Article9

Article9 License Agreement

Version v2

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AGREEMENT VERSION	**v2**
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ARTICLE9, LLC SOFTWARE LICENSE AND USER AGREEMENT

Version 2.

This version supersedes prior versions prospectively only. It does not modify, replace, or affect any agreement accepted against a prior version. An acceptance recorded against a prior version continues to be governed by the text of that version.

This Software License and User Agreement (this "Agreement") is entered into by and between Article9, LLC, a New Hampshire limited liability company with its principal place of business in Bedford, New Hampshire ("Article9" or "Licensor"), and the labor organization identified on the Order Form ("Licensee"). Article9 and Licensee are each a "Party" and together the "Parties."

This Agreement is effective on the earlier of (a) the Effective Date stated on the Order Form, (b) the date Licensee executes the Order Form, or (c) the date an Authorized Representative of Licensee clicks to accept this Agreement in the Article9 billing portal (the "Effective Date").

RECITALS

A. Article9 is a New Hampshire limited liability company formed under the New Hampshire Revised Limited Liability Company Act, RSA 304-C. Article9 is a legal entity separate and distinct from its members. RSA 304-C:19, paragraph I. Article9 has the power to do all things necessary or convenient to carry out its activities, business, and internal affairs, including the capacity to sue and be sued in its own name. RSA 304-C:22, paragraph I. No member of Article9 has any interest in Article9 property. RSA 304-C:26.

B. Article9 has developed, owns, and operates a hosted software platform for the intake, tracking, analysis, and management of labor relations matters, together with associated tools, applications, databases, models, interfaces, and documentation (collectively, the "Platform").

C. Licensee is a labor organization within the meaning of 5 U.S.C. 7103(a)(4), or a facility-level, regional, or national subdivision, local, council, or office of such a labor organization, that represents employees of one or more federal agencies under the Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101 through 7135.

D. Article9 is not an agency within the meaning of 5 U.S.C. 7103(a)(3). Article9 is a private commercial vendor. Nothing in this Agreement creates, and neither Party intends to create, any relationship in which a federal agency sponsors, controls, or otherwise assists Licensee within the meaning of 5 U.S.C. 7116(a)(3).

E. This Agreement is not an acquisition by or for the use of the Federal Government and is not subject to the Federal Acquisition Regulation. The Federal Acquisition Regulation applies to acquisitions, FAR 1.104 (48 C.F.R. 1.104), and an acquisition is defined as "the acquiring by contract with appropriated funds of supplies or services (including construction) by and for the use of the Federal Government," FAR 2.101 (48 C.F.R. 2.101). No appropriated funds are used to pay the Fees under this Agreement.

F. The Platform is a computer program within the meaning of 17 U.S.C. 101, is an original work of authorship fixed in a tangible medium of expression within the meaning of 17 U.S.C. 102(a), and is protected by the exclusive rights set forth in 17 U.S.C. 106.

G. Licensee wishes to obtain, and Article9 wishes to grant, a limited, non-exclusive, non-transferable, revocable, time-limited right to access and use the Platform on the terms set forth in this Agreement.

H. The Parties intend that Licensee is a licensee and not an owner of any copy of the Platform. This Agreement expressly specifies that Licensee is granted a license, significantly restricts Licensee's ability to transfer the Platform, and imposes notable use restrictions. See Vernor v. Autodesk, Inc., 621 F.3d 1102 (9th Cir. 2010). Accordingly, the limitations on exclusive rights set forth in 17 U.S.C. 117(a), which apply to the "owner of a copy of a computer program," do not apply to Licensee.

In consideration of the mutual covenants set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows.

1. DEFINITIONS

1.1 "Authorized Representative" means, for each Licensee tier, the individual holding the office designated on the Order Form and identified in Section 8.3, together with any individual that officeholder designates in writing.

1.2 "Authorized User" means an individual to whom Licensee has issued credentials to access the Platform under Licensee's account, including officers, stewards, representatives, staff, and retained counsel of Licensee.

1.3 "Documentation" means the user guides, technical specifications, training materials, and operating instructions Article9 makes available for the Platform. Documentation is a component of the Platform and is Article9 Property. Documentation does not mean Licensee Data.

1.4 "Fees" means the license fees, subscription fees, implementation fees, and other amounts stated on the Order Form.

1.5 "Licensee Data" means all data, documents, records, files, text, images, attachments, entries, notes, work product, and other content that Licensee or any Authorized User creates in, enters into, generates through, or uploads to the Platform, including grievance files, information requests, arbitration files, unfair labor practice files, correspondence, investigatory materials, membership and bargaining-unit rosters, time and activity entries, and any derivative compilation of the foregoing that is specific to Licensee. Licensee Data does not include the Platform, Article9 Property, or Usage Data.

1.6 "Order Form" means the ordering document, quotation, invoice, or portal checkout record that identifies Licensee, the Licensee tier, the licensed modules, the number of Authorized Users, the Fees, and the Term.

1.7 "Article9 Property" means the Platform and every component of the Platform, as further described in Section 4.1.

1.8 "Term" has the meaning given in Section 6.1.

1.9 "Usage Data" means technical telemetry, log data, performance metrics, and error reports generated by operation of the Platform, in aggregated and de-identified form only, from which Licensee, any Authorized User, any bargaining-unit employee, and any Licensee Data have been removed and cannot be reconstructed.

1.10 Licensee tiers. "Facility Licensee" means a local, facility, or installation-level union entity. "Regional Licensee" means a regional office or regional body of a national union. "National Licensee" means the national office of a labor organization.

2. LICENSE GRANT

2.1 Grant. Subject to Licensee's payment of the Fees and continuing compliance with this Agreement, Article9 grants Licensee, for the Term only, a limited, non-exclusive, non-sublicensable, non-transferable, revocable license to access and use the Platform in object-code, hosted form, solely for Licensee's internal representational activities as an exclusive representative or subordinate body of an exclusive representative, and solely for the number of Authorized Users and the modules stated on the Order Form.

2.2 No transfer of ownership. This Agreement is a license and not a sale. No title to or ownership of the Platform, or of any copy of the Platform, transfers to Licensee. Any transfer of copyright ownership requires a signed instrument of conveyance, 17 U.S.C. 204(a), and no such instrument is made, offered, or implied by this Agreement.

2.3 Scope by tier. A Facility Licensee's license extends only to the bargaining unit or units identified on its Order Form. A Regional Licensee's license extends to facilities within its region only as identified on its Order Form. A National Licensee's license extends only as identified on its Order Form. A license issued at one tier does not confer rights at any other tier and does not permit access by, or provision of Platform services to, any other union entity.

2.4 Authorized Users. Licensee is responsible for all acts and omissions of its Authorized Users as if they were Licensee's own. Credentials are individual and may not be shared. Licensee shall promptly deactivate credentials of any individual who ceases to be an Authorized User.

2.5 Reservation. All rights not expressly granted in this Section 2 are reserved to Article9.

3. RESTRICTIONS

Licensee shall not, and shall not permit any Authorized User or third party to:

3.1 copy, reproduce, distribute, publicly display, publicly perform, or prepare derivative works of the Platform or any component of the Platform, except as expressly authorized in Section 2, each of which is an exclusive right of the copyright owner under 17 U.S.C. 106;

3.2 reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code, architecture, data model, algorithms, prompt structures, or underlying ideas of the Platform, except to the minimum extent that this restriction is unenforceable under applicable law;

3.3 circumvent, disable, or otherwise interfere with any technological measure that effectively controls access to the Platform or that protects a right of the copyright owner, conduct prohibited by 17 U.S.C. 1201(a)(1)(A) and 17 U.S.C. 1201(b)(1);

3.4 remove, alter, obscure, or falsify any copyright management information, including any copyright notice, title, terms and conditions of use, or identifying number or symbol appearing on or in the Platform, conduct prohibited by 17 U.S.C. 1202(a) and 17 U.S.C. 1202(b);

3.5 sublicense, resell, rent, lease, lend, distribute, assign, time-share, or provide the Platform as a service bureau to any third party, including any other facility, local, region, council, or national office;

3.6 access the Platform to build, train, benchmark, or improve a competing product or service, or disclose the Platform's non-public features, performance, or architecture to any competitor of Article9;

3.7 use the Platform to store, process, or transmit any material that Licensee is not lawfully entitled to possess, or any classified national security information, or any Sensitive Security Information governed by 49 C.F.R. Part 1520;

3.8 exceed the licensed number of Authorized Users, or access the Platform through automated means, scraping, or bulk extraction other than through export functions Article9 makes available;

3.9 use the Platform in violation of the Export Administration Regulations, 15 C.F.R. Parts 730 through 774, or the sanctions regulations administered by the Office of Foreign Assets Control, 31 C.F.R. Chapter V; or

3.10 use the Platform for the internal business of a labor organization, including solicitation of membership, elections of labor organization officials, and collection of dues, while any Authorized User is in a duty status, which activities 5 U.S.C. 7131(b) requires be performed in a non-duty status. Licensee is solely responsible for compliance with 5 U.S.C. 7131 and any official time provision of its collective bargaining agreement.

