

SKUR TERMS OF SERVICE

THESE TERMS OF SERVICE (these "Terms") are made and entered into by and between **SKUR, INC.**, with its principal office at 1035 22nd Ave., Unit 4, Oakland, CA 94606 ("SKUR") and **Customer** (as defined in the applicable Subscription Order). These Terms describe the terms under which SKUR will make its services available to Customer, and together with the Subscription Order, constitute this "Agreement."

The parties agree as follows:

1. ORDERING, SUBSCRIPTION PERIOD AND TRIAL PERIOD

1.1. Ordering. By executing one or more subscription orders under this Agreement (each a "Subscription Order"), Customer may obtain access to the content, data, application program interface ("API"), data analysis and other features offered through SKUR's proprietary platform of servers, software and technology (the "Services"). The specific Services available to Customer are identified in the Subscription Order. All use of the Services by Customer is subject to the terms and conditions of this Agreement.

1.2. Subscription Period. Subject to Section 1.3, the period of access to the Services will be specified in the applicable Subscription Order ("Subscription Period") and if no period is specified, the Subscription Period will be twelve (12) months. A Subscription Order is not cancelable by Customer during a Subscription Period except as provided in Section 6. At the end of the initial Subscription Period, the Subscription Period will automatically renew for successive one (1) year terms, unless Customer notifies SKUR in writing sixty (60) days prior to the termination of the current Subscription Period, or as otherwise specified in a Subscription Order.

1.3. Trial Period. SKUR will make the Services available to a new Customer for a two-week period free of charge (the "Trial Period"). During the Trial Period, (i) Customer is limited to three (3) SKUR accounts and five (5) Diffs per account, (ii) the Services are provided without any warranty or indemnification of any kind, and (iii) SKUR shall have no obligation to return or maintain any Customer data.

2. SERVICES USE AND RESTRICTIONS

2.1. License. SKUR hereby grants to Customer a limited, revocable, non-exclusive, non-transferable, non-sublicensable right and license to access the Services specified in the Subscription Order during the Subscription Period for its internal business purposes.

2.2. Account Password and Security. Customer's account with SKUR will provide Customer with access to the Services and the API and other functionality that SKUR may provide from time to time. Customer shall protect its passwords and take full responsibility for Customer's own as well as any third party use of the Customer account. Customer is solely responsible for any and all activities that occur under its accounts, except for any activities performed by SKUR as set forth herein. Customer agrees to notify SKUR immediately upon learning of any unauthorized use of its account or any other breach of security. From time to time, SKUR's support staff may log in to the Services under Customer's password in order to maintain or improve the Services, including for the purpose of providing Customer assistance with technical or billing issues. Customer hereby acknowledges and consents to such access.

2.3. Services Modifications. SKUR is constantly innovating in order to provide the best possible experience for its customers. Customer acknowledges and agrees that the form and nature of the Services that SKUR provides may be improved from time to time without prior notice to you, including without limitation security patches, added functionality, and other enhancements. Changes to the form and nature of the Services will be immediately effective with respect to all versions of the Services.

2.4. Restrictions. Customer shall not, and shall not permit its personnel to: (i) resell, sublicense, distribute or otherwise provide access to the Services, or data or information contained in or derived from the Services, to any third party or use the Services outside the scope of the license granted herein; (ii) copy, modify, adapt, translate, prepare derivative works from, reverse engineer, disassemble, or decompile the Services or otherwise attempt to discover any source code or trade secrets related to the Services; or (iii) use the trademarks, trade names, service marks, logos, domain names and other distinctive brand features or any copyright or other proprietary rights associated with the Services for any purpose without the express written consent of SKUR. Customer will indemnify, defend and hold SKUR harmless against any damages, losses, claims or judgments arising out of any violation of Section 2 of this Agreement.

2.5. Training and Support.

2.5.1. Training and Implementation Support. In consideration of Customer's payment of training and support fees indicated in a Subscription Order, SKUR will provide the training and support services set forth in the Subscription Order. Training sessions will be conducted at SKUR's facility and/or at Customer's location. Customer will reimburse SKUR's reasonable travel costs and living expenses incurred by SKUR's employees and subcontractors for travel from SKUR's offices in connection with the performance of training services.

