# MASTER SUBSCRIPTION AGREEMENT

This Master Subscription Agreement, including the appendices and exhibits (together, the "**MSA**"), is entered into as of this _____day of _____ 2021 (the "**Effective Date**").

**BETWEEN:** Zia.ai Inc., a legally constituted corporation incorporated under the Canada Business Corporations Act, with its headquarters located at 2390 rue de Rushbrooke, Montreal, QC, H3K 1T3 here represented by Gregory Whiteside, duly authorized as declared;

(hereafter referred to as "**Zia Inc.**")

**AND:** _____, a legally constituted Delaware corporation*,* with its headquarters located at _____ here represented by _____, duly authorized as declared;

(hereafter referred to as the "**Customer**")

(Individually a "**Party**", and collectively the "**Parties**" under this Agreement).

**WHEREAS**, Zia Inc. offers the Software and Software License (as defined belo w),  as  well  as  related services depending on the Tier selected and as indicated in Order Forms from time to time for the Customer identified in such Order Forms and subject to the terms of this Agreement (the "**Software Services**");

**WHEREAS**, Zia Inc. offers Training Services based on a bank of hours as indicated in the Order Forms and Change Orders from time to time, and in accordance with the terms of this Agreement (the "**Training Services**");

 **WHEREAS**, Zia Inc. offers Consultation Services (as defined below) based on a bank of hours as described in a Statement of Work and in accordance with the terms of this Agreement ("**Consultation Services**");

**WHEREAS**, Zia Inc. offers technical support for the Software Services from time to time, and in accordance with the terms of this MSA (the "**Technical Support**");

**WHEREAS**, Customer would like to procure the Software Services, Consultation Services and Training Services (together, the "**Services**") identified in the Order Forms, Statements of Work and Change Orders (the "**Procurement Documentation**"), from time to time;

**NOW, THEREFORE**, the Parties agree as follows:

## 1. DEFINITIONS

1.1 "**Abuses**" has the meaning set forth under Section 7.1;

1.2 "**Affiliate**" is an entity that controls, is controlled by or shares common control with a party, where such control arises from either (a) a direct or indirect ownership interest of more than fifty percent (50%), or (b) the power to direct or cause the direction of the management and policies, whether through the ownership of voting stock by contract, or otherwise;

1.3 "**Agreement**" means this MSA along with the exhibits, amendments, addendums and Procurement Documentation;

1.4 "**Aggregated Data**" means Anonymized Data which has been combined with other data as part of a dataset which is not specific to Customer's activities and which does not allow for the direct or indirect identification of Customer.

1.5 "**Anonymized Data**" means any data which no longer relates to an identified or identifiable natural person and which is de-identified in accordance with industry standard. For the avoidance of doubt, Anonymized Data shall not include any Personal Information;

1.6 "**API**" means "application programming interface";

1.7 "**Applicable Laws**" means any applicable domestic or foreign law, rule, regulation, order, or other action, decree or requirement in force at any time during the Term which governs or regulates a Party and the provision of the Services;

1.8 "**Change Order**" shall have the meaning set forth under Section 2.1;

1.9 "**Confidential Information**" means any and all information of a party (the "**Disclosing Party**") which has or will come into the possession of the other party (the "**Receiving Party**") concerning the business, properties, affairs or finances of the Disclosing Party, or of any person, firm, cooperation or other entity which the Disclosing Party is under an obligation to keep confidential, including trade secrets, source code, algorithms, lists of customers, vendors, suppliers, agents and site visitors, business studies and analyses, specifications and uses of products and services; product research, sales, marketing and strategic plans and forecasts; product and availability information and any and all proposals, notes, projections, memoranda, reports, lists and records, whether written, printed or in digital format or otherwise, and shall include any and all other types of information which is identified by the Disclosing Party, either orally or in writing, as confidential at the time of disclosure to the Receiving Party, or which the Receiving Party ought to know by virtue of the circumstances in which it learned of such information, would constitute Confidential Information;

1.10 "**Consultation Services**" means consulting services offered by Zia Inc. as may be mutually determined by the Zia Inc. and the Customer from time to time.

1.11 "**Customer Data**" means the (a) Personal Information; (b) Customer's Confidential Information, and (c) information submitted through the Software Services, (d) Customer Training Data.