4. OWNERSHIP OF THE PLATFORM AND INTELLECTUAL PROPERTY

4.1 Article9 owns the Platform and every component of it. The Platform is and at all times remains the sole and exclusive property of Article9, LLC. Article9 owns all right, title, and interest in and to the Platform and to every component of the Platform, including without limitation:

(a) all source code, object code, scripts, configuration files, build artifacts, and compiled binaries;

(b) all database schemas, data models, table structures, relational designs, indices, and query logic;

(c) all application programming interfaces, integrations, connectors, and webhooks;

(d) all user interface designs, layouts, screen flows, wireframes, style sheets, iconography, and visual elements;

(e) all algorithms, business logic, workflow engines, scoring and classification logic, rule sets, prompt templates, agent architectures, and model configurations;

(f) all Documentation, training materials, templates, form libraries, and standard reports;

(g) all trademarks, service marks, trade names, logos, and trade dress, including the Article9 name and the Article9 logo;

(h) all patents, patent applications, and inventions, whether or not patentable;

(i) all trade secrets and confidential business information; and

(j) all modifications, enhancements, updates, upgrades, bug fixes, releases, and derivative works of any of the foregoing, whenever created and by whomever suggested.

4.2 Statutory basis. Copyright in the Platform vests initially in its author. 17 U.S.C. 201(a). Works prepared by Article9 employees within the scope of employment are works made for hire, and Article9 is the author and owns all rights comprised in the copyright. 17 U.S.C. 201(b). Article9 holds written assignments of copyright from each contractor and consultant who contributed to the Platform, executed in compliance with 17 U.S.C. 204(a). Copyright protection extends to the Platform's expression and does not extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery. 17 U.S.C. 102(b).

4.3 Registration and remedies. Article9 may register its copyrights in the Platform with the United States Copyright Office. Registration is a prerequisite to instituting a civil action for infringement of a United States work. 17 U.S.C. 411(a); Fourth Estate Public Benefit Corp. v. Wall-Street.com, LLC, 586 U.S. 296 (2019). Article9 reserves all remedies available under 17 U.S.C. 504 and 17 U.S.C. 505, including statutory damages of up to $150,000 per work for willful infringement under 17 U.S.C. 504(c)(2), subject to the registration timing conditions of 17 U.S.C. 412.

4.4 Patents and marking. Article9 reserves all rights under 35 U.S.C. 271. Article9 may provide virtual patent marking by posting patent information at an internet address as permitted by 35 U.S.C. 287(a).

4.5 Trademarks. Licensee receives no right to use any Article9 trademark, service mark, trade name, or logo except as Article9 authorizes in writing under Section 17. Any authorized use inures solely to the benefit of Article9. Article9 retains and shall exercise control over the nature and quality of the services offered under its marks, as contemplated by the definition of "related company" in 15 U.S.C. 1127. Unauthorized use of an Article9 mark is actionable under 15 U.S.C. 1114 and 15 U.S.C. 1125(a).

4.6 No implied licenses. No license, right, or interest in any Article9 Property is granted by implication, estoppel, exhaustion, or otherwise.

4.7 Survival. This Section 4 survives expiration or termination of this Agreement without limitation of time.

5. OWNERSHIP OF LICENSEE DATA

5.1 Licensee owns its data. As between the Parties, Licensee is and remains the sole and exclusive owner of all Licensee Data. All documentation that lives on the Platform and that is created or uploaded by the Facility Licensee, the Regional Licensee, or the National Licensee is the property of that facility, that region, or that national office, respectively. Article9 acquires no ownership interest in Licensee Data.

5.2 Ownership follows the tier that created the data. Licensee Data created or uploaded under a Facility Licensee's account is the property of that facility. Licensee Data created or uploaded under a Regional Licensee's account is the property of that region. Licensee Data created or uploaded under a National Licensee's account is the property of that national office. Where a Regional Licensee or National Licensee purchases a license that provisions accounts for subordinate bodies, the Order Form shall state which entity owns Licensee Data created in each account. Absent a statement on the Order Form, Licensee Data is owned by the entity whose Authorized User created or uploaded it.

5.3 Limited license to Article9. Licensee grants Article9 a non-exclusive, worldwide, royalty-free license to host, store, transmit, back up, display, and process Licensee Data solely (a) to provide, maintain, secure, and support the Platform for Licensee, (b) to prevent or address technical or security problems, and (c) to comply with law or valid legal process subject to Section 14.4. This license terminates on completion of Article9's deletion obligations under Section 8.6.

5.4 Prohibited uses of Licensee Data. Article9 shall not sell, rent, lease, license, or otherwise disclose Licensee Data to any third party except to subprocessors bound by written confidentiality and security obligations no less protective than those in this Agreement, and except as Section 14.4 permits. Article9 shall not use Licensee Data for advertising or marketing.

5.5 Usage Data. Article9 may collect and use Usage Data to operate, secure, and improve the Platform. Usage Data contains no Licensee Data and does not identify Licensee, any Authorized User, or any bargaining-unit employee.

5.6 Accuracy and lawfulness. Licensee represents that it has the right to place all Licensee Data on the Platform and that doing so does not violate any law, any collective bargaining agreement, or any duty owed by Licensee to any bargaining-unit employee or third party.

5.7 Survival. This Section 5 survives expiration or termination of this Agreement.

6. TERM, EXPIRATION, AND RENEWAL

6.1 Term. The "Term" is the paid subscription period stated on the Order Form, beginning on the Effective Date and ending on the expiration date stated on the Order Form.

6.2 This Agreement expires at the end of every paid term unless it is renewed. This Agreement and the license granted in Section 2 expire automatically at 11:59 p.m. Eastern Time on the last day of the Term, without notice, demand, or any further act of either Party, unless the Parties have executed a renewal Order Form for a successive term and Licensee has paid the Fees for that successive term on or before the expiration date.

6.3 No automatic renewal. There is no automatic renewal, no evergreen term, and no rollover. Continued use of the Platform after expiration does not renew this Agreement, does not create a periodic tenancy or successive term, and does not waive Article9's rights. Any renewal requires an executed renewal Order Form and payment.

6.4 Renewal notice. Article9 shall send Licensee written notice of the approaching expiration date not less than sixty (60) days before the last day of the Term, addressed to the Authorized Representative. Failure to send that notice does not extend the Term and does not renew this Agreement.

6.5 Effect of expiration. On expiration, Licensee's and every Authorized User's right to access the Platform ceases immediately. Article9 may disable credentials at that time. Article9's obligations under Section 8 survive and are unaffected by expiration.

6.6 Renewal Fees. Fees for any successive term are those stated on the renewal Order Form. Article9 is not obligated to offer renewal at the prior term's Fees.

7. FEES, INVOICING, AND TAXES

7.1 Fees. Licensee shall pay the Fees stated on the Order Form in United States dollars.

7.2 Payment terms. Invoices are due on the terms stated on the Order Form. Absent a stated term, invoices are due net thirty (30) days from the invoice date.

