

# Hong Kong General Terms and Conditions

Revision Date: 31 July 2023

香港一般条款及条件

修订日期：2023年7月31日

These Hong Kong General Terms and Conditions (“Legal Terms”) when incorporated by a Statement of Work or Order (each an “SOW”) shall govern the supply of Services (as defined below) and the Legal Terms and SOW together constitute the entire agreement (collectively the “Agreement”) between Customer and the Datasite entity (“Datasite”) (each a “Party” and together the “Parties”) named in the SOW. In the event of a conflict between the Legal Terms and any SOW, the SOW shall govern. Capitalized terms not defined within the Legal Terms are defined in the SOW.

当本香港一般条款及条件(“法律条款”)被纳入工作说明书或订单(各简称为“SOW”)时，应管辖服务的提供(定义见下文)，且法律条款及SOW为SOW中之Datasite实体(简称“Datasite”)与客户间的完整协议(统称为“协议”) (以下各单独称为“一方”，合称为“双方”)。如果法律条款与任何SOW间有所冲突，则应以SOW为准。未于法律条款中定义之术语定义见SOW。

## 1. Definitions

### 1. 定义

“Affiliate” of a Party means any entity that directly or indirectly controls, is controlled by, or is under common control with the Party executing this Agreement.

一方的“关联公司”是指直接或间接控制签订本协议的一方、受签订本协议的一方控制或与签订本协议的一方处于共同控制之下的任何实体。

“Annual Minimum Fees” are as defined in the applicable SOW.

“最低年度费用”在适用的SOW中定义。

“Availability Guarantee” means the Content being available at least 99.5% of the time measured on a monthly basis.

“可用性保证”是指内容在每月至少99.5%的时间内可用。

“Classified Information” means any information or material, regardless of the form, which for reasons of national security, national defense, or foreign policy, has been specifically designated by the government of the Hong Kong Special Administrative Region, the Central Government of the People’s Republic of China or foreign government agency as requiring protection against unauthorized disclosure, including information classified pursuant to Executive Order 12958 of the United States of America, as amended, or similar classification authorities.

“机密信息”是指出于国家安全、国防或外交政策原因，由香港特别行政区政府、中华人民共和国中央政府或外国政府机构特别指定，要求防止未经授权的披露的任何信息或材料(无论是任何形式)(包括根据美国行政命令12958(经修订)或类似的保密依据)。

“Confidential Information” means any information of a Party (including information obtained by a Party from one or more of its Affiliates) disclosed on, before or after the Effective Date, either directly or indirectly, in writing or orally, or by inspection of tangible objects which: (i) the disclosing Party identifies as confidential or proprietary; or (ii) reasonably appears to be confidential or proprietary to the disclosing Party or its Affiliates because of legends or other marking, the circumstances of its disclosure, or the nature of the information itself. Such information may include but is not limited to Content, Third-Party Data, the Services, the Website, any inventions, trade secrets, marketing plans, programs, source code, data and other documentation, customer and shareholder information, other information related to the business of the disclosing Party, and the terms and pricing of this Agreement. The term Confidential Information does not include: (i) information that was in the receiving Party’s possession or was known to it prior to its receipt from the disclosing Party; (ii) information that is or becomes publicly available without the fault of the receiving Party; (iii) information that is or becomes lawfully available on an unrestricted basis to the receiving Party from a source other than the disclosing Party; (iv) Feedback; (v) Services Data; or (vi) information independently developed by the receiving Party.

“保密信息”是指披露的一方在生效日期当天、之前或之后直接或间接，以书面或口头方式，或通过检视有形物体的任何信息(包括一方从其一个或多个其关联公司获得的信息)，且(i)披露一方识别该信息为保密或专有的;或(ii)由于图例或其他标记、其披露情况或信息本身的性质，该信息合理地看来是披露一方或其关联公司的保密或专有的信息。此类信息可能包括但不限于内容、第三方数据、服务、网站、任何发明、商业秘密、营销计划、程式、原始码、数据和其他文件、客户和股东信息、与披露一方业务相关的其他信息以及本协议的条款和定价。“保密信息”一词不包括：(i)接收一方或在从披露一方收到信息之前已拥有或已知道的信息; (ii) 在接收一方没有过错的情况下已经可公开获得的信息;

(iii) 接收一方从披露一方以外的来源合法且不受限制地获得的信息; (iv) 回馈; (v) 服务数据;或 (vi) 接收一方独立开发的信息。

**“Content”** means any document or file that is uploaded to the Website by or on behalf of the Customer.

“内容”是指由客户或代表客户上传到网站的任何文件或档案。

**“Credit”** is the applicable credit set forth in the table provided in Section 7(b)(ii).

“抵扣”是第 7 (b) (ii) 条的表格所列出的适用抵扣。

**“Customer Administrator”** means any User authorized by Customer to initiate and conclude Services, upload and manage Content, invite other Customer Administrators and Users (which may include third parties), and access reports.

“客户管理员”是指经客户授权启动和结束服务、上传和管理内容、邀请其他客户管理员和使用者（可能包括第三方）以及存取报告的任何使用者。

**“Customer Material”** means any Content and Customer’s trademarks and logos.

“客户材料”是指任何内容以及客户的商标和徽标。

**“Due Date”** means the date Customer receives an invoice from Datasite.

“到期日”是指客户从 Datasite 收到发票的日期。

**“Effective Date”** is the date of Customer’s signature unless otherwise defined in the applicable SOW.

“生效日期”是客户签名的日期（除非适用的 SOW 中另有规定）。

**“Feedback”** means suggestions, improvements, comments, or other feedback regarding the Website or Services.

“回馈”是指有关网站或服务的建议、改进、评论或其他回馈。

**“Fees”** mean (i) the fees set forth in any SOW; or (ii) charges for Services not specified in any SOW (including without limitation additional new service features), provided that Customer has approved any such additional Services and related charges in advance in writing.

“费用”是指 (i) 任何 SOW 中列出的费用;或 (ii) 任何 SOW 中未有指定的服务的费用（包括但不限于额外新服务功能），前提是客户已事先以书面形式批准了任何此类额外服务和相关费用。

**“Hibernation Administrators”** means Customer Administrators appointed by the Customer during the Hibernation Period. No more than two shall be permitted.

**“Hibernation Period”** means any time during a Renewal Term, when the Customer Administrator has requested a project to be placed in hibernation.

“休眠期”是指续期期限内客户管理员要求将项目置于休眠状态的任何时间。

“休眠期管理员”是指客户在休眠期内指定的客户管理员。休眠期管理员不得超过两个。

**“Intellectual Property Rights”** means any and all tangible and intangible: (i) rights associated with works of authorship, including copyrights, moral rights, neighboring rights, and derivative works thereof; (ii) trademark and trade name rights; (iii) trade secret rights; (iv) patents, design rights, and other industrial property rights; and (v) other intellectual property rights (of every kind and nature however designated) whether arising by operation of law, treaty, contract, license, or otherwise, and together with all registrations, initial applications, renewals, extensions, continuations, divisions, or reissues thereof.

“知识产权”是指任何和所有有形和无形：(i) 与作者作品相关的权利，包括版权、精神权利、邻接权及其衍生作品；(ii) 商标权和商号权；(iii) 商业秘密权；(iv) 专利权、外观设计权和其他工业产权；(v) 所有（任何类型和性质的、无论如何命名的）其他知识产权，无论是由法律、条约、合同、许可或其他方式运作产生的，以及其所有注册、初始申请、续期、延期、延续、分割或重新颁发。

**“Non-Datasite Applications”** mean web-based, mobile, offline, or other software applications provided by Customer or a third-party which may interoperate with the Website.

“非 Datasite 应用程序”是指由客户或第三方提供的、可与网站互通操作的基于网络的、移动的、离线的或其他种类的软件应用程序。

**“Order”** means any Services provisioned or purchased using the Website.

“订单”是指使用网站提供或购买的任何服务。

**“Renewal Term”** is as defined in the applicable SOW.

“续期期限”在适用的 SOW 中定义。

“Scheduled Maintenance” means periodic maintenance on the Website for system upgrades and maintenance and as further defined in Section 7(a)(xi).

“定期维护”是指在网站上进行系统升级和维护的定期维护，其在第 7 (a) (xi) 条中进一步定义。

“Services” mean those services ordered by Customer under an SOW or Order and any related customer support.