1.12 "**Customer IT Equipment**" has the meaning set forth under Section 2.6;

1.13 "**Customer Training Data**" means training datasets imported by the Customer into the Software;

1.14 "**Customer Materials**" means the Customer Data, Customer Trademarks and other materials provided to Zia Inc. for the purpose of the performance of the Services;

1.15 "**Customer Suggestions**" has the meaning set forth under Section 6.2;

1.16 "**Customer Trademarks**" has Customer's distinctive logos, names, brands, product names, phrase, word or symbol, whether registered or not;

1.17 "**Dispute**" shall have the meaning set forth under Section 17.1;

1.18 "**End User(s)**" means an employee or agent of Customer who is authorized to use the Services by Customer and is provided with an account by Customer to use the Services on its behalf;

1.19 "**Fees**" shall have the meaning set forth under Section 12.1;

1.20 "**Force Majeure**" shall have the meaning set forth under Section 19.1;

1.21 "**Integration Partners**" means third-party software, applications, technologies, services and products which are integrated to the Services by API;

1.22 "**Intellectual Property**" means any and all intellectual property, including without limitation, works, inventions (whether patentable or not), discoveries, improvements, trade secrets, know-how, scientific formulae, data, information, images, reports, results, analysis, software, models, research and development information, technical information, prototypes, specifications, patterns, drawings, algorithms, products, compositions, processes and protocols, methods, tests, devices, computer programs, trademarks and any and all proprietary rights provided under patent law, copyright law, trademark law, design patent or industrial design law, semiconductor chip or mask work law, or any other statutory provision or civil or common law principles applicable to the protection of intangible proprietary information or rights, including trade secret law, which may provide a right in any of the foregoing as well as any and all applications, registrations or other evidence of a right in any of the foregoing;

1.23 "**Notice of Dispute Resolution Procedure**" shall have the meaning set forth in Section 17.1(a);

1.24 "**Notice of Mediation**" shall have the meaning set forth in Section 17.1(c);

1.25 "**Order Form**" shall have the meaning set forth under Section 2.1;

1.26 "**Personal Information**" means any information that would meet the definition of "personal information'' (or similar nomenclature) under Applicable Laws;

1.27 "**Renewal Term**" has the meaning set forth under Section 18.2;

1.28 "**Security Breach**" means any act or omission that materially compromises the confidentiality, integrity or availability of Customer Data or Zia Inc.'s Confidential Information, including the Software;

1.29 "**Servers**" has the meaning set forth under Section 4.1;

1.30 "**Software**" means HumanFirst Studio and related workflows which includes, in particular, its source code and object code;

1.31 "**Software License**" has the meaning set forth under Section 5.1;

1.32 "**Statement of Work**" shall have the meaning set forth under Section 3.1;

1.33 "**Subscription Term**" shall have the meaning set forth under Section 18.2;

1.34 "**Subscription Term Start Date**" shall have the meaning set forth under Section 18.2;

1.35 "**Term**" shall have the meaning set forth in Section 18.1;

1.36 "**Training Services**" means services offered by Zia Inc. to the Customer to onboard Customer employees with the use of the Software.

1.37 "**Usage Data**" shall mean data captured or generated by the Software about End Users relating to their usage.

## 2. PERFORMANCE OF THE SERVICES

2.1 **Procurement.** The Parties may enter into order forms, from time to time, which shall contain a description of the Software Services, Training Services and and/or Consultation Services to be provided to Customer, the Subscription Term, the Subscription Term Start Date, the Fees and any additional conditions to the performance of the Services, as applicable from time to time (each an "**Order Form**"). An Order Form shall have precedence over this Agreement and may only be modified by written amendment (each a "**Change Order**") which shall have precedence over the previous Order Form and the MSA. The Procurement Documentation is approved through digital acceptance, signature or through the issuance of a purchase order by Customer corresponding to the Procurement Documentation issued by Zia Inc. Order Forms and Change Orders are deemed part of and attached to this Agreement.

2.2 **Collaboration.** Customer agrees and understands that the timely sharing of information is critical to the deployment of the Services. Zia Inc. shall have no responsibility for any delays or breach of this Agreement caused by Customer's failure to provide the information in a timely manner, or for information which is inaccurate, outdated or incomplete.

2.3 **Technical Support.**

    (a) **Normal Operating Hours.** Technical Support is provided between 9:00 AM and 5:00 PM ET, from Monday to Friday, excluding holidays in the province of Québec, Canada;

    (b) **Customer IT Equipment.** The Technical Support does not apply to Customer IT Equipment.

2.4 "**Tier**" means the tiers listed in the HumanFirst Pricing Document.

2.5 **Service Level Agreement.** Zia Inc. shall deploy commercially reasonable measures to ensure the availability of the Software Services on a twenty-four (24) hours basis taking into consideration circumstances that are within the reasonable control of Zia Inc. Zia Inc. may perform emergency or planned scheduled maintenance in order to maintain performance and security of the Software Services. This may require suspending Services during the maintenance period. Zia Inc. will use commercially reasonable efforts to notify Customer in advance of any scheduled maintenance that may adversely affect the Customer's use of the Services.

2.6 **Customer IT Equipment.** Customer is solely responsible for maintaining the IT environment used for the Services and not provided by Zia Inc. (the "**Customer IT Equipment**"). Customer agrees and understands that Zia Inc. does not have any liability arising from or in relation to Customer IT Equipment.

## 3. TRAINING AND CONSULTATION SERVICES

3.1 **Procurement.** The Parties may enter into statements of work, from time to time, which shall describe the Consultation Services to be provided to Customer, along with the Fees, the payment terms and any additional terms and conditions (the "**Statement of Work**"). A Statement of Work shall have precedence over this MSA and may only be modified through a Change Order which shall have precedence over a Statement of Work and the MSA. Statements of Work are deemed part of and attached to this Agreement.