7.3 Acceptance of this Agreement as a condition of payment. Before an invoice may be paid through the Article9 billing portal, an Authorized Representative must affirmatively click to accept this Agreement. That click constitutes an electronic signature and manifests Licensee's assent to this Agreement.

7.4 Invoice access. During the Term and for twelve (12) months following expiration, Article9 shall make Licensee's invoices available for viewing and download in the billing portal.

7.5 Late payment. Undisputed amounts not paid when due accrue interest at the lesser of one and one-half percent (1.5%) per month or the maximum rate permitted by law.

7.6 Disputed amounts. Licensee shall notify Article9 in writing of any disputed invoice amount within thirty (30) days of the invoice date, stating the basis for the dispute. The Parties shall work in good faith to resolve the dispute. Licensee shall pay all undisputed amounts when due.

7.7 Taxes. Fees are exclusive of taxes. Licensee is responsible for all sales, use, and similar taxes, excluding taxes on Article9's net income. Licensee shall provide any applicable exemption certificate.

7.8 No appropriated funds. Licensee represents that the Fees are paid from Licensee's own funds, including dues revenue, and not from funds appropriated to any federal agency. This representation preserves the Parties' position under Recital E and avoids any question under the Anti-Deficiency Act, 31 U.S.C. 1341(a)(1), which prohibits an officer or employee of the United States Government from making or authorizing an expenditure or obligation exceeding an amount available in an appropriation, or involving the Government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law.

8. DATA EXPORT AND RETURN ON EXPIRATION OR TERMINATION

8.1 Export during the Term. Throughout the Term, Licensee may export Licensee Data at any time through the Platform's export functions at no additional charge.

8.2 Return on non-renewal. If Licensee does not renew, Article9 shall, within thirty (30) days after the expiration date, deliver to Licensee a complete copy of all Licensee Data owned by Licensee. Article9 shall deliver that copy in both of the following formats:

(a) machine-readable structured export, consisting of comma-separated values or JSON files containing all records, fields, metadata, timestamps, and audit-trail entries, together with all original uploaded files in their native formats and a manifest mapping each file to its associated record; and

(b) human-readable export, consisting of Portable Document Format renderings of each case file, grievance file, and record, organized in a directory structure that mirrors the Platform's organization.

8.3 Delivery to the correct officer. Article9 shall deliver the export to the Authorized Representative for Licensee's tier, as follows:

(a) for a Facility Licensee, to the facility president or the Facility Representative of record;

(b) for a Regional Licensee, to the Regional Vice President of record; and

(c) for a National Licensee, to the president of the labor organization at the national office.

Article9 shall deliver by a method that permits verification of receipt, and shall provide a written index of the contents. If the officeholder of record has changed, Licensee shall provide Article9 with written notice identifying the successor officeholder, and Article9 shall deliver to that successor.

8.4 No hostage-taking. Article9's obligation under Section 8.2 is not conditioned on renewal, and Article9 shall not withhold, degrade, encrypt against, or delay delivery of Licensee Data as leverage in any commercial negotiation. Article9 may condition delivery only on payment of undisputed Fees that were due and unpaid before the expiration date, and even then shall deliver the machine-readable export under Section 8.2(a) within the thirty (30) day period regardless of any Fee dispute.

8.5 Retention window. Article9 shall retain Licensee Data for sixty (60) days after the expiration date so that Licensee may request a replacement or supplemental export.

8.6 Deletion and certification. After the sixty (60) day retention window closes, Article9 shall permanently delete all Licensee Data from its production systems and, within a further thirty (30) days, from its backup systems, and shall provide Licensee with a written certification of deletion signed by an officer of Article9. Article9 may retain Licensee Data only to the extent required by law, and any retained copy remains subject to Sections 9 and 11 for as long as Article9 retains it.

8.7 Termination for cause. If Article9 terminates for Licensee's material breach under Section 21, Sections 8.2 through 8.6 apply on the same terms, measured from the termination date.

8.8 Survival. This Section 8 survives expiration or termination of this Agreement.

9. CONFIDENTIALITY

9.1 Definition. "Confidential Information" means non-public information disclosed by one Party to the other that is designated as confidential or that a reasonable person would understand to be confidential given its nature and the circumstances of disclosure. Licensee Data is Licensee's Confidential Information. Article9 Property, including the Platform's source code, architecture, and non-public Documentation, is Article9's Confidential Information.

9.2 Obligations. The receiving Party shall (a) use Confidential Information only to perform under this Agreement, (b) protect it using no less than reasonable care and no less care than it uses for its own confidential information of like importance, and (c) disclose it only to those of its personnel, subprocessors, and professional advisors who need it and who are bound by confidentiality obligations no less protective than this Section 9.

9.3 Exclusions. Confidential Information does not include information that (a) is or becomes public through no fault of the receiving Party, (b) the receiving Party lawfully knew without restriction before disclosure, (c) the receiving Party independently develops without use of the disclosing Party's Confidential Information, or (d) a third party lawfully provides without restriction.

9.4 Compelled disclosure. If the receiving Party is compelled by law or valid legal process to disclose Confidential Information, it shall, to the extent legally permitted, give the disclosing Party prompt written notice before disclosure and reasonable cooperation in seeking protective treatment, and shall disclose only the portion legally required.

9.5 Representational sensitivity. Article9 acknowledges that Licensee Data may reflect Licensee's representational strategy, investigatory work product, and communications with bargaining-unit employees, and that disclosure of such material to a federal agency, to management officials, or to any adverse party could cause irreparable harm to Licensee and to bargaining-unit employees. Article9 shall treat all Licensee Data as Confidential Information of the highest sensitivity.

9.6 Duration. Confidentiality obligations continue for five (5) years after expiration or termination, and indefinitely as to any Confidential Information that qualifies as a trade secret for so long as it remains a trade secret.

10. TRADE SECRETS

10.1 Trade secret status. The Platform's source code, architecture, data models, algorithms, prompt structures, agent designs, and non-public Documentation derive independent economic value from not being generally known to, and not being readily ascertainable through proper means by, other persons who can obtain economic value from their disclosure or use, and are the subject of reasonable measures to keep them secret. They are trade secrets within the meaning of 18 U.S.C. 1839(3) and RSA 350-B:1, paragraph IV.

10.2 Remedies. Misappropriation of Article9's trade secrets is actionable under the Defend Trade Secrets Act, 18 U.S.C. 1836(b)(1), which permits a civil action by an owner of a trade secret related to a product or service used in or intended for use in interstate or foreign commerce, and under the New Hampshire Uniform Trade Secrets Act, RSA 350-B. Available relief includes injunctive relief, actual loss, unjust enrichment, a reasonable royalty, exemplary damages under 18 U.S.C. 1836(b)(3)(C) and RSA 350-B:3, paragraph II, and attorney's fees under 18 U.S.C. 1836(b)(3)(D) and RSA 350-B:4.

10.3 Preservation of contractual remedies. RSA 350-B:7, paragraph I displaces conflicting tort, restitutionary, and other state-law civil remedies for misappropriation of a trade secret, but RSA 350-B:7, paragraph II(a) preserves contractual remedies. The confidentiality covenants in Section 9 are enforceable as contract irrespective of trade secret status.

10.4 NOTICE OF IMMUNITY UNDER THE DEFEND TRADE SECRETS ACT

This notice is provided under 18 U.S.C. 1833(b)(3)(A). The term "employee" for this purpose includes any individual performing work as a contractor or consultant for an employer. 18 U.S.C. 1833(b)(4). The statutory immunity is as follows.

Immunity. An individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that (A) is made (i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

Use of trade secret information in anti-retaliation lawsuit. An individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual (A) files any document containing the trade secret under seal; and (B) does not disclose the trade secret, except pursuant to court order.

11. DATA SECURITY

11.1 Security program. Article9 shall maintain a written information security program with administrative, technical, and physical safeguards designed to protect the confidentiality, integrity, and availability of Licensee Data, meeting or exceeding the requirements of Exhibit A.

11.2 Encryption. Article9 shall encrypt Licensee Data in transit using TLS 1.2 or higher and at rest using AES-256 or an equivalent or stronger algorithm.