2.5.2. Customer Support. SKUR will make Services documentation available through its website. In addition, SKUR will provide online support at support@skur.com Monday-Friday (excluding holidays) during the hours of 9 am-5 pm PT.

3. TERM OF THE AGREEMENT

The term of this Agreement commences on the date of execution of the Subscription Order and continues until the end of the Trial Period or until all Subscription Periods, including any renewals thereof, have been terminated.

4. CHARGES, PAYMENT AND TAXES

4.1. Charges. Except during the Trial Period, Customer will be billed for use of the Services in accordance with the applicable Subscription Order. The pricing specified in a Subscription Order will be firm for the initial term of the Subscription Order. SKUR may provide notice of an increase in pricing in advance of Subscription Period renewal.

4.2. Payment. Invoices will be due and payable thirty (30) days from date of invoice and will be paid in immediately available U.S. funds by wire transfer or other method as mutually agreed to by the parties. Any invoiced amount not paid by the due date will bear a late payment charge at the rate of one and a half percent (1.5%) per month (or such lower amount as may be required by law) until paid.

4.3. Taxes. Fees do not include and Customer shall pay, indemnify and hold SKUR harmless from all applicable sales/use, gross receipts, value-added, GST or other tax on the transactions contemplated herein, other than taxes based on the net income or profits of SKUR.

5. CONFIDENTIALITY

"Confidential Information" means, subject to the use license granted in Section 11.2, any non-public information relating to or disclosed in the course of this Agreement, including the Services and data or information contained in or derived from the Services. The receiving party will not share Confidential Information with third parties (except as otherwise provided in this Agreement, including Section 2), will use the same care to protect Confidential Information as it uses for its own similar information, but in no event less than reasonable care, and will use Confidential Information only as permitted in this Agreement and for fulfilling its obligations under this Agreement. Confidential Information does not include information that: (a) is or becomes part of the public domain through no fault of the receiving party; (b) was already in possession of the receiving party without restriction; (c) is independently developed by the receiving party without violation of this Section; or (d) is received from a third party without restriction. The receiving party may disclose Confidential Information if it is required to do so by law, so long as the receiving party provides the disclosing party with prompt notice and complies with any protective order imposed on such disclosure. At the request of the disclosing party, the receiving party will return all of the other party's Confidential Information that is reduced to writing(s), drawing(s), schematic(s), or any other form of documentation, or destroy all such material, and permanently delete if in electronic form, and to certify the destruction to the disclosing party, *provided however*, if the Agreement is not terminated for cause, the Customer may retain copies of the reports or information printed or obtained through the Services subject at all times to the license restrictions specified in Section 2.24 and the non-disclosure requirements of this Section 5.

6. TERMINATION

6.1. For Cause. Either party may terminate this Agreement and all Subscription Orders, immediately upon written notice to the other party, if the other party: (a) commits a material breach of this Agreement, which is capable of remedy, and fails to remedy the breach within thirty (30) days after written notice; (b) commits a material breach of this Agreement that cannot be remedied; or (c) is repeatedly in breach of this Agreement.

6.2. Effect of Termination. Upon termination of this Agreement, all license rights hereunder will immediately terminate and Customer will: (i) cease use of the Services; (ii) destroy or (if requested by SKUR) return to SKUR all copies or other embodiments of any and all SKUR Confidential Information; and (iii) pay to SKUR any amounts due and owing under this Agreement. Subject to Section 11.2, within the sixty (60) day period prior to expiration of this Agreement, SKUR will provide Customer by written notification with an opportunity to download and retrieve any Customer data hosted via the Services.