3.2 **Training Services.** The Training Services are performed virtually and in accordance with a Statement of Work. The Training Services shall provide End Users with commercially reasonable information to ensure that they can operate the Software Services adequately. Zia Inc. reserves its right to charge additional fees for further training if the bank of hours for training is exceeded and if additional Training Services are requested by the Customer during the Subscription Term, the whole in accordance with a Statement of Work.

3.3 **Consultation Services**. The Consultation Services are offered based on a bank of hours as stipulated in the Statement of Work.

## 4. HOSTING AND IT ENVIRONMENT

4.1 **Data Hosting.** The Services may be deployed using on-premise servers which may be owned and controlled by Customer (the "**On-premise hosting**") or hosted on the cloud by Zia Inc. the whole as set forth in the Procurement Documentation. Additional Fees shall be charged for On-premise hosting, as specified in the Order Form. The Customer Servers are deemed Customer IT Equipment.

4.2 **Media Sanitization.** Upon the termination of the Subscription Term, if the Customer selected the On-premise hosting option, the Customer shall sanitize its servers in accordance with industry's best practices, such as NIST 800-88 Media Sanitization to permanently and securely delete all of Zia Inc.'s Confidential Information from Customers' Servers. Zia Inc. shall do the same for the Zia Inc.'s cloud hosting environment. Upon request by the other Party, each Party shall confirm in writing that appropriate media sanitization or procedures have been performed to delete all the other Party's Confidential Information.

## 5. GRANT OF LICENSE

5.1 **Software.** Subject to the terms and conditions of this Agreement, including the payment of the Fees, during the Subscription Term, in accordance with an Order Form, Zia Inc. hereby grants to Customer a non-exclusive, non-transferable, non-sublicensable, revocable (but only pursuant to this Agreement) and limited license to install, download, copy (but only pursuant to this Agreement), access and use the Software, at authorized workspaces and devices (the "**Software License**"). For the avoidance of doubts, this Software License extends to APIs. The Customer is authorized to make copies of the Software as required for business continuity purposes or for Zia Inc. to deliver the Services. The Customer represents and warrants that it shall not remove any mention in the Software regarding Intellectual Property, such as copyright notices.

5.2 **Customer Materials**. During the Term, in accordance with Order Forms, Change Orders and Statements of Work, Customer hereby grants Zia Inc. a non-exclusive, non-sublicensable, non-transferable, royalty-free and revocable (but only pursuant to Section 18) right and license to access, use and reproduce Customer Materials as required to perform the Services, this Agreement and to enforce Zia Inc.'s rights. Customer shall retain all rights, titles and interests in Customer Materials. All rights not granted herein are reserved.

5.3 **Customer Data.** Notwithstanding anything to the contrary in this Agreement, Customer hereby grants Zia Inc. a non-exclusive, non-sublicensable, non-transferable, royalty-free and revocable (but only pursuant to Section 18) right and license to process Customer Data as required to perform the Services, to comply with Applicable Laws, and to anonymize Customer Data. Customer shall retain all rights, titles and interests in Customer Data.

5.4 **Research Purposes.** Notwithstanding anything to the contrary in this Agreement, Customer hereby grants Zia Inc. a perpetual, non-exclusive, non-sublicensable, non-transferable (except in accordance with this Agreement), royalty-free and revocable right and license to

aggregate, use, reproduce and copy Customer Training Data for the purposes of research and development. Customer may revoke its consent at any time by e-mail to Zia Inc.

## 6.  INTELLECTUAL PROPERTY

6.1  **Zia Inc.'s Intellectual Property.** Zia Inc. shall be the sole and exclusive owner of its Intellectual Property, including, without limitation, the Software and the APIs. All rights not granted herein are reserved. Zia Inc. shall be the sole and exclusive owner of all APIs or integrations with the Software created by Zia Inc. for the Customer in the performance of an Agreement. Zia Inc. may use these integrations or APIs for other customers. The Software and APIs are licensed, not sold, to Customer. The Customer may not create any derivative work from Zia Inc.'s Intellectual Property and Confidential Information. For the avoidance of doubts, the creation of Customer Models and APIs for the Customer's shall not be considered derivative works for the purpose of this section 6.1 .

6.2  **Customer's Intellectual Property.** Customer shall be the sole and exclusive owner of its Intellectual Property, including, without limitation, the Customer Materials. The Customer shall hold all rights titles, and interest in all models and projects generated by the Customer through their use of the Software ("**Customer Models**").

