prevedere

MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT (the "*Agreement*") IS A BINDING AGREEMENT BETWEEN YOU ("CUSTOMER") AND PREVEDERE, INC. ("PREVEDERE"). THIS AGREEMENT GOVERNS YOUR USE AND ACCESS OF THE SERVICES. THIS AGREEMENT TAKES EFFECT WHEN YOU EXECUTE AN ORDER FORM WITH PREVEDERE (THE "EFFECTIVE DATE").

1. **Definitions.**

   (a) "*Application*" means Prevedere's proprietary external data analytic software-as-a-service application, as more fully identified on an applicable Order Form.

   (b) "*Customer Data*" means data in electronic form (i) input by or collected from Customer through or in connection with the Services, or (ii) generated by the Services from data submitted or on behalf of Customer.

   (c) "*Deliverables*" means those deliverables as defined in the applicable Order Form.

   (d) "*Managed Services*" means Prevedere's ongoing Model development and analytic services relating to Customer's Subscription that are set forth in the applicable Order Form.

   (e) "*Materials*" means the Application, all specifications, documentation, and any and all other information, data, materials, works, services, content, images, devices, methods, processes, hardware, software, technologies, inventions, source code, and any other aspect of the Services, including any deliverables, technical or functional descriptions, requirements, plans or reports that are provided by or used by Prevedere in connection with the Services or otherwise comprise or relate to the Services. The foregoing notwithstanding, Materials shall not include Customer Data.

   (f) "*Model*" means the single web-form that executes a statistical measure that builds a forecast as well as determines the strength of the relationship between one dependent variable and a series of other changing independent variables.

   (g) "*Order Form*" means an ordering statement of Services to be provided hereunder and the related fees, Deliverables, and other details as agreed upon by the Parties. Each Order Form, when executed by each Party hereto, shall be incorporated herein. If any conflict exists between any term of this Agreement and any term contained in an Order Form, the terms in this Agreement shall govern, unless the Order Form specifically references such conflict and indicates the Parties' intent that the conflicting term in the Order Form shall govern, in which case the Order Form shall govern as to such referenced conflict only.

   (h) "*Permitted Users*" means any employee of Customer or a third-party authorized by Customer and is granted user access credentials to access the Services.

   (i) "*Premium Data*" means certain third-party data in the Prevedere Global Intelligence Cloud that may require an additional Subscription and/or secondary agreement to access.

   (j) "*Professional Services*" means Prevedere's onetime implementation, consulting, configuration, training, analytic and economist services set forth in the applicable Order Form.

   (k) "*Services*" means, collectively, the Customer's Subscription, Application, Professional Services and Managed Services, which are further described in the applicable Order Form.

(l) "*Standard Data*" means all non-Premium Data in the Prevedere Global Intelligence Cloud, that includes publicly available data, Prevedere created data and third party-data.

(m) "*Subscription*" means the limited license to use and access certain of the Services in accordance with the subscription plan purchased by the Customer.

(n) *"Workbench"* means the web-form(s) used for a one primary indicator (or target dependent variable) to gather other related indicators (or independent variables) sourced from the Application or imported by Customer.

2. **Access and Use of Services.**

(a) Grant. Subject to the terms and conditions in this Agreement, Prevedere hereby grants to Customer a non-exclusive, non-transferable, non-sublicensable right to access and use the Services during the Term, solely for Permitted Users in accordance with the terms and conditions herein. Such use is limited to Customer's internal business purposes. Nothing in this Agreement shall in any way limit the ability of Prevedere to offer access to and use of the Services to any other party. Customer acknowledges that unless it specifically purchases access to Premium Data, Customer will only have access to Standard Data.

(b) Materials. Subject to the terms and conditions in this Agreement, Prevedere hereby grants to Customer a non-exclusive, non-sublicensable, non-transferable license to use the Materials during the Term solely for Customer's internal business purposes in connection with its use of the Services.

(c) Professional Services. Prevedere shall provide to Customer the Professional Services as set forth in the applicable Order Form.

(d) Managed Services. Prevedere shall provide to Customer the Managed Services as set forth in the applicable Order Form.

(e) Acceptable Use Policy.

  (i) Restriction of Access. Customer shall restrict access to the Services to Permitted Users and ensure compliance by all Permitted Users with this Acceptable Use Policy. Customer shall promptly report to Prevedere any known violation of the Acceptable Use Policy or any access to the Services by anyone other than a Permitted User. Customer is solely responsible for the content of any postings, data, or transmissions using the Services, or any other use of the Services by Customer or by any person or entity that accesses the Services using Customer's or its Permitted Users' access credentials, whether or not such person or entity is a Permitted User.