7. INDEMNIFICATION

7.1. SKUR Intellectual Property Indemnification. SKUR will defend at SKUR's expense any claim or suit brought against Customer based on an allegation that the Services as provided to Customer infringe any patent, copyright or trademark, or misappropriate any trade secret enforceable in the United States, and will pay all damages and costs that a court awards against Customer as a result of such claim or suit, provided that Customer gives SKUR (i) prompt written notice of such claim or suit within thirty (30) days of the claim or suit being made (provided that SKUR's obligations under this provision shall continue notwithstanding failure to give notice within thirty (30) days to the extent that SKUR's ability to defend the suit is not materially prejudiced by such delay), and furnishes SKUR with a copy of each communication, notice or other document relating to the claim or suit; (ii) full control over the defense or settlement thereof and (iii) all reasonable information and assistance (at SKUR's expense, excluding time spent by employees or consultants of Customer) to handle the defense and settlement thereof. Should the Services become, or in SKUR's opinion be likely to become, the subject of a claim of infringement of any

patent, copyright or trademark or misappropriation of trade secret, SKUR may, at its option, either: (i) procure for Customer the right to continue using the Services, or (ii) modify the applicable Services to make them non-infringing, but functionally equivalent. If neither of the foregoing alternatives is reasonably available to SKUR, then SKUR may terminate this Agreement and provide to Customer a refund of any unused fees. SKUR shall have no liability for any claim of intellectual property infringement that is based on (i) Customer's use or combination of the Services with software, hardware or other materials not provided or expressly contemplated by SKUR, provided such infringement would not have arisen but for such use or combination or (ii) use of the Services in a manner other than that for which it was designed or contemplated as evidenced by SKUR's documentation. THIS SECTION 7.1 STATES THE ENTIRE LIABILITY OF SKUR, AND EXCLUSIVE REMEDY OF CUSTOMER, WITH RESPECT TO THE INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS BY THE SERVICES, AND SKUR SHALL HAVE NO ADDITIONAL LIABILITY WITH RESPECT TO ANY ALLEGED OR PROVED INFRINGEMENT.

7.2. Customer Indemnification. Except to the extent SKUR is responsible for a suit under Section 7.1 or a suit or claim arises due to any defect, error or infringement by the Services or any negligence or willful misconduct of SKUR, Customer shall defend any suit brought against SKUR based on a claim in connection with Customer's use of the Services under this Agreement and will pay all damages and costs that a court awards against SKUR as a result of such claim; provided, that SKUR gives Customer: (i) prompt written notice of such suit; (ii) full control over the defense or settlement thereof and (iii) all reasonable information and assistance (at Customer's expense excluding time spent by employees or consultants of SKUR) to handle the defense and settlement thereof. The foregoing obligation shall include, without limitation, any claim of breach of contract, negligence, loss of use of the Services by third parties, property damage, death and/or personal injury, and infringement of intellectual property rights.

8. LIMITED WARRANTY AND LIMITATION OF LIABILITY

8.1. Limited Warranty. SKUR will perform the Services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards. EXCEPT FOR THE EXPRESS WARRANTIES OF THIS SECTION 8.1, THE SERVICES AND ALL DATA AND INFORMATION OBTAINED VIA THE SERVICES ARE PROVIDED ON AN "AS IS," "AS AVAILABLE" BASIS. TO THE FULLEST EXTENT PERMISSIBLE PURSUANT UNDER APPLICABLE LAW, SKUR MAKES NO WARRANTY OR GUARANTEE, EXPRESS OR IMPLIED, RELATING TO THE SERVICES OR CUSTOMER'S USE OF THE SERVICES, OR ANY DATA OR INFORMATION OBTAINED VIA THE SERVICES OR PROVIDED UNDER THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, NON-INFRINGEMENT, AND/OR FITNESS FOR A PARTICULAR PURPOSE.

8.2. Limitation of Liability.

8.2.1. EXCEPT FOR A BREACH OF SECTION 2.4 OR SECTION 5, OR WITH RESPECT TO A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 7, EACH PARTY'S ENTIRE AGGREGATE LIABILITY TO THE OTHER PARTY FOR ANY AND ALL CLAIMS OF WHATEVER NATURE ARISING OUT OF THE PROVISION AND USE OF THE SERVICES OR OTHERWISE ARISING IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED THE TOTAL AMOUNTS PAID OR PAYABLE TO SKUR DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE MAKING OF THE CLAIM PURSUANT TO THE SUBSCRIPTION ORDER UNDER WHICH THE CLAIM AROSE.