6.3  **Customer Suggestion.** Notwithstanding anything to the contrary, Zia Inc. shall also be the sole owner of any suggestions, enhancement requests, recommendations or other feedback provided by Customer or End Users to Zia Inc., so long as they are related to the Services ("**Customer Suggestions**") and Customer hereby assigns to Zia Inc., without limitation of any kind, all of its rights, titles and interests therein, Zia Inc. accepting such assignment. Notwithstanding the foregoing, Customer shall retain the irrevocable and perpetual right to use, exploit and implement Customer Suggestions in its own operations or other business initiatives, without further obligations or liability to Zia Inc.

6.4  **Modifications to the Software.** Customer is not authorized to perform any modification of any nature to the Software without the prior written consent of Zia Inc. Even if Zia Inc. agrees to such modification by Customer, Customer agrees and understands that any and all modifications to the Software are the Intellectual Property of Zia Inc.

## 7.  ACCEPTABLE USE OF THE SERVICES

7.1  The Customer represents and warrants that it will not use (or allow the use of) the Services in any manner:

(a)  that is prohibited by Applicable Laws or this Agreement;

(b)  that will disrupt third parties' use or enjoyment of the Services, including uses that result in automated, constant and repeated requests for data other than as intended or permitted under this Agreement (e.g., denial of services and distributed denial of services attacks) or by abnormally overloading servers on the Zia Inc.'s network causing portions of the Zia Inc.'s network to be blocked or unavailable;

(c)  that results in the creation, transmission, distribution or storage of material (i) in violation of the rights of third parties, including Intellectual Property and privacy rights, and (ii) that is threatening, abusive, hateful, or constitutes or encourages conduct that would constitute a fraud or criminal offence or gives rise to civil liability or penalties;

(d)  that results in (i) the sharing of identifiers and passwords between End Users or with third parties(ii) access to the Services by third parties, or (iii) the use of time-sharing services, network or other means of sharing accounts;

(e) that involves using any robot, spider, scraper, deep link or other automated data gathering or extraction tools, program, algorithm, or methodology to access, acquire, copy or monitor the Services or any data collected, used or generated by the Services;

(d) that involves decompiling, disassembling, reverse engineering, attempting to reconstruct or discovering any Intellectual Property or Confidential Information of Zia Inc., including, without limitation, source codes, ideas, and algorithms of the Services' underlying technology by any means whatsoever. For the avoidance of doubts, the foregoing shall include converting the Software into a human comprehensible form or attempting to access its source code;

(e) that involves modifying, leasing or lending the Software and from distributing copies of it, including by electronically transferring the Software over a network, an electronic circuit or the Internet, except as required for the performance of the Services or for business continuity purposes;

(f) that involves violating Zia Inc. security safeguards and configurations for the Services (including its network, servers and related systems), including, without limitation:

(i) by posting or transmitting files, data or computer text which contain viruses, worms, Trojan horses, malicious software or any other contaminating or destructive features;

(ii) by attempting to hack any security safeguards or processes in the use of the Services;

(iii) by attempting to access any part of the Services (or any of their related systems, networks, servers or other equipment) which Customer is not authorized to access;

(iv) by attempting to disrupt in any manner the operation of the Services, its servers or network;

(v) by manipulating identifiers in order to disguise the origin of any content transmitted on or to the Services, or the source of any content;

(vi) by modifying or altering the Services in any unauthorized manner.

(collectively, the "**Abuses**").

7.2 Customer agrees and acknowledges that encouraging, aiding, authorizing or attempting to breach Section 7.1 is deemed an Abuse. Customer shall be liable for Abuses committed by End Users and shall cause End Users to use the Services in a manner that does not result in Abuses, such as by implementing and enforcing an acceptable use policy containing terms substantially similar to this Section 7. A breach of this Section 7 shall entitle Zia Inc. to seek, in addition to any other rights and remedies hereunder or at law, injunctive or equitable relief, and such further relief as may be proper from a court of competent jurisdiction as set forth in this Agreement.

## 8. CONFIDENTIAL INFORMATION

8.1 **Exclusions**. Confidential Information shall not include information which the Receiving Party can demonstrate: (i) is readily available to the public in the same form through no fault of the Receiving Party; (ii) did not originate from the Disclosing Party and was lawfully obtained by the Receiving Party in the same form from an independent third party without any restrictions

on disclosure; or (iii) did not originate from the Disclosing Party and was in the possession of the Receiving Party in the same form prior to disclosure to the Receiving Party by the Disclosing Party.

8.2 **Obligations**. The Receiving Party shall only use the Confidential Information of the Disclosing Party for the purposes set forth in this Agreement, including to defend its rights and interests, and shall protect such Confidential Information with at least the same degree of care and confidentiality, but not less than a reasonable standard of care and confidentiality, which the Receiving Party utilizes for its own Confidential Information. The Receiving Party shall take commercially reasonable steps as necessary to prevent the unauthorized access and disclosure of the Disclosing Party's Confidential Information, such as enforcing access on a need-to-know basis.