  (ii) Permitted Use. Customer shall not at any time, directly or indirectly, and shall not permit any Permitted User to: (i) copy, modify, or create derivative works of the Services or Materials, in whole or in part; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Services or Materials; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Services, in whole or in part; (iv) remove any proprietary notices from the Services or Materials; or (v) use the Services or Materials in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law; or (vi) use the Services in any manner that will disrupt a third party's use of the Application.

  (iii) Compliance. In the event of Customer's material breach of the Acceptable Use Policy, Prevedere may suspend or terminate Customer's access to the Services, in addition to such other remedies as Prevedere may have at law or pursuant to this Agreement. Neither this Agreement nor the Acceptable Use Policy require that Prevedere take any action against Customer for violating the Acceptable Use Policy, but Prevedere is free to take any such action it sees fit.

3. **Intellectual Property.**

   (a) Prevedere Intellectual Property.

      (i) Prevedere owns all right, title, and interest in and to the Services and Materials, including all copies thereof in any form or medium, whether now known or existing or hereafter developed, and further including, without limitation, all software used to provide the Services, and any copyrights, patents, trade secrets, trademarks, or trade names therein or created thereby.

      (ii) Materials. Without limiting the foregoing, Customer recognizes and agrees that: (i) the Materials are the property of Prevedere or its licensors and are protected by copyright, trademark, and other intellectual property laws; and (ii) Customer does not acquire any intellectual property rights, or any other right, title, or interest in or to the Materials except the limited and temporary right to use them in connection with the Services.

      (iii) Reservation of Rights. Prevedere reserves all rights not expressly granted to Customer in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Customer or any third party any intellectual property rights or other right, title, or interest in or to the Services or Materials.

   (b) Customer Intellectual Property.

      (i) Prevedere acknowledges that, as between Prevedere and Customer, Customer owns all right, title, and interest, including all intellectual property rights, in and to the Customer Data.

      (ii) Customer hereby grants to Prevedere (i) a non-exclusive, royalty-free, worldwide license to reproduce, distribute, and otherwise use and display the Customer Data and perform all acts with respect to the Customer Data as may be necessary for Prevedere to provide the Services; and (ii) a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to reproduce, distribute, modify, and otherwise use and display non-personal Customer Data that Prevedere receives from Customer by way of performing the Services that Prevedere later aggregates and anonymizes, including statistics regarding total users, information regarding types of Internet browsers used by users, and widget usage patterns (the "***Anonymized Data***").

   (c) Deliverables. Notwithstanding the foregoing, Customer shall have the right to keep and make use of Deliverables contemplated by an Order Form, including without limitation, reports, forecasts, analyses, opinions, and documents, produced by Prevedere for Customer, provided, however that Customer acknowledges that it will not have any access to or use of the Application after termination of this Agreement.

   (d) Feedback. Customer grants to Prevedere all right, title, and interest in, and Prevedere is free to use, without any attribution or compensation to any party, any ideas, know-how, concepts, techniques, or other intellectual property rights contained in any feedback provided by Customer or Permitted Users related to the use of the Services, for any purpose whatsoever.

4. **Prevedere Obligations.**

   (a) Hosting. Prevedere shall, at its own expense, maintain the Application on one or more computer network servers (any such servers, collectively, the "***Application Server***"). Prevedere shall bear sole responsibility for the operation and maintenance of the Application Server hardware, its operating system and/or its platform software, and any third-party application software associated with, or necessary for, the operation and functioning of the Application Server in accordance with this Agreement. Prevedere shall be permitted to enter into an arrangement with one or more third parties (each a "***Third Party Host***") for the performance of Prevedere's obligations under this Section 4(a), whereby any such Third Party Host may install the Application, own, operate or maintain the Application Server, or undertake to manage the Application Server.

   (b) Service Levels.

(i) Prevedere shall undertake commercially reasonable measures to ensure that the operation and function of the Application and the Application Server are available at the service levels as set forth in the Service Level Agreement contained on Exhibit A (the "*Service Levels*"), however, Prevedere will have no obligation under this Section 4(b) to the extent any lack of availability that arises, in whole or in part, from any use of the Application by Customer or its Permitted Users that is outside of or in violation of the terms and conditions set forth herein.

(ii) If any Application outage reported by Customer causes Prevedere to fail to meet the Service Levels, Customer shall be entitled to a credit against future payments in the amount specified on Exhibit A (each a "*Service Level Credit*").

(c) Retention and Deletion of Customer Data. Prevedere shall make internal backups of all Customer Data used by or hosted on the Application Servers. Upon termination of this Agreement, unless Customer otherwise requests in writing, Prevedere will retain all Customer Data in its databases for thirty (30) days whereupon Prevedere shall delete all Customer Data.