8.2.2. EXCEPT FOR A BREACH OF SECTION 2.24 OR SECTION 5, OR WITH RESPECT TO A PARTY'S INDEMNIFICATION OBLIGATIONS, A PARTY SHALL NOT BE LIABLE TO THE OTHER PARTY OR ANY THIRD-PARTY CLAIMANT FOR

INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE, OR SPECIAL LOSS OR DAMAGES OF ANY KIND INCLUDING BUT NOT LIMITED TO LOST REVENUES, LOST SAVINGS, LOST BUSINESS OPPORTUNITY, OR LOST PROFITS, WHETHER BASED ON A CLAIM OR ACTION OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR OTHER TORT, BREACH OF ANY STATUTORY DUTY, INDEMNITY OR CONTRIBUTION, OR OTHERWISE, EVEN IF THE PARTY AND/OR ITS SUBSIDIARIES AND AFFILIATES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. FORCE MAJEURE

Neither party shall be liable for any default or delay in the performance of its obligations hereunder (except for failure to pay amounts due) if and to the extent that such default or delay arises out of causes beyond its reasonable control, including without limitation acts of God, acts of war, acts of terrorism, earthquakes, fires, cable cuts, power outages, catastrophic network element failures, floods, terrorism, riots, civil disorders, rebellions, strikes, lockouts and labor disputes (individually, each such event a "Force Majeure Event").

10. COMPLIANCE

10.1. Compliance with Laws. Each party shall comply with all laws, statutes, ordinances, codes, regulations and other pronouncements having the effect of law of any government authority with respect to the Services and any data or information contained in or derived from the Services.

10.2. Information Privacy and Security. Each party shall (i) maintain and make publicly available a privacy policy that describes its privacy practices in reasonable detail and will comply with such privacy policy, and (ii) take security measures to: (a) reasonably maintain the security, confidentiality, and integrity of the Services and any data or information contained in or derived from the Services; and (b) protect against unauthorized access to and use of the Services and any disclosure of data or information contained in or derived from the Services.

10.3. Indemnity. Each party shall indemnify, defend and hold harmless the other party against any damages, losses, claims or judgments arising out of any violation of this Section 10.

11. INTELLECTUAL PROPERTY AND OWNERSHIP

11.1. Customer agrees that, as between the parties, SKUR owns all intellectual property rights and all other proprietary interests that are embodied in or practiced by the Services and all data or information contained in or derived from the Services. SKUR grants no rights other than the rights expressly granted to Customer under this Agreement.

11.2. SKUR agrees that, as between the parties, Customer owns all data directly provided by Customer to SKUR for use with the Services. Notwithstanding anything to the contrary, including Section 5, Customer hereby grants to SKUR a perpetual right and license (i) to use Customer data for the purpose of providing the Services, and (ii) to use non-personally identifiable Customer data, without identifying Customer or the specific source of the data, solely for the purpose of enhancing the Services, SKUR's methodologies, and SKUR's products and services. This license includes the right to use anonymized Customer's data in the aggregate and with other data and to create derivative datasets for use in SKUR's products and services. SKUR may at its option delete any Customer data hosted via the Services that Customer has not used for a period of more than one (1) year.

12. REGULATORY REQUIREMENT

If a regulatory body, or a court of competent jurisdiction, issues a rule, regulation, law or order that has the effect of materially increasing the

cost to provide use of the Services or canceling, changing, or superseding any material term or provision of this Agreement (collectively "Regulatory Requirement"), this Agreement shall be deemed modified in such a way as the parties mutually agree is consistent with the form, intent and purpose of this Agreement and is necessary to comply with such Regulatory Requirement. Should the parties not be able to agree on modifications necessary to comply with a Regulatory Requirement within thirty (30) days after the Regulatory Requirement is effective, then, upon written notice, either party may, to the extent practicable, terminate that portion of the Agreement impacted by the Regulatory Requirement.