8.3 **Permitted Disclosure**. The Receiving Party shall only be authorized to disclose the Confidential Information of the Disclosing Party to its Affiliates, service providers, suppliers, auditors and consultants on a need-to-know basis to perform the Services, for legal reasons, or as required for reasonable operational efficiency. The Receiving Party shall ensure that all such recipients are under an appropriate confidentiality obligation or undertaking, such as attorney-client privilege. The Receiving Party shall also be allowed to disclose Confidential Information if approved in writing by the Disclosing Party.

8.4 **Legal Disclosure.** The Receiving Party shall be authorized to disclose Confidential Information if required by Applicable Laws, or by the administration thereof, including through warrants and subpoenas. In the event such disclosure is required, and if permitted by Applicable Laws, the Receiving Party shall advise the Disclosing Party prior for making such disclosure and give the Disclosing Party a reasonable chance to contest the requested legal disclosure, unless such delay would put the Receiving Party in breach of Applicable Laws. In any cases, the Receiving Party shall not disclose more Confidential Information than it is required to do under Applicable Laws, or the administration thereof.

8.5 **Termination.** Upon termination of this MSA, or upon the termination of an Order Form or Statement of Work, the Receiving Party shall, at the Disclosing Party's request and choice, (i) return the Confidential Information without undue delay and/or (ii) securely destroy the Confidential Information without undue delay, and in accordance with industry's best standards. Upon request, the Receiving Party shall confirm in writing that the Confidential Information has been returned and/or deleted. Notwithstanding the foregoing, the Receiving Party is authorized to keep a copy of the Confidential Information as required for business continuity purposes, pursuant to internal retention schedules, and for legal, auditing or financial reasons.

## 9. PERSONAL INFORMATION

9.1 **Compliance.** Each Party shall comply with all Applicable Laws regarding the collection, use and disclosure of Personal Information, and Zia Inc. shall only collect, use and disclose Personal Information as required to provide the Services. For the avoidance of doubts, Zia Inc. shall not sell Personal Information to third parties, including data brokers or otherwise.

9.2 **Shared Responsibility.** Customer is solely responsible for (a) developing, implementing and maintaining a privacy policy compliant with Applicable Laws to ensure that it has obtained an informed consent from individuals and End Users, as applicable, to allow Zia Inc. to perform the Services, including the processing of Personal Information; (b) responding to individuals' rights requests from individuals regarding their Personal Information, and (c) ensuring that the Services are lawful based on Applicable Laws regarding Personal Information in the jurisdiction where Customer is located.

9.3 **Applicable Laws.** Each Party agrees and understands that amendments to this MSA may be required to comply with legislative changes regarding Personal Information. The Parties agree to negotiate in good faith any amendment to this MSA as required to comply with Applicable Laws to Personal Information.

## 10. DATA

**10.1 Anonymized Data and Usage Data.** Notwithstanding anything to the contrary in this SaaS Agreement, Customer hereby grants Zia Inc. a perpetual, non-exclusive, non-sublicensable, non-transferable (except in accordance with this SaaS Agreement), royalty-free and irrevocable right and license to aggregate, use, reproduce and copy Anonymized Data and Usage Data for the purposes of research and development, to provide and improve the Software and Services and to develop new software and services.

10.2 **Aggregated Data.** Customer acknowledges and agrees that Zia Inc. shall retain all rights, titles and interests in the Aggregated Data.

## 11. INFORMATION SECURITY

11.1 Taking into account factors such as the sensitivity and amount of Customer Data, Zia Inc. agrees to put in place reasonable security measures to prevent unauthorized use, disclosure and corruption of the Software and the Customer Data which are consistent with good industry practices.

11.2 Each Party shall notify the other Party without undue delay upon becoming aware of a Security Breach.

## 12. FEES, PAYMENTS & BILLINGS

12.1 **Payment Terms.** Customer agrees to pay for the fees set forth in Order Forms, Change Orders and Statements of Work, from time to time, along with any taxes which Zia Inc. is required to collect in accordance with Applicable Laws (the "**Fees**"). The Fees are payable within thirty (30) days of the receipt of an invoice, and in accordance with the payment terms and instructions in the Procurement Documentation.

12.2 **Collection.** If the Fees have not been paid in full within thirty (30) days of the receipt of an invoice, Customer agrees to pay interests corresponding to one and a half percent (1.5%) monthly and eighteen percent (18%) annually for any late Fees, and until such Fees are paid and received in full by Zia Inc. together with all interest accrued. If the Fees are not paid within one hundred and twenty (120) days, (a) Customer agrees and understands that all Fees due for the Procurement Documentation shall become due immediately, and (b) Customer shall also be responsible for any reasonable fees related to the collection of late Fees, including, without limitation, reasonable attorney and accounting fees. The foregoing shall not apply to Fees which are disputed in good faith in accordance with Section 17.

12.3 **Payment Methods.** Customer agrees to pay for the Fees using the methods made available, from time to time, by Zia Inc., and as indicated within the Procurement Documentation.

