attached, Customer agrees to be bound by the terms of this Agreement, including, without limitation, the disclaimers, limitation of liability, and termination provisions below.

In consideration of the covenants, representations, and warranties contained herein, and intending to be legally bound hereby, BuildFire and Customer agree as follows:

1. Definitions:

“**Affiliate**” means an entity that Controls, is Controlled by, or is under common Control with the relevant entity.

“**BuildFire**” means BuildFire, Inc., a Delaware corporation.

“**BuildFire Platform**” means the native software and services that is the platform itself, including any reusable plugins.

“**Business Day**” means any weekday other than a bank or public holiday in the United States of America.

“**Control**” means the legal power to control (directly or indirectly) the management of an entity (and “**Controlled**” should be construed accordingly).

“**Customer**” means the party identified in the Order.

“**Customer Materials**” means all works and materials supplied by or on behalf of the Customer to BuildFire for incorporation into or integration with the Software, or for use in connection with the Services.

“**Data Protection Laws**” means all applicable laws relating to the processing of personal data including, but not limited to, the General Data Protection Regulation (Regulation (EU) 2016/679), the California Consumer Privacy Act, any other relevant law, rule or regulation concerning the processing or handling of personal data;

“**Documentation**” means the documentation for the Software produced by BuildFire and delivered or made available by BuildFire to the Customer.

“**Effective Date**” means the last date of signature on the Order.

“**Export Laws**” means all applicable laws restricting and/or regulating the inter-jurisdictional import, export, supply, disclosure, transfer or transmission of goods, services, software, technology, technical know-how, data and/or information; and/or the import, export, supply, disclosure, transfer or transmission of goods, services, software, technology, technical know-how, data and/or information to designated entities or persons, or to designated classes of entities or persons.

“**Framework Software**” or “**BuildFire SDK (Software Development Kit)**” means those elements of the Software that incorporate the software development tools available to Customer as part of the Software, including any Improvements thereto, the Intellectual Property Rights in which are owned or licensed by BuildFire.

“**Improvements**” shall mean any and all modifications, changes, updates, upgrades, alterations, enhancements and derivative works to the Software, Services or Documentation, regardless of by whom such modifications, changes, updates, upgrades, alterations, enhancements and derivative works are made.

“**Intellectual Property Rights**” means all intellectual property rights wherever in the world, whether registrable or un-registrable, registered or unregistered, including any application or right of application for such rights (and these “intellectual property rights” include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trademarks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs).

“**Order**” means the BuildFire ordering document signed by the parties that references this Agreement.

“**Privacy Policy**” means the BuildFire Privacy Policy located at <https://buildfire.com/privacy-policy>.

“**Schedule**” means any schedule attached to the main body of this Agreement.

“**Services**” means any services that BuildFire provides to the Customer under this Agreement as further detailed in the Order.

“**Software**” means the software delivered to Customer in connection with the Services, including but not limited to, the BuildFire Platform and the Framework Software.

“**Software Specification**” means the specification for the Software as detailed in the Order.

“**Source Code**” means software code in human-readable form, including human-readable code compiled to create software or decompiled from software, but excluding interpreted code.

“**Terms of Use**” means the BuildFire Terms of Use located at: <https://buildfire.com/terms>.

“**Third Party Materials**” means the works and/or materials comprised in the Software excluding the Customer Materials, the Intellectual Property Rights in which are owned by a third party or which the parties agree in writing shall be incorporated into the Software.

2. Term

2.1 Unless earlier terminated in accordance with the terms of this Agreement, the initial term of this Agreement (the “**Initial Term**”) shall be one year from the Effective Date. This Agreement shall automatically renew for additional identical terms (each a “**Renewal**”

Term", together with the Initial Term, the "**Term**"), unless Customer, at least thirty (30) Business Days prior to the end of the applicable Term, provides BuildFire with written notice that this Agreement will expire at the end of the applicable term.