“服务”是指客户根据 SOW 或订单订购的服务以及任何相关的客户支持。

“Services Data” means Content incorporated with or into similar information derived or obtained from other customers of Datasite that has been anonymized or aggregated to remove references to numerical values, addresses, locations, and personal data.

“服务数据”是指与从 Datasite 的其他客户派生或获得的类似信息一起纳入的内容。这些信息已经过匿名或汇总处理，以删除对数值、地址、位置和个人数据的提及。

“Special Media” means all Content processed on the Website and not converted to PDF format because: (i) its inherent nature precludes it from conversion to a PDF; or (ii) Customer Administrator has designated it as a download-only file. Any examples of Special Media provided in any SOW are for representative example, illustration, and/or convenience purposes only and are not intended to be an exhaustive list of all types of Special Media.

“特殊媒体”是指上传到网站但因为：(i) 其固有性质使其无法转换为 PDF;或 (ii) 客户管理员已将其指定为仅可下载文件，而未转换为 PDF 格式的所有内容。任何 SOW 中提供的任何特殊媒体例子仅作为代表性例子、示例和/或方便目的而提供，并非旨在构成所有类型的特殊媒体的详尽列表。

“Taxes” means any taxes, levies, duties, or similar governmental assessments of any nature, including, but not limited to any sales, use, GST, value-added, withholding, or similar taxes, whether domestic or foreign, assessed by any jurisdiction, but excluding taxes charged on the income, property, or employees of Datasite.

“税款”是指由任何司法管辖区评估的任何无论是本地还是外地的税款、征税、关税或任何性质的类似政府评估，包括但不限于任何销售税、使用税、消费税、增值税、预扣税或类似税款，但不包括基于 Datasite 的收入、财产或员工的税款。

“Term” is as defined in the applicable SOW.

“期限”在适用的 SOW 中定义。

“Third-Party Data” means any data, including but not limited to Content, User Data, made available on the Website (including through a Non-Datasite Application) that is owned by a third-party.

“第三方数据”是指由第三方所有，并在网站上（包括通过非 Datasite 应用程序）提供的任何数据，包括但不限于内容、使用者数据。

“Trial Services” mean beta or test services and such related documentation.

“试用服务”是指 beta 版或测试版服务以及相关文件。

“Website” means collectively, those Datasite’s URLs, virtual data rooms (also referred to as projects), contents, and features provided to Customer through which Users access, process, store, upload/download, and communicate Content.

“网站”统指提供给客户的 Datasite 网页地址、虚拟数据室（也称为项目）、内容和功能。使用者通过此等 Datasite 网页地址、虚拟数据室、内容和功能可存取、处理、存储、上传/下载和传送内容。

“Usage Data” means queries, logs, and other information about Customer’s or a User’s use of the Services, excluding Content.

“使用数据”是指有关客户或使用者使用服务的查询、日志和其他信息，但不包括内容。

“Users” mean those individuals authorized by Customer, and enabled by Datasite or Customer, to access Content on the Website.

“使用者”是指由客户授权并由 Datasite 或客户容许存取网站上内容的个人。

“User Data” means information about or relating to Users.

“使用者数据”是指有关使用者或与使用者相关的信息。

## **2. Fees, Taxes, Billing Disputes.**

### **2. 费用、税费、账单纠纷。**

(a) **Fees.** Customer will provide all accurate “Bill-to” information reasonably necessary to issue an invoice.

Customer shall pay to Datasite all Fees invoiced under this Agreement, including any Fees invoiced to Customer and any of its advisors in connection with the Services. Except as otherwise expressly specified herein or in the applicable SOW, all payment obligations are non-cancelable, and Fees paid are non-refundable. Any Annual Minimum Fees cannot be decreased during the relevant Term. All Fees are payable in the currency used or designated in the applicable SOW. On each one-year anniversary of the Effective Date of an SOW, Datasite may adjust pricing by an amount equal to the greater of: (i) six percent (6%); or (ii) the average of the year-to-year change to the monthly Hong Kong Composite Consumer Price Index for the 12 months immediately preceding the adjustment date.

(a) **费用**。客户应提供开具发票合理必要的所有准确的“付款人”信息。客户应向 Datasite 支付根据本协议出具发票收取的所有费用，包括因服务而向客户及其任何顾问出具的发票所收取的任何费用。除非本文或适用的 SOW 中另有明确规定，否则所有付款义务均不可取消，并且已支付的费用不可退还。任何最低年度费用在相关期限内均不能降低。所有费用均应以适用 SOW 中使用或指定的货币支付。在 SOW 生效日期的每一周年，Datasite 可调整价格，有关调整金额等于：(i) 百分之六 (6%)；或 (ii) 调整日前 12 个月的香港综合消费物价指数的平均年度变化（以较高者为准）。

(b) **Payment**. Unless otherwise specified in the applicable SOW and subject to Section 2(c) below, Customer shall pay to Datasite all Fees owing under this Agreement on the Due Date. Fees or amounts not paid by this date shall be considered past due. For any failure to pay past due Fees amounts or invoices on the Due Date, Datasite may accelerate Customer's unpaid Fees for the full outstanding period of the Term and require immediate payment by Customer of such Fees and/or suspend Services until the outstanding amounts are paid in full. Interest may be added from the Due Date to all past due invoices up to the highest rate permitted under applicable law. If Customer intends for any Fees charged under this Agreement be paid by a third-party, then: (i) Customer shall promptly notify Datasite in writing; (ii) Customer shall provide all accurate information reasonably necessary to issue the invoice to the third-party via either the SOW, email or through the Website and work with Datasite to correct any problems or errors Datasite observes or discovers; (iii) payment of Fees from such third-party to Datasite will be due on the Due Date; and (iv) Customer will not be relieved of its obligations to pay those or any other Fees to Datasite. Payment of Fees shall not be conditioned upon completion of Customer on-boarding forms, purchase orders, or Datasite's use of Customer's billing and other portals. Datasite shall be under no obligation to use any billing portal. Datasite reserves the right to charge the Customer for any costs incurred to recover any amounts owed to it including, but not limited to, any debt recovery services or other third-party services, including but not limited to, reasonable legal fees.

(b) **付款**。除非在适用的 SOW 中另有规定，并符合以下第 2(c)条的规定，客户应在到期日向 Datasite 支付本协议项下的所有应付费用。在此日期或之前未支付的费用或款项应被视为逾期未付。如果有任何未能缴付到期的费用款项或发票的情况，Datasite 可能会加速客户在所有尚余期限内未支付的费用，并要求客户立即支付该等费用和/或暂停服务，直到未付费用被全额支付为止。就所有逾期发票，可以从到期日加收不多于法律所允许的最高利率的利息。如果客户打算由第三方支付根据本协议收取的任何费用，则：(i) 客户应迅速以书面形式通知 Datasite；(ii) 客户应提供所有合理必要的准确信息，以便通过 SOW、电子邮件或网站向第三方开具发票，并与 Datasite 合作纠正 Datasite 观察到或发现的任何问题或错误；(iii) 该等第三方向 Datasite 支付的费用将于到期日到期；(iv) 客户不会被免除向 Datasite 支付这些费用或任何其他费用的义务。费用的支付不应以完成客户加入表格、采购订单或 Datasite 使用客户的账单和其他门户网站为条件。Datasite 没有义务使用任何账单门户网站。Datasite 保留向客户收取为收回任何客户欠其的金额而产生的任何费用的权利，包括但不限于任何债务追偿服务或其他第三方服务，包括但不限于合理的法律费用。

(c) **Payment Disputes**. Notice of any disputed Fees, amounts, or invoices must be provided to Datasite via email sent to [billing@datasite.com](mailto:billing@datasite.com) no later than ten (10) days after to the Due Date otherwise it shall be deemed accepted. Notices must include details identifying the invoice by number and detailing the amounts in dispute. Upon receipt of the dispute notice, Datasite will determine in its sole and absolute discretion, whether the charges in dispute were correctly issued and notify Customer. If there has been an error, Datasite will work with Customer to correct the error and determine the outcome.