## 13. REPRESENTATIONS AND WARRANTIES

13.1 **Mutual Representations and Warranties**. Each Party represents and warrants to the other that: (i) it has the full power and legal authority to enter into this Agreement and perform its obligations hereunder and the consent of a third party is not necessary for this Agreement to be binding on the Parties; (ii) is licensed to operate its business in the manner

contemplated herein, and (ii) each person signing this Agreement on behalf of an entity is duly authorized to bind such entity.

13.2 **Services.** Zia Inc. represents and warrants that (i) the Services will be performed in a professional and workmanlike manner, and (ii) the Services shall perform materially in accordance with the Procurement Documentation.

13.3 **Intellectual Property**. Zia Inc. warrants that, to the best of Zia Inc.'s knowledge, the Services and Software or the use thereof, do not infringe on any Intellectual Property Rights of any third party in the territory in which the Resort is located.

13.4 **Customer.** Customer represents and warrants that (i) it has obtained all necessary third party permissions, licenses and consents to allow Zia Inc. to deliver the Services in accordance with the Agreement; (ii) Customer's use of the Services is in compliance with Applicable Laws; and (iii) it has all rights, titles, and interests in the Customer Data and Customer Materials as required to allow Zia Inc. to provide the Services contemplated under this Agreement.

13.5 **Customer data.** Customer represents and warrants that (i) it has obtained all necessary third party permissions, licenses and consents to use and import the Customer Training Data, and that the Customer Training Data does not infringe on third party intellectual property rights.

## 14. DISCLAIMER

14.1 **Disclaimer**. TO THE MAXIMUM EXTENT PERMITTED BY LAW AND EXCEPT AS SET FORTH IN THIS AGREEMENT, ZIA INC. DOES NOT WARRANT THAT THE SERVICES, (INCLUDING THE SOFTWARE AND APIS) WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES EXCEPT AS PROVIDED IN THIS AGREEMENT, THE SERVICES, API, AND ANY AND ALL CONTENT, SERVICES AND PRODUCTS INCLUDED IN THE FOREGOING OR OTHERWISE PROVIDED BY ZIA INC. TO CUSTOMER ARE PROVIDED "AS IS"; "WHERE IS" AND "AS AVAILABLE". THE FOREGOING SHALL INCLUDE ANY CONSULTING AND ADVICE PROVIDED TO CUSTOMER BY ZIA INC.

14.2 **Disclaimer - Warranties**. TO THE MAXIMUM EXTENT PERMITTED BY LAW AND EXCEPT AS SET FORTH IN THIS AGREEMENT, ZIA INC. MAKES NO OTHER REPRESENTATIONS, CONDITIONS, WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, INCLUDING REGARDING THE ACCURACY, RELIABILITY OR COMPLETENESS OF THE CONTENT, OUTPUTS OR DATA WHICH ARE DERIVED FROM OR RESULTS FROM THE USE OF THE SERVICES, AND EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. THE CUSTOMER HEREBY WAIVES ANY LEGAL WARRANTY EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT.

14.3 **Disclaimer - Third Party Content**. THE SUPPORTED THIRD-PARTY CONTENT (INCLUDING INTEGRATION PARTNERS) PROVIDED THROUGH THE SERVICES IS PROVIDED "AS IS", "WHERE IS" AND "AS AVAILABLE".

14.4 **Disclaimer - Customer Data**. TO THE MAXIMUM EXTENT PERMITTED BY LAW, CUSTOMER ACKNOWLEDGES THAT ZIA INC. IS NOT RESPONSIBLE FOR THE INTEGRITY OF THE CUSTOMER DATA PROCESSED THROUGH THE SERVICES, INCLUDING WITHOUT LIMITATION, ITS COMPLETENESS, LAWFULNESS, ACCURACY, VALIDITY, AUTHORIZATION FOR PROCESSING AND INTEGRITY OVER TIME AND

SHALL NOT BE LIABLE FOR ANY DAMAGES ARISING OUT, DIRECTLY OR INDIRECTLY, IN WHOLE OR IN PART, OF SUCH CUSTOMER DATA.

14.5 **Disclaimer - Account Credentials**. CUSTOMER IS RESPONSIBLE FOR ENSURING THAT END USERS ARE KEEPING THEIR CREDENTIALS TO ACCESS THEIR ACCOUNTS CONFIDENTIAL AND SECURED, INCLUDING BY FOLLOWING INFORMATION SECURITY BEST PRACTICES REGARDING PASSWORDS. IF ACCOUNTS ARE COMPROMISED AS A RESULT OF END USERS' NEGLIGENCE, ZIA INC. SHALL NOT BE RESPONSIBLE FOR ANY DAMAGES RESULTING FROM THIS NEGLIGENCE.

14.6 Notwithstanding anything to the contrary, Customer agrees and acknowledges that the Services may require a business grade Internet connection for synchronization, and Zia Inc. shall have no liability whatsoever for any breach of this Agreement resulting from a failure to synchronize or poor performance resulting from an Internet outage or an unsatisfactory Internet performance.