3. Software and Services

3.1 BuildFire shall provide the Software and Services to the Customer as further detailed in the Order. The Customer acknowledges that a delay in the Customer performing its obligations under this Agreement may result in a delay in the performance of the Services. BuildFire will not be liable to the Customer in respect of any failure to meet the Services timetable to the extent that that failure arises out of a delay in the Customer performing its obligations under this Agreement. Customers' use of the Software and Services are subject to BuildFire's Terms of Use and Privacy Policy. To the extent there is a conflict between this Agreement and the Terms of Use or Privacy Policy, this Agreement will control.

4. Intellectual Property Rights

4.1 Except as set forth in this Agreement, BuildFire owns and has rights to all Intellectual Property rights in and to the Services and Software.

4.2 Except as otherwise set forth in this Agreement, if BuildFire provides to the Customer, either directly or through a 3rd party, Improvements to the Software, even if the Customer paid BuildFire for such Improvements, such Improvements will be owned by BuildFire and the Customer hereby does and shall make all assignments and take all reasonable acts necessary to accomplish the foregoing ownership. BuildFire grants the Customer a worldwide, royalty free, non-exclusive license to the Improvements so long as Customer remains a subscriber to the Service.

4.3 All suggestions, requests, feedback, recommendations or other input provided by Customer or any other party relating to the Software or Services shall be owned by BuildFire and Customer hereby does and shall make all assignments and take all reasonable acts necessary to accomplish the foregoing ownership.

4.4 Intellectual property in the Customer Materials vests solely in the Customer, and that BuildFire acknowledges that it has no interest in or ownership rights to any of the Customer Materials, and shall not, at any time, acquire any right(s) to the Customer Materials by virtue of any use it may make of the Customer Materials. BuildFire has no ownership rights in or to Customer Data. Customer owns any data, information or material originated by the Customer that the Customer submits, collects or provides in the course of using the Services, including information regarding the Customer's social networking "connections" "followers" or other contacts activated through use of the Services ("**Customer Data**"). Customer shall be solely responsible for the accuracy, quality, content and legality of Customer Data, the means by which Customer Data is acquired and the transfer of Customer Data outside of the BuildFire Services. Customer Data shall be deemed to be Customer Confidential Information.

4.5 To publish and update apps to Google Play and the Apple App Store, BuildFire will provide proprietary information and files such as, but not limited to, APKs, IPAs, P12s, keystore certificates, push notification certificates, etc. These files and information are Intellectual Property of BuildFire and ownership will reside with BuildFire.

4.6 As part of this agreement the Customer consents to the use of images of the application in BuildFire's promotional materials. If the Customer chooses to opt out of this clause, the Customer must submit in writing a request to opt out prior to the mobile app being published.

5. Framework Software (BuildFire SDK)

5.1 BuildFire hereby grants to the Customer from the date of supply of the Software to the Customer a limited, non-sublicensable, worldwide license to:

- a. install instances the BuildFire SDK (Software Development Kit);
- b. use of the Framework Software solely as an integral part of the Software in accordance with the Documentation for the internal and external business purposes of the Customer;
- c. create, store and maintain back-up copies of the Framework Software; and
- d. patch and upgrade the Framework Software, as updates become available, subject to the limitations and prohibitions set out and referred to in this Section 5.

5.2 The Customer may not sub-license and must not purport to sub-license any rights granted under Section 5.1 without the prior written consent of BuildFire.

5.3 The Framework Software may only be used by the officers and employees of the Customer, and the officers and employees of the Customer's Affiliates, agents, subcontractors, customers and service providers.

5.4 Except as expressly permitted by this Agreement or required by applicable law on a non-excludable basis, any license granted under this Section 5 shall be subject to the following prohibitions:

- a. the Customer must not alter, edit or adapt the Framework Software; and
- b. the Customer must not reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Framework Software.