(c) **付款争议**。任何有争议的费用、付款或发票的通知必须在到期日后十 (10) 天内通过电子邮件发送至 [billing@datasite.com](mailto:billing@datasite.com)，否则将被视为已接受。通知必须包括按编号标识发票的详细信息，并详细说明争议金额。在收到争议通知后，Datasite 将自行全权酌情决定有关争议费用是否正确作出，并通知客户。如果出现错误，Datasite 将与客户一同更正错误并决定结果。

(d) **Taxes**. The Fees stated in any SOW do not include Taxes. Customer is responsible for paying all Taxes associated with its purchases hereunder. If Datasite has a legal obligation to collect Taxes for which Customer is responsible, Datasite will invoice Customer and Customer shall pay the amount owing. If Customer is lawfully required to withhold any sums from an invoice, Customer must effect such withholding and remit such amounts to the appropriate taxing authorities, and ensure that, after such deduction or withholding, Datasite receives and retains, free from liability for such deduction or withholding, a net amount equal to the amount Datasite would have received and retained in the absence of such required deduction or withholding.

(d) **税款**。任何 SOW 中列出的费用均不含税款。客户有责任支付与其本协议项下的购买相关的所有税款。如果 Datasite 有法律义务收取客户应负责的税款，Datasite 将向客户开具发票，且客户应支付所欠金额。如果法律要求客户预扣任何发票中的款项，则客户必须作出此类预扣并将此类款项汇给适当的税务机关，并确保在此类扣除或预扣之后，Datasite 可收到并保留一笔无需承担此类扣除或预扣责任的净额，该净额等于 Datasite 在没有此类扣除或预扣的情况下可收到和保留的金额。

### 3. Ownership and Limited License.

#### 3. 所有权和有限许可。

(a) Customer Ownership. As between the Parties, Customer shall have and retain all Intellectual Property Rights in Customer Materials. Customer has sole responsibility for the accuracy, quality, legality, integrity, and appropriateness of all data, content, and information it, or any of its Users, provides to Datasite in conjunction with the Services. Customer hereby grants to Datasite a non-exclusive, irrevocable, fully paid-up, royalty-free, sub-licensable, worldwide right and license to reproduce, distribute, use, and display the Customer Materials to the extent necessary for Datasite: (i) to provide the Services to Customer; (ii) to create and use the Services Data, Feedback, and Usage Data for any purposes and (iii) for any other activities expressly agreed to by Customer.

(a) 客户所有权.在双方之间，客户应拥有并保留客户材料中的所有知识产权。客户对其或其任何使用者就服务向 Datasite 提供的所有数据、内容和信息的准确性、质量、合法性、完整性和适当性承担全部责任。客户特此授予 Datasite 非排他性、不可撤销、全额付清、免版税、可再许可的全球权利和许可，以复制、分发、使用和显示客户材料以在 Datasite 所需的范围内：(i) 向客户提供服务；(ii) 出于任何目的创建和使用服务数据、回馈和使用数据，以及 (iii) 用于客户明确同意的任何其他活动。

(b) Datasite Ownership. As between the Parties, Datasite shall have and retain all Intellectual Property Rights in materials, documentation, methodologies, source code, processes, websites, applications, and software that Datasite uses for the purpose of providing the Website and Services, Feedback, Usage Data, and any and all derivatives, future enhancements, or modifications to the foregoing, however produced. No Intellectual Property Rights are granted to Customer under this Agreement or otherwise except as expressly set forth herein.

(b) Datasite 所有权.在双方之间，Datasite 应拥有并保留 Datasite 用于提供网站和服务、回馈和使用数据的材料、文件、方法、源代码、流程、网站、应用程序和软件的所有知识产权，以及上述项目的无论以何种方式产生的任何和所有衍生品、未来增强功能或修改。除非本协议明确规定，否则并没有根据本协议或其他方式授予客户任何知识产权。

(c) Services Data and User Data. Without limiting any other rights set forth herein, during and after the Term, Customer agrees that Datasite may use, collect, and make derivatives of Services Data and User Data to develop, improve, support, and operate its products and services, and to create and offer new products and services.

(c) 服务数据和使用者数据.在不限制本协议规定的任何其他权利的情况下，在期限内和之后，客户同意 Datasite 可以使用和收集服务数据、和使用者数据，并制作服务数据、和使用者数据的衍生品，以开发、改进、支援和营运其产品和服务，以及创建和提供新产品和服务。

### 4. Warranties.

#### 4. 保证。

(a) General Warranties. Each Party warrants that: (i) it has full power and authority to enter into and perform its obligations under this Agreement; (ii) this Agreement has been duly executed and constitutes a valid and binding agreement enforceable against such Party in accordance with its terms; (iii) it will comply with all laws applicable to the Party; and (iv) it will use up-to-date, generally accepted virus detection devices and procedures to reasonably ensure that any electronic data transmitted to the other Party will not contain a virus or other harmful component.

(a) 一般保证.每一方保证：(i) 其拥有签订和履行本协议项下义务的全部权力和授权；(ii) 本协议已经妥为签署，并构成可根据本协议条款对该一方强制执行的有效且具有约束力的协议；(iii) 它将遵守适用于该一方的所有法律；(iv) 它将使用最新的、普遍接受的病毒侦测设备和程式，以合理地确保传输到另一方的任何电子数据不会包含病毒或其他有害组件。

(b) Datasite Warranties. During the Term, Datasite warrants that: (i) the Services will be rendered using professional practices and in a competent and professional manner; and (ii) it has all necessary permissions, software licenses, and ownership rights to provide the Services. Customer must provide written notice to Datasite of any warranty claim. Such warranty shall apply only if the applicable Services have been used for their intended purpose and in accordance with the applicable documentation, this Agreement, and any and all applicable law. In the event of a breach of Section 4(c)(ii), Datasite may, in its sole and absolute discretion: (1) substitute substantially similar services; (2) procure for Customer the right to continue using the Services; or if (1) and (2) are not commercially reasonable, (3) terminate this Agreement and refund to Customer the Fees paid by Customer for the Services that were prepaid but not used. This section sets out Datasite's sole and exclusive liability, and Customer's sole remedy, with respect to any claim of infringement of Intellectual Property Rights.

(b) Datasite 保证.在期限内，Datasite 保证：(i) 服务将通过专业实践做法以称职和专业的方式提供；(ii) 它拥有提供服务之所有必要权限、软件许可和所有权。客户必须向 Datasite 就任何保证索赔提供书面通知。仅当适用的服务被用于其预期目的并符合适用的文件、本协议以及任何和所有适用法律时，此类保证才适用。在违反第 4 (c) (ii) 条的情况下，Datasite 可自行全权酌情决定：(1) 以实质上类似的服务替代；(2) 促使客户获得继续使用服务的权利；或者如果 (1) 和 (2) 在商业上不合理，(3) 终止本协议并向客户退还客户就已预付但未使用的服务之费用。本条列出了 Datasite 对任何侵犯知识产权的索赔的唯一和排他性责任，以及客户的唯一补救措施。

#### (c) Customer Warranties.

(i) Customer warrants that it: (1) has obtained all permissions and consents, provided all relevant notices, or has

otherwise established any valid legal basis required by law (as applicable) to transfer the Content and/or User Data so that Datasite may lawfully use, process and transfer the Content and User Data in accordance with this Agreement, the Data Processing Addendum when applicable, and in compliance with applicable data protection laws, including but not limited to, any data localization or data sovereignty laws or regulations; (2) will use the Services for the intended business purpose; (3) has delegated authority to its advisors and Customer Administrators to provide instructions in connection with the Services, and Datasite has no duty to verify such delegation, and may rely on such instructions; (4) will use reasonable efforts to provide Datasite with clear and legible copies of the Content in the best possible condition; (5) will cooperate with Datasite to correct any problems associated with the Content; (6) will comply with all economic sanctions laws and not take any action which would place Datasite in a position of non-compliance with any such economic sanctions laws; (7) will promptly report to Datasite any problems or errors it observes or discovers with the Content; and (8) will immediately notify Datasite in writing of all court orders it receives which may restrict the use, distribution, or disposition of any Content delivered to Datasite.