14.7 For the avoidance of doubts, Zia Inc. has no liability whatsoever for (a) modifications made to the Software or its hosting environment by anyone other than Zia Inc. or its agents; (b) modifications or additions, hardware or software, to Customer IT Equipment which affects the proper operation of the Services or Deliverables; (c) the introduction, whether voluntary or involuntary, of a computer virus or information security risk in Customer IT Equipment or introduced by anyone other than Zia Inc. or its agents.

## 15. INDEMNIFICATION

15.1 **Customer's Indemnification.** Customer shall indemnify, hold harmless, and defend Zia Inc., and its Affiliates, employees, directors, officers and agents from and against any claim, demand, suit, loss, damage, liability, judgment, lien, penalty, fine, cost and expense (including attorney's fees), directly or indirectly, arising out of, related to, in connection with or resulting from a material breach of Sections 5.1, 6.1 and 7.

## 16. LIMITATION OF LIABILITY

16.1 TO THE MAXIMUM EXTENT PERMITTED BY LAW, AND NOTWITHSTANDING ANYTHING TO THE CONTRARY, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES, EMPLOYEES, SUBCONTRACTORS OR AGENTS FOR ANY LOSS OF PROFITS, OR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, IN CONNECTION WITH THIS AGREEMENT, INCLUDING THE PERFORMANCE OF THE SERVICES, EVEN IF IT IS AWARE OF THE POSSIBILITY OF THE OCCURRENCE OF SUCH DAMAGES.

## 17. DISPUTE RESOLUTION PROCEDURE

17.1 In the event of a dispute between the Parties in relation to this Agreement, including any claims, damages, allegations of lawsuits, breaches of this Agreement or dissatisfaction with the Services (each a "**Dispute**"), the Parties agree to follow the dispute resolution procedure set forth in this Section 17.

    (a) If a Dispute occurs, either Party may send a notice of dispute resolution procedure to the other Party, which shall describe the allegations leading to the Dispute, the actions that have been taken in relation to the Dispute, as well as the compensation or reparation that is sought by the Party that initiates the Dispute resolution procedure (a "**Notice of Dispute Resolution Procedure**").

(b) Within five (5) business days of the receipt of a Notice of Dispute Resolution Procedure by the other Party, each Party shall name a senior representative to negotiate in good faith a commonly acceptable business solution to the Dispute. Such negotiations shall be conducted in complete confidentiality, and the Parties shall not use any information obtained as part of such negotiation during any subsequent procedures, except for mediation purposes as set forth under Section 17.1(c).

(c) If such Dispute has not been resolved within thirty (30) days of the assignment of a senior representative, and unless such delay is prolonged by the Parties by common agreement in writing, a Party can initiate the following phase of the dispute resolution procedure by notifying the other Party of its intention to bring the Dispute to mediation (a "**Notice of Mediation**"). The Notice of Mediation shall contain a summary of the litigious points that are submitted to mediation and that have not been resolved through negotiation. The mediation process shall be confidential. The parties shall complete at least three (3) mediation sessions prior for ending the mediation process. The mediation may be conducted over electronic means if more convenient for the Parties. The mediator must have knowledge of commercial contracts and the technology industry. The Parties must collaborate in good faith to find a mutually agreeable mediator, otherwise, a competent court pursuant to Section 20.5 may decide on behalf of the Parties. The Parties shall separate the costs relating to the mediation and cover their respective expenses.

(d) If the mediation process fails, the Parties may exercise their rights in accordance with this Agreement and Applicable Laws.

17.2 Notwithstanding anything to the contrary, the Parties shall not be prevented from requesting injunctions and similar court orders if entitled to do so by this Agreement or Applicable Laws.

## 18. TERM AND TERMINATION

18.1 **Term.** This MSA shall enter into force on the Effective Date and continue in full force until ended by either Party in accordance with this Section 18 (the "**Term**").

18.2 **Subscription Term.** Each Order Form shall begin at the date indicated in the Order Form (the "**Subscription Term Start Date**") and continue for the period of time stipulated in the Order Form ("**Subscription Term**").

18.3 **Subscription on a monthly basis.** If the Customer subscribes to the Software on a monthly basis, the Customer can terminate the Agreement by providing notice to Zia Inc. of their desire to terminate the Agreement before the end of the month.

18.4 **Fixed Term Subscriptions.** If the Customer has opted for a fixed Subscription Term, the Customer may terminate the Agreement for convenience within the first 30 days of the Subscription Term. If the Customer terminates the Agreement within the first 30 days, only the Fees for the first month shall be due. If the Customer terminates for convenience after the initial 30 day period of the Subscription Term has elapsed, all remaining Fees under the Procurement Documentation shall become due. Zia Inc. shall not reimburse any sums paid by the Customer prior to the termination.

18.5 **Termination for Cause**. Either Party may terminate Agreement for cause (a) upon a thirty (30) days prior written notice of a material breach of this Agreement to the other Party, if such breach remains uncured at the expiration of this delay; (b) immediately upon written notice to the other Party, if this other Party becomes the subject of a petition in bankruptcy or any other proceeding(s) relating to insolvency, receivership, liquidation or assignment for

the benefit of creditors; (c) immediately upon written notice in case of a material violation of Sections 5.1 and 7 by Customer.