11.3 Access control. Article9 shall enforce role-based access control, unique credentials, multi-factor authentication for administrative access, and the principle of least privilege. Article9 personnel shall access Licensee Data only as necessary to provide, secure, or support the Platform, and every such access shall be logged.

11.4 Subprocessors. Article9 shall maintain a current list of subprocessors that process Licensee Data, shall make that list available to Licensee on request, and shall give Licensee not less than thirty (30) days' written notice before adding a subprocessor that will process Licensee Data. Article9 shall bind each subprocessor in writing to obligations no less protective than those in this Agreement and remains fully liable for each subprocessor's acts and omissions.

11.5 Personnel. Article9 shall conduct background screening consistent with applicable law for personnel with access to Licensee Data, shall require written confidentiality agreements, and shall provide annual security awareness training.

11.6 Backups and continuity. Article9 shall maintain encrypted backups, shall test restoration not less than annually, and shall maintain a documented business continuity and disaster recovery plan.

11.7 Assessment. Article9 shall perform, or engage a qualified third party to perform, a vulnerability assessment not less than annually and a penetration test not less than annually, and shall remediate findings on a risk-prioritized basis. Article9 shall provide Licensee with a summary of results on written request, subject to Section 9.

11.8 Audit. Not more than once per twelve (12) month period, and on not less than thirty (30) days' written notice, Licensee may request a written response to a reasonable security questionnaire and copies of current third-party assessment summaries. This Section 11.8 does not entitle Licensee to access Article9's production systems, source code, or other customers' data.

12. SECURITY INCIDENTS AND BREACH NOTIFICATION

12.1 Definition. "Security Incident" means any unauthorized acquisition of, access to, use of, or disclosure of Licensee Data in Article9's possession or control, or any unauthorized acquisition of computerized data that compromises the security or confidentiality of personal information within the meaning of RSA 359-C:19.

12.2 Notice to Licensee. Article9 shall notify Licensee of a Security Incident without unreasonable delay and in any event within seventy-two (72) hours after Article9 becomes aware of it. Notice shall be given to the Authorized Representative by telephone and in writing.

12.3 Content of notice. The notice shall describe, to the extent then known, the nature and scope of the Security Incident, the categories and approximate volume of Licensee Data affected, the identified or suspected cause, the date or date range of the incident, remedial and containment measures taken and planned, and a point of contact. Article9 shall supplement the notice as additional facts are determined.

12.4 Statutory determination and notification. New Hampshire law requires a person doing business in the state that owns or licenses computerized data including personal information, on becoming aware of a security breach, to promptly determine the likelihood that the information has been or will be misused, and, if misuse has occurred or is reasonably likely to occur or if a determination cannot be made, to notify affected individuals as soon as possible. RSA 359-C:20, paragraph I(a). A person that maintains computerized data containing personal information that it does not own must notify and cooperate with the owner or licensee of the information immediately following discovery. RSA 359-C:20, paragraph I(c). Where Licensee owns the affected personal information, Article9's obligation is the obligation of a maintainer under RSA 359-C:20, paragraph I(c), and Article9 shall notify and cooperate with Licensee immediately following discovery. Where Article9 owns or licenses the affected personal information, Article9 shall make the determination required by RSA 359-C:20, paragraph I(a) and shall give the notices that statute requires, including notice to the New Hampshire Attorney General's office. The burden of demonstrating compliance rests on the person responsible for the determination. RSA 359-C:21, paragraph III. Where a Security Incident triggers notification obligations under the law of another state, each Party shall cooperate with the other in satisfying those obligations.

12.5 Cooperation and cost. Article9 shall cooperate with Licensee's reasonable investigation, shall preserve forensic evidence, and shall bear the cost of notification, credit monitoring where appropriate, and remediation to the extent the Security Incident arose from Article9's breach of Section 11 or from the act or omission of Article9 or its subprocessors.

12.6 No waiver of statutory damages. RSA 359-C:21 provides a private right of action for actual damages, enhanced damages for willful or knowing violations, and costs and attorney's fees, and provides that any attempted waiver of the right to those damages is void and unenforceable. Nothing in this Agreement waives or limits any right under RSA 359-C:21.

13. PRIVACY AND REGULATORY ALLOCATION

13.1 Privacy Act. The Privacy Act of 1974, 5 U.S.C. 552a, restricts disclosure by federal agencies of records contained in a system of records. 5 U.S.C. 552a(b). That statute reaches a contractor only where an agency provides by contract for the operation by or on behalf of the agency of a system of records to accomplish an agency function. 5 U.S.C. 552a(m)(1). Article9 is under contract with Licensee, not with any agency, and no agency has designated the Platform as a system of records. Article9 is therefore not a Privacy Act contractor by operation of this Agreement. Article9 nonetheless assumes the contractual data protection obligations in Sections 9, 11, and 12. Licensee is solely responsible for the lawfulness of its receipt of any agency data it uploads, including compliance with any condition imposed on that data at the time of its release under 5 U.S.C. 7114(b)(4), which requires an agency to furnish data to the exclusive representative only "to the extent not prohibited by law."

13.2 New Hampshire Expectation of Privacy chapter. RSA 507-H applies to persons meeting the thresholds in RSA 507-H:2 and defines "consumer" to exclude an individual acting in a commercial or employment context or as an employee, owner, director, officer, or contractor of an entity whose transactions with the controller occur solely within that role. RSA 507-H:1, paragraph VIII. RSA 507-H:3, paragraph I(b) exempts nonprofit organizations. The Parties' present position is that RSA 507-H does not govern this Agreement. Article9 shall reassess that position annually and shall comply with RSA 507-H if and when it becomes applicable. RSA 507-H:11 vests enforcement exclusively in the Attorney General and provides no private right of action.

13.3 Health and financial data are out of scope. The Platform is not designed for and shall not be used to process protected health information governed by 45 C.F.R. Parts 160 and 164, or nonpublic personal financial information governed by 15 U.S.C. 6801 through 6809. If Licensee requires the Platform to process protected health information, including in connection with a union-sponsored group health plan, the Parties shall first execute a business associate agreement, and Licensee shall not upload protected health information before that agreement is executed.

13.4 Federal records. Union-created and union-held grievance files are not federal records. The term "records" under 44 U.S.C. 3301(a)(1)(A) reaches recorded information "made or received by a Federal agency" and "preserved or appropriate for preservation by that agency." Licensee Data held on the Platform is held by Licensee and by Article9, not by an agency. This Section 13.4 states the Parties' allocation of responsibility and is not legal advice to Licensee regarding its own records obligations. The Archivist's determination whether recorded information is a record is binding on federal agencies. 44 U.S.C. 3301(b).

13.5 Accessibility. Section 508 of the Rehabilitation Act, 29 U.S.C. 794d(a)(1)(A), imposes obligations on each federal department or agency, not on a private vendor selling to a non-federal buyer. Article9 nonetheless designs the Platform to conform to the Web Content Accessibility Guidelines, Version 2.1, Level AA. Where Licensee requires conformance to a different version or level, including the WCAG 2.0 Level AA standard incorporated at 36 C.F.R. Part 1194, the Parties shall state that requirement on the Order Form.

13.6 Duty of fair representation. An exclusive representative is responsible for representing the interests of all employees in the unit it represents "without discrimination and without regard to labor organization membership." 5 U.S.C. 7114(a)(1). Licensee is solely responsible for configuring its use of the Platform consistently with that duty, including with respect to access and service for bargaining-unit employees who are not members of Licensee. Article9 makes no representation that any Platform configuration satisfies Licensee's duty of fair representation.

14. CONFLICTS OF INTEREST AND ADVERSE USE

14.1 No licensing to an employing agency. During the Term and for two (2) years after expiration or termination, Article9 shall not license the Platform to, and shall not provide the same or substantially similar services for, any federal agency that is the employing agency of employees represented by Licensee, or any component, office, or contractor of such an agency acting on its behalf in labor relations matters.