(c) 客户保证。

(i) 客户保证其：(1) 已获得所有相关许可和同意、提供所有相关通知、或(如适用)以其他方式建立法律要求的任何有效法律依据，以转移内容和/或使用数据，以使 Datasite 可以根据本协议、数据处理补充协议(如适用)，并遵守适用的数据保护法律(包括但不限于任何数据本地化或数据主权法律或法规)，合法使用、处理和转移内容和使用者数据；(2) 将服务用于预期的商业目的；(3) 已授权其顾问和客户管理员，以提供与服务相关的指示，且 Datasite 没有义务验证此类授权的责任，并可依赖此类指示；(4) 将尽合理努力向 Datasite 提供内容最佳状态的清晰易读的副本；(5) 将与 Datasite 合作纠正与内容相关的任何问题；(6) 将遵守所有经济制裁法律，并且不采取任何会使 Datasite 处于不遵守任何此类经济制裁法律境地的行动；(7) 迅速向 Datasite 报告其观察到或发现的任何内容问题或错误；及(8) 将立即以书面形式通知 Datasite 其收到的所有可能会限制交付给 Datasite 的任何内容的使用、分发或处置的法院命令。

(ii) Customer additionally warrants that it will not: (1) use, nor permit any third-party to use, the Services in a manner which would give rise to civil liability; (2) engage in, nor assist, encourage, or authorize others to engage in, conduct which could constitute a criminal offense under any applicable law or regulation; (3) upload Content or use Non-Datasite Applications which reasonably could infringe, misappropriate, or otherwise violate any Intellectual Property Rights of any third-parties; (4) perform, nor permit or instruct any third-party to perform on its behalf, any code review, vulnerability testing, penetration testing, or any other network tests on the Website or Services, or attempt to gain unauthorized access to the Website, Services, or its related systems or networks; and (5) (except to the extent that must be permitted by law) attempt to, nor permit or otherwise instruct any third-party attempt to, reverse engineer, decompile, disassemble, create derivative works from, sell, market, transfer or otherwise seek to obtain: (A) any Third-Party Data (excluding Content), (B) the source code for the Website, or (C) any other software made available to Customer in connection with the Services.

(ii) 客户还保证其不会：(1) 以可能引至民事责任的方式使用服务，或允许任何第三方以可能引至民事责任的方式使用服务；(2) 从事，或协助、鼓励或授权他人从事根据任何适用法律或法规可能构成刑事犯罪的行为；(3) 上传可合理地被视为侵犯、盗用或以其他方式违反任何第三方的任何知识产权的内容或使用可合理地被视为侵犯、盗用或以其他方式违反任何第三方的任何知识产权的非 Datasite 应用程序；(4) 就网站或服务作出(或容许或指示任何第三方代表其作出)任何代码审查、漏洞测试、渗透测试或任何其他网络测试，或试图未经授权存取网站、服务或其相关系统或网络；(5) (除非在法律必须允许的范围内)试图(或容许或指示任何第三方试图)反向工程、反编译、反汇编、出售、营销、转让或以其他方式寻求获取：(A) 任何第三方数据(不包括内容)，(B) 网站的源代码，或(C) 就服务提供给客户的任何其他软件；或试图(或容许或指示任何第三试图)利用(A) 任何第三方数据(不包括内容)，(B) 网站的源代码，或(C) 就服务提供给客户的任何其他软件创建衍生作品。

(d) Disclaimer of Warranties. EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT AND TO THE FULLEST EXTENT PERMITTED BY LAW, THE SERVICES, TRIAL SERVICES, AND WEBSITE(S) ARE PROVIDED AS-IS, WITHOUT ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, MERCHANTABILITY, OR THOSE ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. THE ABOVE WARRANTIES DO NOT GUARANTEE THAT THE SERVICES WILL BE SECURE, PERFORM UNINTERRUPTED OR ERROR-FREE, THAT DATASITE WILL BE ABLE TO CORRECT ALL ERRORS, OR THAT THE SERVICES MEET CUSTOMER'S REQUIREMENTS. ANY SERVICES PROVIDED AND DATA MADE AVAILABLE TO CUSTOMER (INCLUDING THIRD PARTY DATA) IN CONNECTION WITH THE SERVICES OR THIS AGREEMENT ARE NOT INTENDED TO PROVIDE, AND SHOULD NOT BE RELIED UPON, FOR LEGAL, TAX, FINANCIAL, INVESTMENT RECOMMENDATIONS, OR ANY OTHER TYPE OF ADVICE.

(d) 免责声明。除非本协议中明确规定，并在法律允许的最大范围内，否则服务、试用服务和网站均以“按现状”的基础提供，不作任何明示或暗示的陈述或保证，包括但不限于对特定用途的适用性、不侵权、适销性或因交易、使用或贸易惯例而产生的任何保证。上述保证不保证服务是安全的、执行不中断或无错误的，DATASITE 将能够纠正所有错误，或服务将符合客户的要求。就服务或本协议提供给客户的任何服务和数据(包括第三方数据)均无意提供法律、税务、财务、投资或任何其他类型的建议，也不应被依赖作法律、税务、财务、投资建议或任何其他类型的意见。

(e) **Security Classified Information.** THE SERVICES ARE EXPRESSLY PROHIBITED FROM BEING USED TO STORE ANY CLASSIFIED INFORMATION ON THE WEBSITE. ACCORDINGLY, DATASITE DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR ACCESSING OR STORING ANY CLASSIFIED INFORMATION OR INFORMATION REQUIRING A SECURITY CLEARANCE FOR ANY GOVERNMENT AND DATASITE SHALL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES ARISING FROM OR RELATED TO THE USE OF THE SERVICES FOR SUCH INFORMATION.

(e) **安全机密信息。**明确禁止利用服务于网站存储任何机密信息。因此，DATASITE 不对存取或存储任何机密信息或需要任何政府的安全许可的信息的适用性做出任何明示或暗示的保证，并且 DATASITE 不对就此类信息利用服务而引起或与之相关的任何索赔或损害承担责任。

## 5. **Confidentiality.**

### 5. **保密性。**

(a) Each Party shall: (i) hold Confidential Information of the other Party in confidence; (ii) not use any Confidential Information of the other Party for any purpose outside the scope of this Agreement and, if applicable, the Data Processing Addendum; (iii) take reasonable steps to maintain the confidentiality of all Confidential Information of the other Party; (iv) only disclose Confidential Information of the other Party: (1) to such Party's or its Affiliates employees who have a need to know such information; or (2) for the purposes envisioned or intended under this Agreement. This Agreement expressly supersedes and replaces in its entirety any non-disclosure agreement executed by Datasite arising out of or in connection with this Agreement.

(a) 每一方应：(i) 对另一方的保密信息保密；(ii) 不得将另一方的任何保密信息用于本协议和数据处理补充协议（如适用）范围之外的任何目的；(iii) 采取合理措施维护所有另一方的保密信息的保密性；(iv) 仅（1）向需要了解此类信息的该一方（或该一方的关联公司）的雇员披露另一方的保密信息；或仅（2）就本协议设想或预期的目的披露另一方的保密信息。本协议明确替代并完全取代 Datasite 因本协议或与本协议相关而签署的任何保密协议。

(b) If a Party is compelled by court order, subpoena, or other requirement of law to disclose Confidential Information of the other Party, the Party will provide the other Party with prompt notice (unless such notice is prohibited) so that the Party may, at its option and expense, seek a protective order or other remedy.

(b) 如果一方因法院命令、传票或其他法律要求而被迫披露另一方的保密信息，则该一方应及时向另一方发出通知（除非此类通知被禁止），以使该一方可以自行选择并自费寻求保护令或其他补救措施。

(c) Upon termination of the Agreement, all Content uploaded to the Website by Customer shall be destroyed, or in accordance with the applicable SOW, returned to the Customer. Upon Customer's request, Datasite shall provide a certification of deletion or destruction of the Content. Customer must pay all invoices in full prior to the release of any Content under this section. Datasite shall not be obligated to immediately erase Content contained in an archived computer system backup made in accordance with its security or disaster recovery procedures, provided that such archived copy shall remain subject to the same obligations of confidentiality until destruction.

(c) 当本协议终止，客户上传到网站的所有内容均将被销毁，或根据适用的 SOW 退还给客户。根据客户的要求，Datasite 应提供删除或销毁内容的证明书。客户必须在本条规定的任何内容释放之前全额支付所有发票。Datasite 没有义务立即删除根据其安全或灾难恢复程序而在其存档计算器系统备份中储存的内容，前提是此类存档副本在销毁之前应受相同的保密义务。

(d) The Parties agree that Datasite does not receive any personal data as consideration for the Services. Customer acknowledges that Datasite's provision of the Services may involve the use, processing or transfer of personal data (as defined by applicable data protection laws) which may include Datasite sharing such personal data with Customer's advisors, its authorized third-party Users or as otherwise provided in the Agreement or the Data Processing Addendum. Customer has sole responsibility for ensuring that personal data it provides to Datasite for processing complies with all applicable data protection laws. If Customer or Datasite is subject to data protection laws that require entering into a Data Processing Addendum, Customer will download Datasite's Data Processing Addendum available at <https://www.datasite.com/us/en/legal/services-agreement.html>, sign it, and return it to [privacy@datasite.com](mailto:privacy@datasite.com).