18.6 **Effects of Termination for Cause.** In case of a termination for cause due to the acts or omissions of Customer, all Fees due pursuant to the terminated Procurement Documentation shall be due immediately, and Customer agrees to pay for such Fees in accordance with the terms of this Agreement. Customer agrees that in the event of such Termination, Fees paid by the Customer shall not be reimbursable. In case of a termination for cause due to the acts or omissions of Zia Inc., all Fees paid in advance for the performance of the Services after the termination date shall be reimbursed, and Customer shall not be required to pay for any Services after the termination date.

18.7 **Customer Models.** Customer may export Customer Models from the HumanFirst platform at any time during the Subscription Term. If the Customer is using a free trial of the Software, the export function is not enabled.

18.8 **Suspension.** Customer agrees and understands that Zia Inc. may suspend part or all of the Services if Customer is in material breach of this Agreement, including if undisputed Fees are late of more than thirty (30) days from the date of the invoice.

18.9 **Survival.** Upon the termination of this MSA, the following sections shall survive the Term: Sections 1, 6, 8, 13, 14, 15, 16, 17, 18.5, 20 .

## 19. FORCE MAJEURE EVENT

19.1 A force majeure event shall mean circumstances beyond the reasonable control of Zia Inc. which cannot be reasonably foreseen and is not caused by the negligence of Zia Inc., including, but not limited to, an act of God, fire, flood, storm, epidemic, pandemic, revolution, act of terrorism, riot or civil commotion (but excluding strikes and industrial disputes of a third party) (a "**Force Majeure**").

19.2 Zia Inc. shall not be liable to Customer for failure (whether partial or total) or delay in fulfilling an obligation under this Agreement if said failure or delay is attributable to a Force Majeure, provided that Zia Inc. :

(a) promptly notify the Customer in writing of the Force Majeure upon which it intends to rely to excuse its performance;

(b) promptly resumes performance after the Force Majeure ceases, if possible; and

(c) takes all reasonable steps to mitigate damages to Customer resulting from non-performance.

19.3 Customer shall pay to Zia Inc. (i) any Fees owed and payable to Zia Inc. under this Agreement which are unpaid as of the notice of Force Majeure; (ii) any other Fees, costs and expenses incurred prior to the notice of Force Majeure or which cannot be cancelled by Zia Inc. in relation to this Agreement, even if such Fees have not yet been paid by Zia Inc., including, but not limited to, travel expenses, supplier costs, equipment and fees and penalties.

19.4 The Subscription Term shall be extended by the amount of time required for the Force Majeure to be resolved. If the Force Majeure lasts two (2) weeks, the Subscription Term will be extended by two (2) weeks. Upon the end of the Force Majeure, the Fees agreed upon will continue to be applicable until the end of the extended Subscription Term.

## 20. MISCELLANEOUS

20.1    Any amendment to this Agreement must be in writing and executed by both Parties. The waiver of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach. If any part of this Agreement is held to be invalid or unenforceable, that part will be severed, and the rest of the Agreement will remain in force.

20.2    The Parties are independent contractors, and this Agreement does not create any agency, partnership, joint venture, employee-employer or franchisor-franchisee relationship between them.

20.3    Except to an Affiliate in the context of a *bona fide* corporate reorganization, neither Party may assign any part of this Agreement without the other Party's written consent, which may not be unreasonably withheld. Notwithstanding the foregoing, Zia Inc.  shall have the right to assign any of its rights and obligations under this Agreement, in whole or in part, as part of the sale of all or substantially all of its assets that relate to this Agreement.

20.4    This Agreement describes the entire understanding and agreement of the Parties and supersedes all oral and written agreements or understandings between them related to its subject matter.

20.5    This Agreement, including its interpretation and effect, is governed by the laws applicable in the Province of Ontario, Canada, without regard to its conflict of law provisions. Both Parties hereby agree to submit to the exclusive jurisdiction of the courts located in the judicial district of Toronto, in respect to any claim, proceeding or action relating to or otherwise arising out of this Agreement or the Service howsoever arising.

20.6    The Parties acknowledge that they have required this Agreement and all related documents to be prepared in English only. *Les Parties reconnaissent avoir demandé que le présent contrat ainsi que tous documents qui s'y rattachent soient rédigés uniquement en langue anglaise.*

20.7    Customer agrees and understands that Zia Inc.  may use Customer Trademarks to identify Customer in list of partners and customers as part of marketing materials, such as proposals. Customer may revoke its consent at any time by e-mail to Zia Inc.

**IN WITNESS WHEREOF, the Parties hereto have executed this MSA as of the Effective Date first written above.**

**ZIA. AI INC**                                        _____

By:  _____          By:  _____

Name:  _____          Name:  _____

Title:  _____          Title:  _____

Date:  _____          Date:  _____