5.5 The Customer shall be responsible for the security of copies of the Framework Software supplied to the Customer under this Agreement (or created from such copies) and shall use all reasonable endeavors (including all reasonable security measures) to ensure that access to such copies is restricted to persons authorized to use them under this Agreement.

5.6 Nothing in this Agreement shall give to the Customer or any other person any right to access or use the Source Code of the Framework Software or constitute any license of the Source Code of the Framework Software.

6. Unique Customer Plugin; Source Code Assignment.

6.1 Notwithstanding anything in this Agreement to the contrary, upon prior written consent by BuildFire, BuildFire may develop a unique proprietary plug-ins solely for use by the Customer that is not a reusable part of the ecosystem of BuildFire ("**Unique Customer Plugin**"). Any Intellectual Property pertaining to any such Unique Customer Plugin thereto will be owned completely and royalty free by the Customer upon completion of the project development, including final payment and release as submitted in writing. Any Unique Customer Plugin Source Code will be delivered in digital format within 30 days of the project completion and final payment. The Customer (or Customer's representative) may make any enhancements independent of BuildFire through capabilities provided by a BuildFire registered developer account. In such cases, the Customer is solely responsible for all maintenance and support related to such enhancements and the Unique Customer Plugin, including but not limited to, BuildFire updates in Services and Software and iOS and Android updates.

6.2 Each party shall use all reasonable endeavors to ensure the security of the Source Code delivered under this Section 6 and shall use all reasonable endeavors (including all reasonable security measures) to ensure that access to such copies is restricted to persons authorized to use them under this Agreement.

7. Third Party Materials

7.1 Subject to any express written agreement between the parties, BuildFire shall ensure that any Third Party Materials used in development are:

- a. licensed to the Customer in accordance with the relevant licensor's standard licensing terms (which the Customer acknowledges may be open source or Creative Commons licensing terms);
- b. licensed to the Customer on reasonable terms notified by BuildFire to the Customer;

7.2 Subject to any express written agreement between the parties, the Customer shall ensure that any Third Party Materials or services are:

- a. licensed to the Customer in accordance with the relevant licensor's standard licensing terms (which the Customer acknowledges may be open source or Creative Commons licensing terms);
- b. the Customer will grant access to BuildFire when needed and for a reasonable duration.

7.3 BuildFire will not provide IT support for third party integrations.

8. Customer obligations

8.1 Except as otherwise agreed to by the parties in writing, the Customer must provide to BuildFire, or procure for BuildFire, such:

- a. co-operation, support and advice in a timely manner. Any delay may cause delays in the agreed timeline;
- b. information and documentation to any API, procedure or any other related system; and
- c. governmental, legal and regulatory licenses, consents and permits when applicable, as are reasonably necessary to enable BuildFire to perform its obligations under this Agreement.

8.2 The Customer must provide to BuildFire, or procure for BuildFire, such access to the Customer's computer hardware, software, networks and systems as may be reasonably required by BuildFire to enable BuildFire to perform its obligations under this Agreement.

8.3 The Customer warrants to BuildFire that it has the legal right to disclose all personal data that it may disclose to BuildFire under this Agreement. If selected on an applicable Order Form, in connection with the Services, BuildFire will assist the Customer in compliance with any selected Data Protection Laws, however, Customer acknowledges and agrees that Customer shall ultimately be responsible for compliance with all applicable Data Protection Laws. BuildFire's use of personal data collected in connection with this Agreement shall be in accordance with the Privacy Policy.

9. Customer Materials

9.1 The Customer must supply to BuildFire the Customer Materials specified in the Order, in accordance with the timetable specified in the Order.

9.2 The Customer hereby grants to BuildFire a non-exclusive license to copy, reproduce, store, distribute, publish, export, adapt, edit and translate the Customer Materials to the extent reasonably required for the performance of BuildFire's obligations and the exercise of BuildFire's rights under this Agreement.