(d) 双方同意，Datasite 不会以接收任何个人数据作为服务的对价。客户承认 Datasite 提供的服务可能涉及个人数据（由适用的数据保护法定义）的使用、处理或转移，其中可能包括 Datasite 与客户的顾问、其授权的第三方使用者或协议或数据处理补充协议中另有规定的情况下共享此类个人数据。客户需承担全部责任确保其提供给 Datasite 进行处理的个人数据符合所有适用的数据保护法律。如果客户或 Datasite 受约束的数据保护法律要求签订数据处理补充协议，客户将从 <https://www.datasite.com/us/en/legal/services-agreement.html> 下载 Datasite 的数据处理补充协议，签署数据处理补充协议，并将其返还给 [privacy@datasite.com](mailto:privacy@datasite.com)。

## 6. **Limitation of Liability.**

### 6. **责任限制。**

TO THE EXTENT PERMITTED BY ANY APPLICABLE LAW, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY NOR ANY THIRD-PARTY UNDER ANY THEORY OF RECOVERY, WHETHER BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), UNDER WARRANTY, OR OTHERWISE, FOR ANY PUNITIVE OR EXEMPLARY DAMAGES OR, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL LOSS

INCLUDING: LOSS OF PROFITS (EXCEPT THE PROFIT ELEMENT OF THE FEES), BUSINESS, GOODWILL, REPUTATION, OR OTHER LOSS RESULTING FROM BUSINESS INTERRUPTION ARISING FROM OR OTHERWISE IN CONNECTION WITH THIS AGREEMENT. UNLESS OTHERWISE STATED HEREIN, THE PARTIES AGREE THAT THE REMEDIES PROVIDED IN THIS AGREEMENT ARE EXCLUSIVE.

在任何适用法律允许的范围内，任何一方均不对另一方或任何第三方承担任何追偿理论（无论是基于合同、侵权（包括疏忽和严格责任）、保证或是其他方式）下的任何惩罚性或惩戒性损害赔偿或间接、特殊、附带或后果性损失之责任，包括：因本协议引起或与本协议有关的利润损失（费用的利润部分除外）、业务损失、商誉损失、声誉损失、或业务中断而造成的其他损失。除非本协议另有说明，否则双方同意本协议中提供的补救措施是排他性的。

THE PARTIES AGREE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE TOTAL AGGREGATE LIABILITY OF EITHER PARTY UNDER ANY THEORY OF RECOVERY, WHETHER BASED IN CONTRACT, IN TORT, UNDER WARRANTY, OR OTHERWISE, SHALL NOT EXCEED THE GREATER OF (1) THE TOTAL FEES PAID BY CUSTOMER TO DATASITE UNDER THE APPLICABLE SOW FOR THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO ANY LIABILITY, AND (2) US\$50,000, IN EACH CASE EXCEPT FOR BREACH OF SECTIONS 5(a) AND 5(d) WHERE THE TOTAL AGGREGATE LIABILITY OF EITHER PARTY SHALL NOT EXCEED FIVE HUNDRED THOUSAND US DOLLARS (\$500,000 USD).

双方同意，在适用法律允许的范围内，任何一方在任何追偿理论下的责任总额，无论是基于合同、侵权行为、保证还是其他方式，在每个情况均不得超过（1）客户在引起任何责任的事件之前的 12 个月内根据适用的 SOW 向 DATASITE 支付的总费用或(2) 50,000 美元(以较高者为准)，但违反第 5 (a) 和 5 (d) 条除外。在违反第 5 (a) 和 5 (d) 条的情况下，任何一方的责任额不得超过五十万美元（500,000 美元）。

THE LIMITATIONS OF LIABILITY SET OUT IN THIS SECTION 6 OF THE LEGAL TERMS SHALL NOT APPLY TO: (a) FEES PAID OR PAYABLE BY CUSTOMER UNDER THIS AGREEMENT; (b) A BREACH OF SECTIONS 3(b) (DATASITE OWNERSHIP), 4(c)(i) AND (ii) (CUSTOMER WARRANTIES), OR 9(d) (RESTRICTED PARTIES AND EXPORT LAWS) OF THE LEGAL TERMS; (c) DAMAGES TO THE EXTENT CAUSED BY FRAUD OR A PARTY'S WILLFUL MISCONDUCT; OR (d) DEATH OR INJURY TO THE EXTENT CAUSED BY A PARTY'S NEGLIGENCE.

本法律条款第 6 条中规定的责任限制不适用于：(a) 客户根据本协议支付或应付的费用；(b) 第 3 (b) 条 (DATASITE 所有权)、第 4 (c) (i)和(ii) 条 (客户保证) 或第 9 (d) 条 (受限制方和出口法律) 的违反;或 (c) 由欺诈或一方的故意不当行为的范围内所造成的损害；或 (d) 因一方疏忽的范围内所造成的死亡或受伤。

## 7. Hosting Terms.

### 7. 托管条款。

#### (a) Usage.

##### (a) 使用。

(i) Website Management. By Customer Administrators accessing the Website or using the Services, Customer agrees that these Legal Terms shall apply. Customer authorizes Datasite to act on any instructions reasonably believed by Datasite to be authentic communications from Customer, its advisors, or Customer Administrators with respect to the management of Customer's Website. Customer shall be responsible for monitoring its and its Users' use of the Services within the limits set out in the applicable SOW.

(i) 网站管理。 客户管理员访问网站或使用服务，即代表客户同意这些法律条款为适用的。客户授权 Datasite 根据 Datasite 合理认为是客户、其顾问或客户管理员就客户网站管理进行的真实通信的任何指示采取行动。客户应负责在适用 SOW 中规定的限制内监测其及其使用者对服务的使用。

(ii) Obligations. Users must consent to the [Terms of Use](#) and [Privacy Notice](#) included in the Website which may be amended by Datasite from time to time. Customer is responsible for the use of the Website by any of its Users in compliance with this Agreement. Datasite retains the right to remove authorization and access of any User from the Services upon request of the employer of such User.

(ii) 义务。 使用者必须同意网站包含的[使用条款](#)和[隐私声明](#)。Datasite 可能会不时对使用条款和隐私权声明进行修订。客户应对其任何使用者根据本协议使用网站负责。Datasite 保留根据任何使用者的雇主的要求解除任何使用者就服务的授权和存取权限的权利。

(iii) Go Live Date, Sandbox, Datasite Prepare. Prior to the Go Live Date, or if Customer elects to utilize the Sandbox (as described in the applicable SOW) or the Datasite Prepare offering, Customer agrees only to use such Services: (1) for the purpose of managing and distributing Content within the transaction team, including Customer's employees, agents, clients, and advisors in connection with an actual or proposed merger, acquisition, joint venture, or other transaction involving the sale or exchange of assets or voting securities; or (2) for such other purpose as expressly agreed to by the Parties in the applicable SOW. In respect of both (1) and (2) of this sub-section (iii), (3) the



Content shall not be made accessible to any third-party other than Customer's agents, advisors, or clients. Datasite retains, in its sole and absolute discretion, the right to terminate the Services if suspension is necessary to avoid harm to Datasite or its business, or in the event Customer, or any of its Users, has violated this provision.

(iii) 上线日期、沙盒、Datasite Prepare。在上线日期之前，或者如果客户选择使用沙盒（如适用的 SOW 中所述）或 Datasite Prepare 产品，则客户同意仅使用此类服务：（1）于交易团队（包括与实际或建议的合并、收购、合资或其他涉及出售或交换资产或有表决权证券的交易有关的客户员工、代理人、顾客和顾问）内管理和分发内容之用；或（2）于双方在适用的 SOW 中明确同意的其他目的。对于本第 (iii) 小节的（1）和（2），（3）除客户代理人、顾问或其顾客外，任何第三方均不得获得内容。Datasite 保留全权自行酌情决定是否在以下情况下终止服务的权利，即中止为必要措施，以避免对 Datasite 或其业务的实质损害，或客户或任何其使用者违反此条款。

(iv) Continuation. When applicable, and upon Customer entering into a Renewal Term, Customer will be invoiced for all Content hosted at the Continuation rate. For any additional Content uploaded during the Renewal Term, Customer will be invoiced processing and hosting Fees at the Pricing and Continuation rates listed in the applicable SOW. Fees incurred during the Renewal Term will not be prorated.