13. MISCELLANEOUS

13.1. Independent Contractors. SKUR and Customer are, and shall be deemed to be, independent contractors with respect to the subject matter of this Agreement. Nothing contained herein shall constitute this arrangement to be a joint venture or a partnership between SKUR and Customer. Neither party has any authority to enter into agreements of any kind on behalf of the other party. Each party shall be solely responsible for and shall hold the other harmless from any and all claims for taxes, fees, or costs, including but not limited to withholding, income tax and workers' compensation.

13.2. Waiver. No term or provision of this Agreement shall be deemed waived and no breach or default shall be deemed excused unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. No consent by any party to, or waiver of, a breach or default by the other party, whether express or implied, shall constitute consent to, waiver of, or excuse for any different or subsequent breach or default or shall be construed as a continuing waiver of such right or a waiver of any other provision hereunder.

13.3. Partial Invalidity. In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and both parties shall negotiate in good faith to substitute for such invalid, illegal, or unenforceable provision a mutually acceptable provision that is consistent with the original intent of the parties.

13.4. Amendment. Except as otherwise provided in this Agreement, this Agreement may be amended by the parties hereto at any time only by execution of an instrument in writing signed on behalf of each of the parties hereto. Any extension or waiver by any party of any provision hereto shall be valid only if set forth in an instrument in writing signed on behalf of such party.

13.5. Binding Effect. If any provision of this Agreement is held to be invalid or unenforceable, the remainder of the Agreement will remain in full force and effect, and such provision will be deemed to be amended to the minimum extent necessary to render it enforceable.

13.6. Survival. Termination of this Agreement shall not affect either party's accrued rights or obligations under this Agreement as they exist at the time of termination, or any rights or obligations that either expressly or by implication continue after this Agreement has ended.

13.7. Assignment. Except for assignment to affiliates, Customer may not assign or otherwise transfer this Agreement or any rights or obligations hereunder without the prior written consent of SKUR. SKUR may assign this Agreement to an affiliate or other entity without the written consent of Customer. Subject to the foregoing, this Agreement will be binding upon, enforceable by and inure to the benefit of the parties and their respective successors and assigns.

13.8. Marketing Materials and Communications. Customer agrees that SKUR may utilize Customer's trademark and/or trade name solely

to identify it as a SKUR Customer on the SKUR website, in client lists and other marketing materials. Any other uses of Customer's name and/or logo (other than as included in the Customer content and/or other items furnished to SKUR by Customer) shall require Customer's prior written consent.

13.9. Notices. Unless otherwise specified, any notice or other communication required or permitted to be given hereunder shall be given in writing and delivered in person, sent by certified mail with the required pre-paid postage and return receipt requested, or delivered by a recognized courier service, shipment charges pre-paid, properly addressed to the individual signing this Agreement on behalf of the applicable party at its address specified in the opening paragraph of the Agreement and shall be deemed effective upon receipt.

13.10. Headings. The headings and other captions in this Agreement are for convenience and reference only and shall not be used in interpreting, construing or enforcing any of the provisions of this Agreement.

13.11. No Third Party Beneficiaries. Except as specifically stated in this Agreement, this Agreement is not intended to be for the benefit of any third party, is not enforceable by any third party, and will not confer on any third party any remedy, claim, right of action or other right.

13.12. Governing Law. This Agreement shall be governed by the laws of the State of California (irrespective of its choice of law principles). Each party consents to the exclusive jurisdiction of the state and federal courts sitting in San Francisco, California in any action, suit or proceeding hereunder.

13.13. Counterparts; Electronic Signature. This Agreement may be signed in any number of counterparts with the same effect as if the signature on each such counterpart were upon the same instrument, and a facsimile transmission or electronic delivery of a manual signature (*e.g.*, .pdf) shall be deemed to be an original signature.

13.14. Entire Agreement. This Agreement, together with any Subscription Orders, schedules and exhibits attached hereto, all of which are incorporated by reference, sets forth the entire understanding of the parties hereto with respect to the transactions contemplated hereby. Any and all previous agreements and understandings between or among the parties regarding the subject matter hereof, whether written or oral, are superseded by this Agreement.