14.2 No adverse deployment. Article9 shall not develop, market, or operate any product, module, or service derived from the Platform for the purpose of assisting a federal agency in defending against, tracking, or responding to grievances, unfair labor practice charges, arbitrations, or other representational actions brought by Licensee or any labor organization.

14.3 No disclosure to management. Article9 shall not disclose Licensee Data, or the existence or content of any matter recorded in Licensee Data, to any federal agency, agency management official, supervisor, or contractor of an agency, or to any party adverse to Licensee.

14.4 Legal process. If Article9 receives a subpoena, court order, discovery request, administrative demand, or other legal process seeking Licensee Data, Article9 shall, unless prohibited by law, (a) notify Licensee in writing within two (2) business days and before producing anything, (b) provide Licensee with a copy of the process, (c) not oppose Licensee's efforts to quash, limit, or obtain protective treatment, and (d) produce only the portion of Licensee Data that Article9 is legally required to produce. Article9 shall not voluntarily produce Licensee Data in response to an informal request.

14.5 Notice of conflict. Article9 shall give Licensee written notice within ten (10) business days if Article9 enters, or begins negotiating, any relationship that would breach Section 14.1 or Section 14.2, and Licensee may terminate this Agreement for cause on written notice with a pro rata refund of prepaid Fees for the unexpired portion of the Term.

14.6 Equitable relief. Breach of this Section 14 causes irreparable harm for which monetary damages are inadequate, and Licensee is entitled to seek injunctive relief without posting bond.

14.7 Survival. This Section 14 survives expiration or termination for the periods stated.

15. FEDERAL SECTOR REPRESENTATIONS

15.1 Article9 is not an agency. Article9 is not an agency within the meaning of 5 U.S.C. 7103(a)(3) and is not a labor organization within the meaning of 5 U.S.C. 7103(a)(4).

15.2 No agency assistance. Neither Party shall structure, fund, or perform this Agreement in a manner by which a federal agency would sponsor, control, or otherwise assist Licensee within the meaning of 5 U.S.C. 7116(a)(3). Licensee shall not accept agency payment, agency reimbursement, or in-kind agency support, including agency-funded hosting, licenses, or equipment, for the Fees or for Licensee's use of the Platform.

15.3 No effect on representational obligations. This Agreement does not modify, waive, or affect any right or obligation of Licensee under 5 U.S.C. Chapter 71, under any collective bargaining agreement, or under any memorandum of understanding. Article9 does not provide legal advice, does not represent bargaining-unit employees, and does not act as Licensee's agent in any proceeding.

15.4 Standards of conduct. Licensee is subject to the standards of conduct for federal-sector labor organizations administered by the Office of Labor-Management Standards of the Department of Labor under 5 U.S.C. 7120 and 29 C.F.R. Part 458, including the reporting provisions applied by 29 C.F.R. 458.3 and the election standards applied by 29 C.F.R. 458.29. The Labor-Management Reporting and Disclosure Act, 29 U.S.C. 401 and following, does not by its own terms reach a labor organization representing only federal executive branch employees, because the definition of "employer" at 29 U.S.C. 402(e) excludes the United States. Licensee is solely responsible for its own compliance, including retention of records the standards of conduct require. Article9's obligations under Section 8 are designed to support, and do not substitute for, that compliance.

15.5 Authority. Each Party represents that the individual executing or accepting this Agreement on its behalf has authority to bind it, and that execution and performance do not conflict with that Party's constitution, bylaws, charter, or any agreement to which it is a party.

16. FEEDBACK

Licensee may, but is not obligated to, provide suggestions, enhancement requests, or other feedback regarding the Platform. Licensee grants Article9 a perpetual, irrevocable, worldwide, royalty-free, fully paid license to use, reproduce, modify, and commercially exploit such feedback without restriction and without obligation to Licensee. Feedback is not Licensee Data and is not Licensee's Confidential Information. Nothing in this Section 16 grants Article9 any right in Licensee Data.

17. TRADEMARKS AND PUBLICITY

17.1 Licensee marks. Article9 shall not use Licensee's name, marks, or logo in any marketing material, case study, customer list, or public statement without Licensee's prior written consent, which Licensee may withhold in its sole discretion and may revoke on thirty (30) days' written notice.

17.2 Article9 marks. Licensee may use Article9's name and marks solely to identify the Platform internally and only in the form Article9 specifies. Licensee shall not register, or attempt to register, any Article9 mark or any confusingly similar mark.

17.3 Notices. Licensee shall not remove or alter any Article9 proprietary notice appearing in the Platform or in any output the Platform generates, except that Licensee may remove Article9 branding from documents Licensee files or serves in a representational proceeding.

18. WARRANTIES AND DISCLAIMERS

18.1 Mutual warranties. Each Party warrants that it has the power and authority to enter into this Agreement and that its performance will comply with applicable law.

18.2 Article9 warranties. Article9 warrants that (a) the Platform will perform materially in accordance with the Documentation during the Term, (b) Article9 will provide the Platform in a professional and workmanlike manner consistent with generally accepted industry standards, (c) Article9 will maintain the security program required by Section 11, and (d) to Article9's knowledge, the Platform does not infringe any United States copyright, patent, trademark, or trade secret of any third party.

18.3 Remedy for breach of Section 18.2(a). Licensee's exclusive remedy for breach of Section 18.2(a) is, at Article9's option, correction of the non-conformity or, if Article9 does not correct it within thirty (30) days after written notice, termination of this Agreement and a pro rata refund of prepaid Fees for the unexpired portion of the Term.

18.4 DISCLAIMER OF IMPLIED WARRANTIES

THE WARRANTIES IN SECTIONS 18.1 AND 18.2 ARE THE ONLY WARRANTIES ARTICLE9 MAKES. EXCEPT AS EXPRESSLY STATED IN SECTIONS 18.1 AND 18.2, ARTICLE9 DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, IMPLIED, AND STATUTORY, INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY, THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTY ARISING FROM COURSE OF DEALING OR USAGE OF TRADE.

ARTICLE9 DOES NOT WARRANT THAT THE PLATFORM WILL BE UNINTERRUPTED OR ERROR-FREE, THAT ALL DEFECTS WILL BE CORRECTED, OR THAT THE PLATFORM WILL MEET LICENSEE'S REQUIREMENTS.

THE PLATFORM IS A DOCUMENT AND CASE MANAGEMENT TOOL. ARTICLE9 DOES NOT PRACTICE LAW, DOES NOT PROVIDE LEGAL ADVICE, AND DOES NOT WARRANT THE LEGAL SUFFICIENCY, TIMELINESS, OR OUTCOME OF ANY GRIEVANCE, CHARGE, APPEAL, OR OTHER MATTER MANAGED USING THE PLATFORM. LICENSEE IS SOLELY RESPONSIBLE FOR MEETING EVERY FILING DEADLINE AND PROCEDURAL REQUIREMENT IMPOSED BY ITS COLLECTIVE BARGAINING AGREEMENT, BY STATUTE, AND BY REGULATION.

18.5 Conspicuousness. Under RSA 382-A:1-201(b)(10), a term is conspicuous where, based on the totality of the circumstances, a reasonable person against which it is to operate ought to have noticed it, and whether a term is conspicuous is a decision for the court. Section 18.4 is set entirely in capital letters, mentions merchantability as RSA 382-A:2-316(2) requires, appears under its own captioned heading, and is presented to Licensee in full before acceptance. Licensee acknowledges it has read Section 18.4.

18.6 Non-waivable rights preserved. Nothing in Section 18.4 limits any right that applicable law makes non-waivable, including rights under RSA 358-A:10 and RSA 359-C:21, each of which provides that an attempted waiver of the damages it establishes is void and unenforceable.

19. INDEMNIFICATION

19.1 Article9 indemnity. Article9 shall defend Licensee against any third-party claim alleging that the Platform, as provided by Article9 and used in accordance with this Agreement, infringes a United States copyright, patent, trademark, or trade secret, and shall indemnify Licensee against damages and costs finally awarded or agreed in settlement. Article9's obligation does not apply to a claim arising from (a) Licensee Data, (b) modification of the Platform by anyone other than Article9, (c) combination of the Platform with items not supplied by Article9 where the claim would not have arisen but for the combination, or (d) use of the Platform after Article9 notifies Licensee to discontinue use.