9.3 The Customer warrants to BuildFire that the Customer Materials when used by BuildFire in accordance with this Agreement will not infringe the Intellectual Property Rights or other legal rights of any person, and will not breach the provisions of any law, statute or regulation, in any jurisdiction and under any applicable law.

10. Fees. Customer shall pay all fees set forth in an Order (the "**Fees**"). Fees are earned when received and are non-cancelable and non-refundable, except in the event a termination of a material breach of BuildFire pursuant to Section 17.1. All Fees are exclusive of taxes, levies, or duties imposed by taxing authorities, and Customer shall be responsible for payment of all such taxes, levies, or duties (excluding taxes based on BuildFire's income), even if such amounts are not listed on an Order. Customer shall pay all Fees in U.S. Dollars or in such other currency as agreed to in writing by the parties. All amounts invoiced hereunder are due when invoiced. Customer authorizes BuildFire to set up an automated recurring billing process for recurring Fees. Customer agrees that they are not entitled to receive a refund of these recurring Fees. When Fees are paid by credit card or ACH transfer, Customer agrees that they will not dispute the charges and/or request a chargeback of any Fee from their credit card processor or banking institution. Unpaid invoices that are not the subject of a written good faith dispute are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all reasonable expenses of collection. To the extent any Order defines specific usage rights ("**Usage Rights**"), the Customer shall at all times ensure that it does not exceed any such Usage Rights. If at any time BuildFire determines that Customer is exceeding the Usage Rights identified in the Order, BuildFire shall notify Customer and Customer shall bring its usage within the limits of such Usage Rights. If Customer fails to do so within 30 days of receipt of BuildFire's notice, BuildFire reserves the right to charge and Customer agrees to pay BuildFire's then-current usage fees for such overage.

11. Confidentiality obligations

11.1 Each party (the "**Receiving Party**") understands that the other party (the "**Disclosing Party**") has disclosed or may disclose information relating to the Disclosing Party's business (hereinafter referred to as "**Confidential Information**" of the Disclosing Party). The Receiving Party agrees to use the same degree of care to protect the confidentiality of the Customer Confidential Information as the Receiving Party uses to protect the Receiving Party's own confidential information of a similar nature, being at least a reasonable degree of care. Confidential Information shall not include information that the Receiving Party can document (a) is or becomes generally available to the public; (b) was in its possession or known by its prior to receipt from the Disclosing Party; or (c) was rightfully disclosed to it by a third party; or (d) was independently developed without use of any Confidential Information of the Disclosing Party.

11.2 The restrictions in this Section 11 do not apply to the extent that any Confidential Information is required to be disclosed by any law or regulation, by any judicial or governmental order or request, or pursuant to disclosure requirements relating to the listing of the stock of either party on any recognized stock exchange.

11.3 Upon the termination of this Agreement, each party must immediately cease to use the other party's Confidential Information.

11.4 The provisions of this Section 11 shall continue in force indefinitely following the termination of this Agreement.

12. Publicity. BuildFire may use the Customer as a reference, testimonial, name and/or logo in marketing materials.

13. Warranties; Disclaimers

13.1 BuildFire warrants to the Customer that:

- a. BuildFire has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement;
- b. BuildFire will comply with all applicable legal and regulatory requirements in performance of BuildFire's obligations under this Agreement.

13.2 The Customer acknowledges that the Software is only designed to be compatible with that software specified as compatible in the Software Specification; and BuildFire does not warrant or represent that the Software will be compatible with any other software.

13.3 The Customer acknowledges that BuildFire will not provide any legal, financial, accountancy or taxation advice under this Agreement or in relation to the Software; and, except to the extent expressly provided otherwise in this Agreement, BuildFire does not warrant or represent that the Software or the use of the Software by the Customer will not give rise to any legal liability on the part of the Customer or any other person.