(iv) 延续。在适用的情况下，在客户进入更新期后，将为所有托管的内容按延续费率向客户开具发票。对于续约期内上传的任何额外内容，将按照适用的 SOW 中列出的定价和延续费率向客户开具处理和托管费发票。在续约期内发生的费用将不按比例计算。

(v) Redaction. Upon Customer replacing redacted Content with its original version on the Website, Customer will be charged for that replacement at the page, MB, or GB increments set forth in the SOW.

(v) 删减。当客户将网站上删减内容替换为其原始版本时，将按照 SOW 中列出的按页、MB 或 GB 的增量单位向客户收取更换费用。

(vi) Hibernation Period. During the Hibernation Period, the Customer acknowledges and agrees that: (1) only the Hibernation Administrator will be able to access, view, edit, and add Content within the project; (2) all other Users and Customer Administrators access will be withdrawn; (3) Hibernation Administrators will not be able to modify User permissions in any way; and (4) Customer will be charged at the Hibernation rates as listed in the applicable SOW for the duration of the Hibernation Period. Hibernation Administrators may terminate the Hibernation Period at any time with prior written notice to Datasite.

(vi) 休眠期。在休眠期间，客户承认并同意：（1）只有休眠期管理员才能存取、查看、编辑和添加项目中的内容；（2）所有其他使用者和客户管理员的存取权限将被撤销；（3）休眠期管理员无法以任何方式修改使用者权限；（4）在休眠期内，将按适用 SOW 中列出的休眠期费率向客户收费。休眠期管理员可以随时终止休眠期，但须事先书面通知 Datasite。

(vii) Third-Party Data. Customer acknowledges and agrees that: (1) Users will have access (including to view, download and query) to Third-Party Data and it is Customer's sole responsibility to evaluate and assume the risks related to sharing such Third-Party Data with Users; and (2) Datasite has no control over, and no liability whatsoever, for any acts or omissions of any User with respect to Third-Party Data. Customer shall comply with any and all applicable terms of service for any Third-Party Data. If Customer receives notice, including from Datasite, that Third-Party Data may no longer be used or must be removed, modified, or deleted to avoid violating applicable law, third-party rights, or this Agreement, Customer must promptly do so and provide Datasite written confirmation of such.

(vii) 第三方数据。客户承认并同意：（1）使用者将有权存取（包括查看、下载和查询）第三方数据，并且客户需负有全部责任评估并承担与使用者共享此类第三方数据相关的风险；（2）Datasite 无法控制任何使用者对第三方数据的任何作为或不作为，也不就该等使用者对第三方数据的任何作为或不作为承担任何责任。客户应遵守任何第三方数据的任何和所有适用服务条款。如果客户收到通知（包括来自 Datasite 的通知），表示第三方数据不可再被使用，或者必须被移除、修改或删除，以避免违反适用法律、第三方权利或本协议，则客户必须迅速地这样做，并向 Datasite 提供书面确认。

(viii) Trial Services. Datasite may make Trial Services available to Customer. Any Trial Services shall be provided "As Is" and without any guarantee or warranty of any kind, express or implied. All confidentiality and ownership rights applicable to Services generally under this Agreement, and all Customer obligations concerning the Services and Content hereunder, shall also apply equally to Customer's use of Trial Services. Datasite reserves the right to discontinue the Trial Services at any time in its sole and absolute discretion and may never make them generally available. Datasite shall have no liability for any harm or damage arising out of or in connection with the Trial Services. The provision of any Trial Services to Customer may be subject to additional terms and conditions.

(viii) 试用服务。Datasite 可能会向客户提供试用服务。任何试用服务均以“按现状”的基础提供，不附带任何明示或暗

示的担保或保证。本协议下一般适用于服务的所有保密性和所有权，以及客户对本协议项下服务和内容的所有义务，也应同样适用于客户对试用服务的使用。Datasite 保留自行全权酌情决定随时终止试用服务的权利，并且可能永远不会将其公开提供。Datasite 对因试用服务引起或与试用服务相关的任何损害或破坏不承担任何责任。任何向客户提供的试用服务可能受其他条款和条件的约束。

(ix) **Integration with Non-Datasite Applications.** The Website may contain features designed to interoperate with Non-Datasite Applications. Datasite does not warrant or support Non-Datasite Applications, nor can it guarantee the continue availability of such features. Datasite reserves the right to cease making available any Non-Datasite Application without entitling Customer to any refund, credit, or other compensation. If Customer chooses to use a Non-Datasite Application with the Website, Customer is responsible, and Datasite disclaims all liability, for the privacy or security of such Non-Datasite Application, including but not limited to, any disclosure, modification, or deletion of data resulting from a Non-Datasite Application or its provider. Customer agrees to comply with the terms of service of any Non-Datasite Applications.

(ix) **与非 Datasite 应用程序的整合。** 网站可能包含旨在与非 Datasite 应用程序相互通操作的功能。Datasite 不保证或支援非 Datasite 应用程序，也不保证此类功能的持续可用性。Datasite 保留停止提供任何非 Datasite 应用程序而不对客户作出任何退款、抵扣或其他补偿的权利。如果客户选择在网站上使用非 Datasite 应用程序，则客户应对此类非 Datasite 应用程序的隐私或安全负责，包括但不限于非 Datasite 应用程序或其供应商对数据的任何披露、修改或删除，而 Datasite 对此不承担任何责任。客户同意遵守任何非 Datasite 应用程序的服务条款。

(x) **Scheduled Maintenance.** Datasite performs periodic Scheduled Maintenance and advance notice of such is provided on the Website. Scheduled Maintenance will not exceed four (4) hours per calendar month. Datasite reserves the right to update, modify, improve, support, and operate the Website and Services at any time. Any updates or modifications will not materially diminish the functionality of the Website.

(x) **定期维护。** Datasite 执行周期性定期维护，并在网站上提供此类维护的事先通知。定期维护每个日历月不会超过四（4）小时。Datasite 保留随时更新、修改、改进、支援和运营网站和服务的权利。任何更新或修改都不会重大地削弱网站的功能。

(b) **Service Level Agreements.**

(b) **服务水平协议。**

(i) **Availability Guarantee Credits.** As Customer's sole and exclusive remedy, Datasite's sole liability, for any month during the Term that Datasite fails to meet the Availability Guarantee is to provide Credits as set forth below.

(i) **可用性保证抵扣。** 作为客户的唯一和排他性补救措施，Datasite 的唯一责任为 Datasite 会为在期限内 Datasite 未能满足可用性保证的任何月份提供如下所述的抵扣。

(ii) For the applicable SOW, Customer may request Datasite provides Customer with the credits below, provided Customer makes such request within twenty (20) days after Datasite's failure to meet the Availability Guarantee.

(ii) 就适用的 SOW，客户可以要求 Datasite 向客户提供以下抵扣，前提是客户在 Datasite 未能满足可用性保证后的二十（20）天内提出该请求。

Actual Percentage of Time the Content is Available in the Relevant Month 在相关月份内容可用的实际时间百分比	Credit only for affected month 仅就受影响月份的抵扣
99.5% or more 99.5%以上	None 没有
97% to less than 99.5% 97%至 99.5%以下	10% of monthly Fees 每月费用的 10%
96% to less than 97% 96% 至 97% 以下	25% of monthly Fees 每月费用的 25%
95% to less than 96% 95%至 96%以下	50% of monthly Fees 每月费用的 50%

(iii) If Datasite fails to meet 95% of the Availability Guarantee in any given month, Customer may terminate the applicable SOW and request Datasite to deliver, as soon as commercially practicable, the Content on the Website to Customer's designee, provided Customer makes such request within twenty (20) days after Datasite's failure to meet the Availability Guarantee.

(iii) 如果 Datasite 在任何特定月份未能满足可用性保证的 95%，客户可以终止适用的 SOW，并要求 Datasite 在商业上可行的情况下尽快将网站上的内容交付给客户的指定人员，前提是客户在 Datasite 未能满足可用性保证后的二十

(20) 天内提出该请求。

(iv) Availability Guarantee Exceptions. No period of inoperability will be included in calculating the Availability Guarantee to the extent such downtime is due to: (1) Scheduled Maintenance; (2) failure of Customer's or its Users' internet connectivity; (3) internet traffic problems of either Party other than problems arising from networks controlled by Datasite; (4) any Force Majeure Event; or (5) Non-Datasite Applications.