19.2 Remediation. If the Platform is or is likely to become the subject of a claim under Section 19.1, Article9 may at its option procure the right for Licensee to continue use, modify the Platform to make it non-infringing, or terminate this Agreement and refund prepaid Fees for the unexpired portion of the Term. Section 19.1 and this Section 19.2 state Article9's entire liability and Licensee's exclusive remedy for third-party intellectual property claims.

19.3 Licensee indemnity. Licensee shall defend Article9 against any third-party claim arising from (a) Licensee Data, including any claim that Licensee Data infringes, misappropriates, or violates the rights of a third party or was unlawfully obtained, (b) Licensee's use of the Platform in breach of Section 3, or (c) Licensee's breach of Section 15.2, and shall indemnify Article9 against damages and costs finally awarded or agreed in settlement.

19.4 Procedure. The indemnified Party shall give prompt written notice of the claim, shall give the indemnifying Party sole control of the defense and settlement, and shall provide reasonable cooperation at the indemnifying Party's expense. The indemnifying Party shall not settle a claim in a manner that imposes a non-indemnified obligation or admits fault on the indemnified Party without that Party's written consent.

20. LIMITATION OF LIABILITY

20.1 EXCLUSION OF INDIRECT DAMAGES

EXCEPT AS PROVIDED IN SECTION 20.3, NEITHER PARTY IS LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, OR FOR LOST PROFITS, LOST REVENUE, OR LOSS OF GOODWILL, ARISING OUT OF OR RELATING TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT, OR ANY OTHER THEORY, AND WHETHER OR NOT THE PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

20.2 CAP ON LIABILITY

EXCEPT AS PROVIDED IN SECTION 20.3, EACH PARTY'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT IS LIMITED TO THE TOTAL FEES PAID OR PAYABLE BY LICENSEE UNDER THE ORDER FORM IN THE TWELVE (12) MONTHS PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

20.3 Exclusions from the limitations. Sections 20.1 and 20.2 do not apply to (a) Licensee's payment obligations, (b) either Party's indemnification obligations under Section 19, (c) Article9's breach of Section 8 (data return), Section 11 (data security), Section 12 (breach notification), or Section 14 (conflicts and adverse use), (d) either Party's breach of Section 9 (confidentiality) or misappropriation of the other's trade secrets, (e) Licensee's breach of Section 3 (restrictions) or infringement of Article9 Property, (f) a Party's gross negligence, willful misconduct, or fraud, or (g) any liability that applicable law does not permit to be limited, including liability under RSA 358-A:10 and RSA 359-C:21.

20.4 Basis of the bargain. The Parties acknowledge that the limitations in this Section 20 reflect an allocation of risk that is a material inducement to Article9 to offer the Platform at the stated Fees, and that the Fees would be materially higher absent these limitations. Under RSA 382-A:2-719(3), consequential damages may be limited or excluded unless the limitation is unconscionable, and a limitation of damages where the loss is commercial is not prima facie unconscionable. The loss allocated by this Section 20 is commercial. Where an exclusive or limited remedy fails of its essential purpose, remedy may be had as provided in the Uniform Commercial Code as adopted in New Hampshire. RSA 382-A:2-719(2).

21. SUSPENSION AND TERMINATION

21.1 Suspension. Article9 may suspend Licensee's access, in whole or in part, on written notice, if (a) Fees are more than thirty (30) days past due and remain unpaid ten (10) days after a written delinquency notice, or (b) Licensee's use presents an imminent and material threat to the security, integrity, or availability of the Platform or to another customer. Article9 shall limit any suspension in scope and duration to what the circumstances require and shall restore access promptly on cure. Suspension does not extend the Term and does not relieve Licensee of the obligation to pay Fees, except that Article9 shall credit Licensee for any period of suspension under clause (b) that was not caused by Licensee.

21.2 Termination for cause. Either Party may terminate this Agreement on thirty (30) days' written notice of a material breach if the breaching Party does not cure the breach within that period. Article9 may terminate immediately on written notice for Licensee's breach of Section 3.1 through Section 3.6.

21.3 Termination for insolvency. Either Party may terminate immediately if the other becomes insolvent, makes a general assignment for the benefit of creditors, or becomes the subject of a bankruptcy or receivership proceeding not dismissed within sixty (60) days.

21.4 Termination by Licensee for conflict. Licensee may terminate under Section 14.5.

21.5 Effect. On termination, Section 6.5 applies as though the termination date were the expiration date, and Section 8 governs return of Licensee Data. Licensee shall pay all Fees accrued through the termination date. Where Licensee terminates for Article9's uncured material breach, Article9 shall refund prepaid Fees for the unexpired portion of the Term on a pro rata basis.

21.6 Survival. Sections 1, 4, 5, 7 (as to accrued amounts), 8, 9, 10, 12, 13, 14, 16, 18.4, 18.6, 19, 20, 22, 23, and 28 survive expiration or termination.

22. DISPUTE RESOLUTION AND ARBITRATION

22.1 Notice of dispute. Before commencing arbitration, the claiming Party shall give the other written notice describing the dispute and the relief sought. The Parties shall confer in good faith for thirty (30) days after that notice.

22.2 Arbitration clause. Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator or arbitrators may be entered in any court having jurisdiction thereof.

22.3 Seat, arbitrator, and procedure. The seat and place of arbitration is Manchester, New Hampshire. The arbitration shall be conducted by one arbitrator, except that either Party may require a panel of three arbitrators where the amount in controversy exceeds one million dollars ($1,000,000). The arbitrator shall be an attorney with not less than ten (10) years of experience in commercial technology and software licensing disputes. The arbitrator shall issue a reasoned written award. The arbitrator may award any relief available at law or in equity, including injunctive relief and, where a statute or this Agreement provides for them, attorney's fees and costs. Where the amount in controversy qualifies, the Parties may agree to proceed under the expedited procedures of the Commercial Arbitration Rules.

22.4 Federal Arbitration Act. This Agreement evidences a transaction involving commerce, and this Section 22 is governed by the Federal Arbitration Act, 9 U.S.C. 1 through 16. Under 9 U.S.C. 2, a written arbitration provision in a contract evidencing a transaction involving commerce "shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract." The exclusion in 9 U.S.C. 1 for "contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce" does not apply. This Agreement is a commercial license between two entities and is not a contract of employment. See Circuit City Stores, Inc. v. Adams, 532 U.S. 105 (2001); New Prime Inc. v. Oliveira, 586 U.S. 105 (2019).

22.5 Express election of RSA 542. To the extent New Hampshire arbitration law applies, this Agreement specifically provides that it shall be subject to the provisions of RSA 542. This election is made because RSA 542:1 provides that the chapter "shall not apply to any arbitration agreement between employers and employees, or between employers and associations of employees unless such agreement specifically provides that it shall be subject to the provisions of this chapter." Neither Party is the employer of the other or of any employee the other represents, and the Parties do not concede that the carve-out applies, but the Parties make this express election to remove any question. Under RSA 542:1, a written provision to settle by arbitration a controversy thereafter arising out of a contract is valid, irrevocable, and enforceable.

22.6 Carve-out for equitable relief. Either Party may seek temporary or preliminary injunctive relief in a court of competent jurisdiction to prevent or restrain (a) actual or threatened infringement or misappropriation of Article9 Property, (b) breach of Section 9, or (c) breach of Section 14, without waiving this Section 22 as to the merits.

22.7 Confidentiality of proceedings. The existence, content, and outcome of any arbitration are Confidential Information, except as necessary to enforce or challenge an award or as required by law.

22.8 No class or consolidated proceedings. Arbitration shall be conducted on an individual basis. The arbitrator has no authority to consolidate claims of more than one Licensee or to preside over any class or representative proceeding, absent the written consent of both Parties and every affected licensee.

22.9 Costs. Each Party bears its own attorney's fees and its share of arbitration fees, except where a statute, this Agreement, or the arbitrator's award provides otherwise.