13.4 EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH HEREIN, BUILDFIRE AND ITS THIRD PARTY PROVIDERS HEREBY DISCLAIM ALL EXPRESS OR IMPLIED WARRANTIES WITH REGARD TO THE SOFTWARE AND SERVICES, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT AND QUALITY. BUILDFIRE AND ITS THIRD PARTY PROVIDERS MAKE NO REPRESENTATIONS OR WARRANTIES REGARDING THE RELIABILITY, AVAILABILITY, TIMELINESS, SUITABILITY, ACCURACY OR COMPLETENESS OF THE SOFTWARE AND SERVICES OR THE RESULTS CUSTOMER MAY OBTAIN BY USING THE SOFTWARE AND SERVICES. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, BUILDFIRE AND ITS THIRD PARTY PROVIDERS DO NOT REPRESENT OR WARRANT THAT (A) THE OPERATION OR USE OF THE SERVICES WILL BE TIMELY, UNINTERRUPTED OR ERROR-FREE; OR (B) THE QUALITY OF THE SOFTWARE AND SERVICES WILL MEET CUSTOMER'S REQUIREMENTS. CUSTOMER ACKNOWLEDGES THAT NEITHER BUILDFIRE NOR ITS THIRD PARTY PROVIDERS CONTROLS THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE SOFTWARE AND SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES. BUILDFIRE IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS. EXCEPT WHERE EXPRESSLY PROVIDED OTHERWISE BY BUILDFIRE, THE SOFTWARE AND SERVICES ARE PROVIDED TO CUSTOMER ON AN "AS IS" BASIS.

14. Indemnities

14.1 Indemnification Obligations of BuildFire.

a. BuildFire hereby agrees to indemnify and hold harmless Customer from and against all damages, settlement amounts, costs, and expenses (including reasonable attorney's fees) that Customer may be required to pay to third parties to the extent such damages, settlement amounts, costs, and expenses are attributable to claims that the Software or Services infringes or misappropriates a U.S. patent, copyright, trademark, trade secret, or other intellectual property rights of a third party, except such claims due to: (i) a breach by Customer of any provision of this Agreement; (ii) any Customer Materials; or (iii) use of the Software or Services in combination with any software, hardware, or other equipment not provided by BuildFire where the infringement or misappropriation would not have occurred but for such combination. BuildFire's obligation under this Section 14.1 is contingent upon Customer (a) promptly giving written notice of the claim to BuildFire; (b) giving BuildFire sole control of the defense and settlement of the claim (provided that BuildFire may not settle or defend any claim unless it unconditionally releases Customer of all liability); and (c) provides to BuildFire, all reasonable assistance.

b. In the event Customer is enjoined or otherwise prohibited, or in BuildFire's opinion is reasonably likely to be enjoined or otherwise prohibited, from using the Software or Services as a result of any claim for which BuildFire is required to indemnify Customer under Section 14.1(a) above, BuildFire, at its own expense and option, shall, in addition to fulfilling its obligations described in Section 14.1(a), promptly: (i) procure for Customer the right to continue using the Software and/or Services; (ii) modify the Software and/or Services so that it becomes non-infringing without materially altering its capacity or performance; (iii) replace the Software and/or Services that is reasonably equivalent in capacity and performance but is non-infringing; or, if none of the foregoing remedies is available to BuildFire on commercially reasonable terms; (iv) require Customer to cease using the Software and/or Services and repay to Customer any fees paid for the Software and/or Services.

c. SECTIONS 14.1(A) AND (B) STATES THE ENTIRE OBLIGATION OF BUILDFIRE AND THE EXCLUSIVE REMEDY OF

CUSTOMER WITH RESPECT TO ANY ACTUAL OR THREATENED CLAIM THAT THE SOFTWARE OR SERVICES, OR USE THEREOF BY CUSTOMER, INFRINGES OR MISAPPROPRIATES THE PATENT, COPYRIGHT, TRADEMARK, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS OF ANY PERSON.