(iv) 可用性保证例外。如果未能使用是在以下原因范围内造成的，则在计算可用性保证时不会包括该无法使用的时间：(1) 定期维护；(2) 客户或其使用者的互联网连接故障；(3) 除 Datasite 控制的网络引起的问题外，任何一方的互联网流量问题；(4) 任何不可抗力事件；或 (5) 非 Datasite 应用程序。

## 8. Term & Termination.

### 8. 期限和终止。

(a) Term. This Agreement is effective as of the Effective Date. The Initial Term and any Renewal Terms of an SOW will remain in effect until terminated in accordance with its terms. In no event will termination relieve Customer of its obligation to pay any Fees or amounts payable to Datasite under the applicable SOW.

(a) 期限。本协议自生效日期起生效。初始期限和 SOW 的任何续期期限将一直有效，直到根据其条款终止。在任何情况下，终止均不会免除客户根据适用的 SOW 向 Datasite 支付任何费用或款项的义务。

(b) Termination For Cause. A notice of default or breach from the non-breaching Party or an intent to default from the breaching Party under this provision shall not constitute a notice of termination under this Agreement. Any notice of termination must be provided separately in writing. Excluding Customer's payment obligations which are solely subject to Section 8(c), either Party may terminate this Agreement and all SOWs issued hereunder, in whole or in part, with immediate effect upon written notice if the other Party:

(b) 因故终止。非违约一方发出的违约或违反通知，或违约一方在本条款下违约的意向，不构成本协议项下的终止通知。任何终止通知必须以书面形式单独提供。除客户仅受第 8 (c) 条约束的付款义务外，任何一方均可以书面通知立即全部或部分终止本协议和根据本协议出具的所有 SOWs，前提是另一方符合以下条件：

(i) breaches any material obligation of this Agreement and either has not cured such breach within thirty (30) days of receiving written notice from the non-breaching Party, or the breach cannot be cured within thirty (30) days;

(i) 另一方违反本协议的任何重大义务，并且在收到非违约一方的书面通知后三十 (30) 天内未纠正此类违约行为，或者该违约行为无法在三十 (30) 天内纠正；

(ii) ceases to actively conduct its business;

(ii) 另一方停止积极经营业务；

(iii) files a voluntary petition for bankruptcy or insolvency or has filed against it an involuntary petition for bankruptcy or insolvency;

(iii) 另一方自愿提出破产或无力偿债申请，或其已被提出破产或无力偿债的非自愿申请；

(iv) makes a general assignment for the benefit of its creditors;

(iv) 另一方为债权人的利益进行一般性转让；

(v) applies for the appointment of a receiver, administrator, or trustee for all or substantially all of its property or assets, or the other Party or the court has permitted the appointment of any such receiver, administrator, or trustee; or

(v) 另一方就其全部或实质上所有财产或资产申请委任接管人、管理人或受托人，或另一方或法院已允许委任任何该等接管人、管理人或受托人；或

(vi) has its receivables subject to garnishment.

(vi) 另一方的应收款须予扣押。

(c) By Datasite Only. If Customer fails to: (i) execute and deliver to Datasite a signed SOW within ten (10) days after the project is created; (ii) provide all accurate "bill-to" information reasonably necessary to issue an invoice; or (iii) pay any invoice in full, within ten (10) days of notice of default, Datasite may, in its sole and absolute discretion, terminate this Agreement and all SOWs issued hereunder, in whole or in part, and/or suspend or entirely cease provision of the Services. Under such default, Datasite shall have no obligation to preserve or return any Content. Datasite may immediately restrict or suspend access to the Services if Datasite becomes aware of, or reasonably suspects, any breach of this Agreement by Customer or its Users. Datasite may remove any Content posted or transmitted through the Website(s) which it deems in its sole and absolute discretion to have violated this Agreement or any applicable law, regulation, or other legal requirement. Datasite will act in good faith and use reasonable efforts to notify Customer via phone or email prior to suspending or restricting any Service. Customer shall remain

responsible for full payment of the Fees and any amounts owed or owing under this Agreement and any SOW(s) even if access to the Services is suspended or terminated for any breach of this Agreement.

(c) 仅由 Datasite 终止。如果客户未能：(i) 在项目创建后十 (10) 天内签署 SOW 并把经签署的 SOW 交付给 Datasite，(ii) 提供开具发票合理必要的所有准确的“付款人”信息；或 (iii) 在违约通知发出后十 (10) 天内全额支付任何发票，Datasite 可全权自行酌情决定全部或部分终止本协议和根据本协议出具的所有 SOWs，和/或暂停或完全停止提供服务。在此类违约情况下，Datasite 没有义务保留或返还任何内容。如果 Datasite 发现或合理怀疑客户或其使用者任何违反本协议的行为，Datasite 可能会立即限制或暂停服务的存取。Datasite 可以删除通过网站发布或传输的，任何 Datasite 自行全权酌情认为违反了本协议或任何适用的法律、法规或其他法律要求的内容。Datasite 将本着善意行事，并在暂停或限制任何服务之前，尽合理努力通过电话或电子邮件通知客户。即使因违反本协议而暂停或终止服务的存取，客户仍应负责全额支付费用以及根据本协议和任何 SOW(s) 该付的任何款项。

(d) Effect of Termination. The following will occur upon termination or expiration of the applicable SOW(s) or this Agreement for any reason:

(d) 终止的效果。在适用的 SOW(s) 或本协议因任何原因终止或到期时，将发生以下情况：

(i) Datasite will terminate Customer's and all Users' access to the Website(s).

(i) Datasite 将终止客户和所有使用者对网站的存取。

(ii) Datasite will take reasonable efforts to promptly delete all of Customer's Content maintained by Datasite and Datasite's obligation to provide the Services under the applicable SOW will cease.

(ii) Datasite 将尽合理努力迅速删除 Datasite 维持的客户的的所有内容。Datasite 根据适用的 SOW 提供服务的义务将停止。

## 9. General.

### 9. 一般。

(a) Affiliate. Datasite shall be entitled to perform any of its obligations and exercise any of its rights under the Agreement through any Affiliate, provided that any act or omission of such Affiliate shall, for all purposes of this Agreement, be deemed to be the act or omission of Datasite.

(a) 关联公司。Datasite 有权通过任何关联公司履行其在本协议项下的任何义务并行使其在本协议项下的任何权利，但就本协议的所有目的而言，该关联公司的任何作为或不作为均应被视为 Datasite 的作为或不作为。

(b) No Waiver. No failure or delay by either Party in exercising any of its rights under this Agreement shall be deemed to be a waiver of that right, and no waiver by either Party of a breach of any provision of the Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

(b) 不弃权。任何一方未有或延迟行使本协议项下的任何权利均不得视为放弃该权利。任何一方对违反本协议任何条款的弃权均不得视为对随后违反相同或任何其他条款的任何放弃。

(c) Survival. The following Sections will survive expiration or termination of this Agreement: 1,2,3,5,6,8(d),9.

(c) 存续。以下各条在本协议到期或终止后仍然有效：1、2、3、5、6、8 (d)、9。

(d) Restricted Parties and Export Laws. Customer represents that it is not and will not make the Website available to any entity incorporated in or resident of a country or jurisdiction subject to economic or trade sanctions by the U.S. State Department, OFAC, the government of the Hong Kong Special Administrative Region or the Central Government of the People's Republic of China, or are listed as a "Specially Designated National," a "Specially Designated Global Terrorist," a "Blocked Person," or similar designation under the OFAC sanctions regime, or sanctioned by the government of the Hong Kong Special Administrative Region or the Central Government of the People's Republic of China. Any breach of this section will be a material breach of this Agreement and Datasite may immediately terminate this Agreement. Customer will not permit any User to access or use any Service or Website in a U.S., Hong Kong, Mainland China or UN-embargoed country or region, or in violation of any U.S., UN, Hong Kong, Mainland China or international export law, sanction, or regulation. Customer is solely responsible for obtaining any and all necessary export license(s) or other approval(s) to transfer Content in connection with its use of the Service.