22.10 Limitations period. Any claim arising out of or relating to this Agreement must be commenced within two (2) years after the claim accrues, except where a longer period is required by law and cannot be shortened by agreement.

23. GOVERNING LAW AND VENUE

23.1 Governing law. This Agreement is governed by the laws of the State of New Hampshire, without regard to its conflict of laws principles, and, where applicable, by the federal laws of the United States. New Hampshire honors a contractual choice of law where the contract bears any significant relationship to the chosen jurisdiction and no fundamental policy of the forum is contravened. Hobin v. Coldwell Banker Residential Affiliates, Inc., 144 N.H. 626 (2000), quoting Kentucky Fried Chicken Corp. v. Collectramatic, Inc., 130 N.H. 680, 684 (1988). Article9 is organized under New Hampshire law and maintains its principal place of business in New Hampshire.

23.2 Venue. For any proceeding permitted by Section 22.6, or any proceeding to compel arbitration or to confirm, modify, or vacate an award, the Parties consent to the exclusive jurisdiction and venue of the Superior Court for Hillsborough County, New Hampshire, and the United States District Court for the District of New Hampshire, and each Party waives any objection based on forum non conveniens. New Hampshire constitutes one federal judicial district. 28 U.S.C. 109.

23.3 JURY WAIVER

TO THE EXTENT ANY DISPUTE PROCEEDS IN COURT NOTWITHSTANDING SECTION 22, EACH PARTY KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO TRIAL BY JURY.

23.4 Exclusion of the CISG and UCITA. The United Nations Convention on Contracts for the International Sale of Goods does not apply. The Uniform Computer Information Transactions Act, in any form and as enacted in any state, does not apply. New Hampshire has not adopted UCITA.

23.5 Copyright preemption. All legal and equitable rights equivalent to the exclusive rights within the general scope of copyright in works fixed in a tangible medium and within the subject matter of copyright are governed exclusively by Title 17 of the United States Code. 17 U.S.C. 301(a). Nothing in this Agreement is intended to create a state-law right equivalent to an exclusive right under 17 U.S.C. 106, and the Parties intend that the covenants in this Agreement create contractual obligations supported by consideration and are not preempted.

24. EXPORT AND SANCTIONS

Licensee represents that it is not located in, organized under the laws of, or ordinarily resident in a country or region subject to comprehensive United States sanctions administered by the Office of Foreign Assets Control under 31 C.F.R. Chapter V, and that it is not identified on the Entity List at 15 C.F.R. Part 744, Supplement No. 4, the Specially Designated Nationals and Blocked Persons List, or any other United States restricted-party list. Licensee shall not export, re-export, or otherwise transfer the Platform or any Licensee Data in violation of the Export Administration Regulations, 15 C.F.R. Parts 730 through 774, or the sanctions regulations administered by the Office of Foreign Assets Control. Licensee acknowledges that obligations under the Export Administration Regulations are determined by the item's classification, the country of destination, the end user, the end use, and the conduct at issue. 15 C.F.R. 736.2(a).

25. ASSIGNMENT

25.1 Licensee. Licensee shall not assign, delegate, or otherwise transfer this Agreement or any right or obligation under it, by operation of law or otherwise, without Article9's prior written consent. Any attempted transfer without consent is void. Licensee shall not assign this Agreement to any federal agency under any circumstance.

25.2 Article9. Article9 may assign this Agreement in its entirety, on written notice to Licensee, in connection with a merger, reorganization, or sale of all or substantially all of its assets or equity, provided the assignee assumes all of Article9's obligations, including those in Sections 8, 9, 11, 12, and 14 in full. If the proposed assignee is a federal agency, a contractor providing labor relations services to a federal agency, or a person that would breach Section 14.1 or Section 14.2, Licensee may terminate this Agreement on written notice given within thirty (30) days of Article9's notice and receive a pro rata refund of prepaid Fees for the unexpired portion of the Term.

25.3 Binding effect. This Agreement binds and inures to the benefit of the Parties and their permitted successors and assigns.

26. NOTICES

Notices must be in writing and are effective on receipt when delivered by hand, by nationally recognized overnight courier, or by certified mail, return receipt requested, and on confirmed transmission when sent by electronic mail to the address stated on the Order Form. Notices to Article9 shall be sent to ops@article9llc.com and to Article9's address of record. Notices to Licensee shall be sent to the Authorized Representative at the address stated on the Order Form. Either Party may change its notice address on written notice. Notices under Section 12 (Security Incidents) may be given first by telephone, followed by written notice within twenty-four (24) hours.

27. ELECTRONIC ACCEPTANCE

27.1 Manifestation of assent. Licensee accepts this Agreement by executing an Order Form, by clicking an "I Agree" or equivalent control that is expressly labeled as constituting acceptance of this Agreement, or by accessing or using the Platform after being presented with this Agreement.

27.2 Conspicuous notice. Article9 shall present this Agreement, or a conspicuous hyperlink to it, adjacent to the acceptance control, and shall label the control so that a reasonable person is explicitly advised that clicking constitutes assent. This satisfies the requirement of reasonably conspicuous notice of contract terms and an unambiguous manifestation of assent. Specht v. Netscape Communications Corp., 306 F.3d 17 (2d Cir. 2002); Berman v. Freedom Financial Network, LLC, 30 F.4th 849 (9th Cir. 2022).

27.3 Legal effect. A signature, contract, or record relating to a transaction in or affecting interstate commerce may not be denied legal effect, validity, or enforceability solely because it is in electronic form, and a contract may not be denied legal effect solely because an electronic signature or electronic record was used in its formation. 15 U.S.C. 7001(a). Under New Hampshire law, a record or signature may not be denied legal effect or enforceability solely because it is in electronic form; if a law requires a record to be in writing, an electronic record satisfies the law; and if a law requires a signature, an electronic signature satisfies the law. RSA 294-E:7.

27.4 Ability to retain. Article9 shall present this Agreement in a form Licensee can store and print. RSA 294-E:8, paragraph III provides that if a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record is not enforceable against the recipient.

27.5 Record of acceptance. Article9 shall retain, for the Term and seven (7) years thereafter, a record of each acceptance including the accepting individual's identity, the timestamp, the internet protocol address, the version of this Agreement accepted, and a cryptographic hash of the exact text accepted, and shall provide that record to Licensee on request.

28. GENERAL

28.1 Entire agreement. This Agreement, together with the Order Form and the Exhibits, is the entire agreement of the Parties regarding its subject matter and supersedes all prior and contemporaneous agreements, proposals, and representations, written or oral.

28.2 Order of precedence. In the event of conflict, the order of precedence is (a) this Agreement, (b) the Exhibits, and (c) the Order Form, except that an Order Form expressly identifying the Section of this Agreement it modifies and signed by both Parties controls as to that Section.

28.3 No purchase order terms. Preprinted terms on any Licensee purchase order, vendor portal, or similar document are void and of no effect, even if Article9 accepts the document or accepts payment referencing it.

28.4 Amendment. This Agreement may be amended only by a writing signed by both Parties. Article9 may modify the terms applicable to a successive term by presenting revised terms with the renewal Order Form. Article9 shall not unilaterally modify the terms applicable to a Term already paid for.

28.5 Waiver. No waiver is effective unless in writing and signed by the waiving Party. A Party's failure or delay in exercising a right is not a waiver of that right.

28.6 Severability. If any provision is held unenforceable, it shall be modified to the minimum extent necessary to make it enforceable, and the remaining provisions remain in full force. If Section 22.8 is held unenforceable, Section 22 in its entirety is void and disputes shall be resolved in the courts identified in Section 23.2.

28.7 Independent contractors. The Parties are independent contractors. This Agreement creates no partnership, joint venture, agency, fiduciary, or employment relationship.

28.8 No third-party beneficiaries. This Agreement confers no right on any person other than the Parties and their permitted successors and assigns. No bargaining-unit employee, federal agency, or other union entity is a third-party beneficiary.

28.9 Force majeure. Neither Party is liable for failure to perform, other than a payment obligation, caused by an event beyond its reasonable control, provided it gives prompt notice and resumes performance as soon as practicable. This Section 28.9 does not excuse Article9's obligations under Sections 8, 11, or 12.