14.2 Indemnification Obligations of Customer. Customer shall defend, indemnify and hold BuildFire harmless against any loss, damage or costs (including reasonable attorneys' fees) incurred in connection with claims, demands, suits, or proceedings made or brought against BuildFire by a third party alleging that Customer Materials, Customer Data, or Customer's use of the Services in violation of the Agreement, infringes the intellectual property rights of, or has otherwise harmed, a third party or violates any law or regulation; provided, that BuildFire (a) promptly gives written notice of the claim to Customer; (b) gives Customer sole control of the defense and settlement of the claim (provided that Customer may not settle or defend any claim unless it unconditionally releases BuildFire of all liability); and (c) provides to Customer, at Customer's cost, all reasonable assistance.

15. Limitations and exclusions of liability

15.1 **TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL BUILDFIRE, OR ITS AFFILIATES, AGENTS, DIRECTORS, EMPLOYEES, SUPPLIERS OR ITS LICENSORS BE LIABLE UNDER CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE OR OTHER LEGAL THEORY FOR ANY LOST PROFITS OR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER, SUBSTITUTE GOODS OR SERVICES (HOWEVER ARISING). THE AGGREGATE LIABILITY OF BUILDFIRE FOR ANY AND ALL CLAIMS ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER SHALL NOT EXCEED THE FEES PAID BY CUSTOMER UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH ANY SUCH CLAIM FIRST ARISES EVEN IF BUILDFIRE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. UNDER NO CIRCUMSTANCES WILL BUILDFIRE BE RESPONSIBLE FOR ANY DAMAGE, LOSS OR INJURY RESULTING FROM HACKING, TAMPERING OR OTHER UNAUTHORIZED ACCESS OR USE OF THE SERVICE OR CUSTOMER'S ACCOUNT OR THE INFORMATION CONTAINED THEREIN. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION.**

15.2 The foregoing limitation of liability shall not: (a) limit or exclude any liability for death or personal injury resulting from negligence; (b) limit or exclude any liability for fraud or fraudulent misrepresentation; (c) limit or exclude any liabilities in any way that are not permitted under applicable law.

16. Force Majeure

16.1 Neither party shall be responsible for failure or delay of performance if caused by: an act of war, hostility, or sabotage; act of God; electrical, internet, or telecommunication outage that is not caused by the obligated party; government restrictions (including the denial or cancellation of any export or other license); or other event outside the reasonable control of the obligated party. Each party will use reasonable efforts to mitigate the effect of a force majeure event. If such an event continues for more than 20 days, either party may cancel unperformed Services upon written notice. This section does not excuse either party of its obligations to take reasonable steps to follow its normal disaster recovery procedures or Customer's obligation to pay for the Services provided.

17. Termination

17.1 Either party may terminate this Agreement immediately by giving written notice of termination to the other party if:

- a. the other party commits any material breach of this Agreement, and the breach is not remediable;
- b. the other party commits a material breach of this Agreement, and the breach is remediable but the other party fails to remedy the breach within the period of 30 days following the giving of a written notice to the other party requiring the breach to be remedied; or
- c. the other party is dissolved, ceases to conduct all (or substantially all) of its business, is or becomes unable to pay its debts as they fall due, is or becomes insolvent or is declared insolvent.

17.2 BuildFire may terminate this Agreement immediately by giving written notice to the Customer if any amount due to be paid by the Customer to BuildFire under this Agreement is unpaid by the due date and remains unpaid and BuildFire has given to the Customer at least 30 days' written notice, following the failure to pay, of its intention to terminate this Agreement in accordance with this Section 17.2.

18. Effects of termination.

18.1 Upon the termination of this Agreement, all of the provisions of this Agreement shall cease to have effect, save that the following provisions of this Agreement shall survive and continue to have effect (in accordance with their express terms or otherwise

indefinitely): Sections 4, 11, 13.4, 14, 15, 18, 19, 21, 23, and 24.