(d) 受限制方和出口法律。客户声明，其并非在受美国国务院、OFAC、香港特别行政区政府或中华人民共和国中央政府制裁的国家或司法管辖区注册成立或居住的任何实体，亦非“特别指定的国民”、“特别指定的全球恐怖分子”、“被封锁的人”或在 OFAC 制裁制度下的类似指定的实体，或受香港特别行政区政府或中华人民共和国中央政府制裁。客户亦声明其不会将网站提供给任何在受美国国务院、OFAC、香港特别行政区政府或中华人民共和国中央政府制裁的国家或司法管辖区注册成立或居住的任何实体，或“特别指定的国民”、“特别指定的全球恐怖分子”、“被封锁的人”或在 OFAC 制裁制度下的类似指定的实体，或受香港特别行政区政府或中华人民共和国中央政府制裁的实体。任何违反本条的行为都将构成对本协议的重大违反，Datasite 可立即终止本协议。客户不得允许任何使用者在美国、香港、中国大陆或联合国禁运的国家或地区存取或使用任何服务或网站，或以违反任何美国、联合国、香港、中国大陆或国际出口法律、制裁或法规的方式存取或使用任何服务或网站。客户需负上所有获得任何和所有就使用服务以转移内容所必要的出口许可证或其他批准的责任。

(e) No Third-Party Beneficiaries. This Agreement does not create any third-party beneficiary rights (including

under the Contracts (Rights of Third Parties) Ordinance (Cap. 623)) except as expressly provided by its terms.

(e) 无第三方受益人。除非本协议条款明确规定，否则本协议不产生任何（包括合约（第三者权利）条例（第 623 章）下的）第三方受益人权利。

(f) Assignment. Upon providing written notice, either Party may assign its rights, interests, and/or obligations under this Agreement or any SOW to any parent, subsidiary, Affiliate, or to a successor of all its assets or stock. Notwithstanding the foregoing, Customer may not assign its rights, interests, and/or obligations under this Agreement or any SOW to any Datasite Competitor without Datasite's prior written consent. For purposes of this section, "Competitor" shall mean any entity which, either itself or has an Affiliate which, sells, licenses, or provides, any software, application service or system comprised of one or more electric or digital document repositories for facilitating transaction due diligence, mergers, acquisitions, divestiture, financing, investment, investor or government relations, research and development, clinical trials or other business processes in competition with any of the Services or other services Datasite provides. This Agreement is binding upon and inure to the benefit of the Parties and their respective successors and assigns.

(f) 转让。在提供书面通知后，任何一方均可将其在本协议或任何 SOW 下的权利、利益和/或义务转让给任何母公司、子公司、关联公司或其所有资产或股份的继承人。尽管有上述规定，未经 Datasite 事先书面同意，客户不得将其在本协议或任何 SOW 项下的权利、利益和/或义务转让给任何 Datasite 竞争对手。就本条款而言，“竞争对手”是指任何无论是其本身还是其关联公司销售、许可或提供促进交易尽职调查、合并、收购、剥离、融资、投资、投资者或政府关系、研发、临床试验或其他业务流程的，由一个或多个电子或数字文件存储库组成的、与任何服务竞争或与 Datasite 提供的任何其他服务竞争的任何软件、应用程序服务或系统的实体。本协议对双方及其各自的继承人和受让人具有约束力。双方及其各自的继承人和受让人均享有本协议下的利益。

(g) Notices. Wherever provision is made in this Agreement for the giving, service, or delivery of any notice, such notice shall be in writing and shall be given using a method providing for proof of delivery, which shall include acknowledgement of receipt of email.

(g) 通知。如本协议中有对发出、送达或交付任何通知的条款，此类通知应采用书面形式，并应使用可提供送达证明的方法（其中应包括电子邮件的确认收到通知）发出。

(h) Force Majeure. Neither Party is responsible for any failure or delay in the performance of any obligation under this Agreement to the extent the failure or delay results from events beyond the reasonable control of such Party and is not occasioned by such Party's fault ("Force Majeure"). If a delay or failure of a Party to comply with any obligation set forth in this Agreement is caused by Force Majeure, that obligation (other than the obligation to pay money when due and owing) will be suspended during the continuance of the Force Majeure condition and will not be considered a breach of this Agreement.

(h) 不可抗力。任何一方均不需就因超出该一方合理控制范围且非该一方失误所引起的事件(简称“不可抗力”)所导致的本协议项下任何义务的履行失败或延迟负责。如果一方延迟或未能遵守本协议中规定的任何义务是由不可抗力造成的，则该义务（到期应付时支付款项的义务除外）将在不可抗力条件的持续期间暂停，并且不会被视为违反本协议。

(i) Marketing Support. Upon the public announcement of an applicable transaction, Datasite may identify Customer as a Datasite customer and use Customer's name or logo on any Datasite websites or other marketing materials.

(i) 营销支援。在公开宣布适用交易后，Datasite 可能会将客户标识为 Datasite 客户，并在任何 Datasite 网站或其他营销材料上使用客户的名称或徽标。

(j) Counterparts. Any SOW may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(j) 对应本。任何 SOW 可在两个或多个对应本上签订，每个对应本均应视为原件，但所有该等对应本应共同构成同一文书。

(k) Anti-Corruption and Bribery. Neither Party has received nor been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from an employee or agent of the other Party in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business and permitted by all applicable law do not violate the above restriction.

(k) 反腐败和贿赂。任何一方均未从另一方的雇员或代理人处就本协议收到或被提供与本协议有关的任何非法或不当贿赂、回扣、付款、赠与或有价物品。在正常业务过程中提供且所有适用法律允许的合理礼品和款待并不违反上述限制。

(l) Anti-slavery and Trafficking. Neither Party uses nor procures services in breach of anti-slavery and trafficking laws.

(l) 反奴隶制和贩运。任何一方均未使用或获取违反反奴隶制和人口贩运法的服务。

(m) Governing Law and Jurisdiction. This Agreement will be construed and enforced in accordance with the laws of the Hong Kong Special Administrative Region without regard to conflicts of laws provisions thereof, and without regard to the United Nations Convention on Contracts for the International Sale of Goods (CISG). The Parties agree to submit to the non-exclusive jurisdiction of the courts of the Hong Kong Special Administrative Region.

(m) 适用法律和管辖权。本协议将根据香港特别行政区的法律解释和执行，且不考虑其法律冲突规定，也不考虑《联

合国际货物销售合同公约》（CISG）。双方同意服从香港特别行政区法院的非专属管辖权。

(n) **Severability.** If a court of law holds any provision of this Agreement to be illegal, invalid, or unenforceable that provision shall be deemed amended to achieve an economic effect that is as near as possible to that provided by the original provision and the legality, validity, and enforceability of the remaining provisions of this Agreement shall not be affected thereby.

(n) **可分割性。**如果法院认为本协议的任何条款是非法的、无效的或不可执行的，则该条款应被视为经过修改，以达到尽可能接近原始条款所提供的经济效果，并且本协议其余条款的合法性、有效性和可执行性不应因此受到影响。

(o) **Entire Agreement.** This Agreement, together with any applicable SOWs and Data Processing Addendum (if executed), constitutes the entire agreement between the Parties and supersedes all previous agreements, proposals, and negotiations, whether written or oral, regarding the subject matter herein. In entering into this Agreement neither Party has relied on, and neither party will have any right or remedy based on, any statement, representation or warranty (whether made negligently or innocently), except those expressly stated in this Agreement. No terms contained in any Customer issued purchase order or similar form or invoice shall be valid or enforceable against Datasite. No trade usage, regular industry practice, or method or course of dealing between the Parties shall be used to modify, interpret, supplement, or alter the terms of this Agreement in any way. Any changes to the Legal Terms must be agreed in writing by both Parties, provided that Datasite may modify the Legal Terms from time to time by issuing new versions on the Website and the latest new version shall become effective on the creation of all subsequent projects, or on entering into a new SOW.

(o) **完整协议。**本协议以及任何适用的 SOWs 和数据处理补充协议（如果已签订）构成双方之间的完整协议，并取代之前关于本协议主旨事项的所有书面或口头协议、提案和谈判。在签订本协议时，任何一方均未依赖任何声明、陈述或保证（无论是因疏忽还是无意作出的），并且任何一方均不会就任何声明、陈述或保证（无论是因疏忽或无意作出）有任何权利或补救措施，但本协议中明确规定的除外。任何客户发出的采购订单或类似表格或发票中包含的任何条款均不对 Datasite 有效或可执行。双方之间的任何贸易惯例、常规行业惯例或交易方法或过程均不得用于以任何方式修改、解释、补充或变更本协议的条款。对法律条款的任何更改必须得到双方的书面同意，前提是 Datasite 可以通过在网站上发布新版本来不时修改法律条款，而这些法律条款的最新版本会在客户在创建后续项目或签订新的 SOW 时生效。

(p) **Language.** If there is any discrepancy between the English version and Chinese version of the Legal Terms, the English version shall prevail.

(p) **语言。**如法律条款英文版与中文版的内容有歧义，概以英文版为准。