28.10 Counterparts. This Agreement may be executed in counterparts, each of which is an original and all of which together constitute one instrument. Electronic signatures and scanned images have the same effect as originals.

28.11 Headings. Headings are for convenience only and do not affect interpretation.

28.12 Construction. This Agreement is the product of negotiation and shall not be construed against either Party as drafter. "Including" means "including without limitation."

EXHIBIT A. SECURITY STANDARDS

A.1 Governance. Article9 shall maintain a written information security policy, reviewed and approved annually, assigning responsibility for information security to a named individual.

A.2 Risk assessment. Article9 shall perform an annual risk assessment covering threats to the confidentiality, integrity, and availability of Licensee Data, and shall document remediation.

A.3 Access management. Unique credentials for each user. No shared administrative accounts. Multi-factor authentication for all administrative and remote access. Access reviews not less than quarterly. Revocation of access within twenty-four (24) hours of personnel separation.

A.4 Encryption. TLS 1.2 or higher in transit. AES-256 or stronger at rest, including for backups. Documented key management with keys stored separately from encrypted data.

A.5 Tenant isolation. Logical separation of each licensee's data. Access controls that prevent one licensee from accessing another licensee's data. Testing of isolation controls not less than annually.

A.6 Logging and monitoring. Immutable audit logs of authentication events, administrative actions, data exports, and access to Licensee Data. Log retention not less than twelve (12) months. Automated alerting on anomalous access.

A.7 Vulnerability management. Automated dependency scanning. Remediation of critical vulnerabilities within seven (7) days of identification, high within thirty (30) days, medium within ninety (90) days.

A.8 Secure development. Documented software development lifecycle including code review, separation of development and production environments, and prohibition on use of production Licensee Data in non-production environments.

A.9 Backups. Encrypted backups not less than daily. Restoration testing not less than annually. Recovery point objective not to exceed twenty-four (24) hours. Recovery time objective not to exceed forty-eight (48) hours.

A.10 Incident response. A documented incident response plan, tested not less than annually, that satisfies the notice obligations in Section 12.

A.11 Physical security. Hosting in facilities with physical access controls, environmental controls, and current third-party attestation. Article9 shall identify its hosting provider on request.

A.12 Subprocessor diligence. Written security assessment of each subprocessor before engagement and annually thereafter.

EXHIBIT B. ORDER FORM FIELDS

Each Order Form shall state, at minimum: the legal name and mailing address of Licensee; Licensee's tier and, for a Facility Licensee, the bargaining unit or units covered; the Authorized Representative's name, office, electronic mail address, and telephone number; the licensed modules; the maximum number of Authorized Users; the Fees and the payment terms; the Effective Date; the expiration date of the Term; ownership of Licensee Data by account, if different from Section 5.2; any negotiated modification to this Agreement, identified by Section number; and the accessibility standard required under Section 13.5, if different from the default.

EXHIBIT C. AUTHORITIES CITED

Federal statutes

1. Copyright Act, 17 U.S.C. 101 (definition of "computer program"), 102(a) and 102(b), 106, 117(a), 201(a), 201(b), 201(d), 204(a), 301(a), 411(a), 412, 504, 505, 512, 1201, and 1202.
2. Defend Trade Secrets Act, 18 U.S.C. 1833(b), 1836(b), and 1839(3).
3. Computer Fraud and Abuse Act, 18 U.S.C. 1030(a)(2)(C) and 1030(g).
4. Patent Act, 35 U.S.C. 271 and 287(a).
5. Lanham Act, 15 U.S.C. 1114, 1125(a), and 1127.
6. Federal Arbitration Act, 9 U.S.C. 1, 2, and 1 through 16 generally.
7. Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001(a) and 7003.
8. Federal Trade Commission Act, Section 5, 15 U.S.C. 45(a)(1).
9. Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101 through 7135, including 7101(a), 7103(a)(3), 7103(a)(4), 7114(a)(1), 7114(b)(4), 7116(a)(3), 7120, and 7131.

10. Privacy Act of 1974, 5 U.S.C. 552a, including 552a(b), 552a(i), and 552a(m)(1).
11. Labor-Management Reporting and Disclosure Act, 29 U.S.C. 401 and following, including 402(e), 402(i), and 402(j).
12. Federal Records Act, 44 U.S.C. 3301(a) and 3301(b).
13. Anti-Deficiency Act, 31 U.S.C. 1341(a)(1).
14. Rehabilitation Act, Section 508, 29 U.S.C. 794d(a)(1)(A).
15. Gramm-Leach-Bliley Act, 15 U.S.C. 6801 through 6809.
16. Federal judicial districts, 28 U.S.C. 109.

Federal regulations

1. Standards of conduct for federal-sector labor organizations, 29 C.F.R. Part 458, including 458.1, 458.3, 458.29, and 458.53.
2. Federal Acquisition Regulation, 48 C.F.R. 1.104 and 48 C.F.R. 2.101.
3. Export Administration Regulations, 15 C.F.R. Parts 730 through 774, including 15 C.F.R. 736.2 and 15 C.F.R. Part 744, Supplement No. 4.
4. Office of Foreign Assets Control regulations, 31 C.F.R. Chapter V.
5. HIPAA administrative simplification, 45 C.F.R. Parts 160 and 164, including 45 C.F.R. 160.103.
6. Section 508 technical standards, 36 C.F.R. Part 1194.
7. Sensitive Security Information, 49 C.F.R. Part 1520.

New Hampshire statutes

1. New Hampshire Revised Limited Liability Company Act, RSA 304-C, including 304-C:1, 304-C:19, 304-C:22, and 304-C:26.
2. Uniform Commercial Code as adopted in New Hampshire, RSA 382-A, including 382-A:1-201(b)(10), 382-A:2-312, 382-A:2-314, 382-A:2-315, 382-A:2-316, and 382-A:2-719.
3. New Hampshire Uniform Trade Secrets Act, RSA 350-B, including 350-B:1, 350-B:3, 350-B:4, and 350-B:7.
4. Regulation of Business Practices for Consumer Protection, RSA 358-A, including 358-A:2 and 358-A:10.
5. Right to Privacy, Notice of Security Breach, RSA 359-C:19, 359-C:20, and 359-C:21.
6. Expectation of Privacy, RSA 507-H, including 507-H:1, 507-H:2, 507-H:3, and 507-H:11.
7. Uniform Electronic Transactions Act, RSA 294-E, including 294-E:7 and 294-E:8.
8. Arbitration of Disputes, RSA 542, including 542:1, 542:3, and 542:8.
9. Superior court sessions, RSA 496:1.

Cases

1. Fourth Estate Public Benefit Corp. v. Wall-Street.com, LLC, 586 U.S. 296 (2019).
2. Van Buren v. United States, 593 U.S. 374 (2021).
3. Circuit City Stores, Inc. v. Adams, 532 U.S. 105 (2001).
4. New Prime Inc. v. Oliveira, 586 U.S. 105 (2019).
5. United States Department of Defense v. FLRA, 510 U.S. 487 (1994).
6. Air Line Pilots Association v. O'Neill, 499 U.S. 65 (1991).
7. Vernor v. Autodesk, Inc., 621 F.3d 1102 (9th Cir. 2010).
8. FreecycleSunnyvale v. Freecycle Network, 626 F.3d 509 (9th Cir. 2010).
9. Specht v. Netscape Communications Corp., 306 F.3d 17 (2d Cir. 2002).
10. Berman v. Freedom Financial Network, LLC, 30 F.4th 849 (9th Cir. 2022).

11. Hobin v. Coldwell Banker Residential Affiliates, Inc., 144 N.H. 626 (2000).
12. Kentucky Fried Chicken Corp. v. Collectramatic, Inc., 130 N.H. 680 (1988).
13. Milford Lumber Co. v. RCB Realty, Inc., 147 N.H. 15 (2001).
14. National Air Traffic Controllers Association, MEBA/AFL-CIO and Ruckman, 55 FLRA 601 (1999).