18.2 Except to the extent that this Agreement expressly provides otherwise, the termination of this Agreement shall not affect the accrued rights of either party.

18.3 Within 30 days following the termination of this Agreement for any reason the Customer must pay to BuildFire any Fees in respect of Services provided to the Customer before the termination of this Agreement.

19. Non-solicitation of personnel. The Customer must not, without the prior written consent of BuildFire, either during the Term or within the period of 12 months following the end of the Term, engage, employ or solicit for engagement or employment any employee or subcontractor of BuildFire who has been involved in any way in the negotiation or performance of this Agreement.

20. Subcontracting. Subject to any express restrictions elsewhere in this Agreement, BuildFire may subcontract any of its obligations under this Agreement provided that BuildFire shall remain responsible to the Customer for the performance of any subcontracted obligations.

21. Third party rights. This Agreement is for the benefit of the parties to this Agreement, and is not intended to benefit or be enforceable by any third party. The exercise of the parties' rights under this Agreement is not subject to the consent of any third party.

22. Export control

22.1 The Customer acknowledges that materials and/or information supplied to the Customer under this Agreement may be subject to the Export Laws. The Customer must comply with the Export Laws insofar as they affect materials and information supplied to the Customer under this Agreement.

22.2 Without prejudice to the generality of Section 22.1, the Customer: (a) must not import, export, supply, disclose, transfer or transmit any materials or information supplied to the Customer under this Agreement if such import, export, supply, disclosure, transfer or transmission would contravene any embargo or exclusion list applying under the Export Laws; and (b) must, where applicable, obtain all licenses and consents required under the Export Laws for any import, export, supply, disclosure, transfer or transmission by or on behalf of the Customer of materials or information supplied to the Customer under this Agreement.

23. Law and jurisdiction. This Agreement shall be governed by the internal substantive laws of the State of California, without respect to its conflict of laws principles. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. The parties agree to submit to the personal jurisdiction of a state court located in San Diego, California or the United States District Court for the Southern District of California, for any actions for which BuildFire retains the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation or violation of BuildFire's copyrights, trademarks, trade secrets, patents, or other intellectual property or proprietary rights.

24. Miscellaneous. Customer may not assign any of its rights or privileges, or delegate any of its duties or obligations hereunder, in whole or in part, by operation of law or otherwise, to any third party without the prior written consent of BuildFire. This Agreement shall be freely assignable by BuildFire upon thirty (30) days prior written notice to Customer. Any attempted assignment or delegation of this Agreement or any duties or obligations hereunder in violation of the foregoing limitations shall be null and void. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns. All notices required to be in writing shall be delivered by hand, sent by recognized overnight courier (such as Federal Express or UPS), electronic mail, or mailed by certified or registered mail, return receipt requested, postage pre-paid, addressed to the parties set forth in the Order. This Agreement, the Order, including all schedules attached hereto, constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes all prior understandings and agreements between the parties, whether written or oral, regarding the subject matter hereof. This Agreement may not be amended, supplemented, or otherwise modified except by an instrument in writing signed by both parties. Any of the provisions of this Agreement which are determined to be invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability in such jurisdiction, without rendering invalid or unenforceable the remaining provisions hereof or affecting the validity or unenforceability of any of the terms of this Agreement in any other jurisdiction. A waiver by either party of a breach or violation of any provision of this Agreement will not constitute or be construed as a waiver of any subsequent breach or violation of that provision or as a waiver of any breach or violation of any other provision of this Agreement. The headings contained in this Agreement are for convenience only and shall not affect meaning or interpretation of this Agreement. This Agreement shall become binding when any one or more counterparts hereof, individually or taken together, shall bear the original or facsimile signature of each of the parties hereto. This Agreement may be executed in any number of counterparts, each of which shall be an original as against any party whose signature appears thereon, but all of which together shall constitute but one in the same

instrument.