(d) Delivery of Professional and Managed Services. Prevedere will provide the Professional Services and Managed Services, including any Deliverables, in accordance with this Agreement and the applicable Order Form.

5. **Customer Obligations.** Customer has and will retain sole responsibility for: (i) all Customer Data, including its content and use; (ii) all information, instructions and materials provided by or on behalf of Customer or a Permitted User in connection with the Services; (iii) Customer's information technology infrastructure, including computers, software, databases, electronic systems (including database management systems) and networks, whether operated directly by Customer or through the use of third-party services (the "*Customer Systems*"); (iv) the security and use of Customer's and its Permitted Users' access credentials; and (v) all access to and use of the Services and Materials directly or indirectly by or through the Customer Systems or its Permitted Users' access credentials, with or without Customer's knowledge or consent, including all results obtained from and all conclusions, decisions and actions based on such access or use.

6. **Security and Disaster Recovery.**

(a) Security. At all times during the Term, Prevedere shall be responsible for the security of the Services, Materials and Customer Data. Prevedere shall make reasonable commercial efforts to provide physical and information security standards in connection with the Services that meet generally accepted industry standards for physical and information security.

(b) Disaster Recovery. Prevedere has established an internal written disaster recovery plan with respect to the Services. Upon request, Prevedere will provide a summary of such plan to Customer.

7. **Insurance.** Prevedere has obtained, and will maintain the during the Term, insurance policies with the following coverage limits: Worker's Compensation Insurance as required by law; commercial general liability of not less than $1,000,000 per occurrence and $2,000,000 aggregate; technology errors and omissions liability of $5,000,000 per claim and in the aggregate; and cyber liability insurance of $2,000,000 per claim and in the aggregate. Prevedere shall provide a certificate of insurance evidencing such insurance upon Customer's request.

8. **Term and Renewal.** The initial term of this Agreement shall be in accordance with the applicable Order Form and, unless sooner terminated pursuant to Section 10 (the "*Initial Term*"). Following the Initial Term, this Agreement will automatically renew for additional one (1) year terms (each, an "*Additional Term(s)*" and together with the Initial Term, the "*Term*") unless either Party gives written notice to the other of its intention not to renew at least sixty (60) days prior to the end of the then-current term, or as otherwise provided for in the applicable Order Form. For purposes of Exhibit A, where the Initial or Additional Term is not for one (1) year the annual term shall be calculated on a pro rata basis (the "*Annualized Term*").

9. **Payment Provisions.**

(a) <u>Payment Amounts</u>. As consideration for the Services provided under this Agreement, Customer shall pay to Prevedere the amounts set forth on the applicable Order Form.

(b) <u>Payment Terms</u>. Prevedere shall invoice Customer and, unless otherwise stated in the applicable Order Form, payment amounts shall be paid by Customer within thirty (30) days of the invoice date. Payments for any Additional Terms shall be invoiced by Prevedere in advance and paid thirty (30) days prior to the end of the then current term.

(c) <u>No Refunds</u>. All payments made hereunder are non-refundable and will not be returned to Customer in any event.

(d) <u>Late Payments</u>. Any past due amounts owed by Customer will accrue interest monthly at an annual rate of 1.5% until paid. Prevedere shall have the right to suspend access to the Services if Customer fails to pay any past due amounts and such failure continues for more than five (5) days after Prevedere's delivery of written notice thereof.

(e) <u>Taxes</u>. All amounts payable hereunder shall exclude all applicable sales, use and other taxes and all applicable export and import fees, customs duties and similar charges. Customer will be responsible for payment of all such taxes, fees, duties and charges, and any related penalties and interest, arising from the payment of any fees hereunder, the grant of license rights in the Application to Customer, or the delivery of related services.

10. **Termination**. In addition to any other express termination rights set forth in this Agreement:

(a) Prevedere may terminate this Agreement effective upon written notice to Customer, if Customer breaches this Agreement, and such breach: (A) is incapable of cure; or (B) being capable of cure, remains uncured 15 days after Prevedere provides Customer with written notice of such breach.

(b) Either Party may terminate this Agreement, effective immediately upon written notice to the other Party, if the other Party: (A) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (B) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (C) makes or seeks to make a general assignment for the benefit of its creditors; or (D) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

(c) <u>Effects of Termination</u>. Upon expiration or earlier termination of this Agreement for any reason, Customer shall immediately cease using the Services and shall return or destroy all Materials, and if requested by Prevedere, certify in writing that the Materials have been deleted or destroyed. No expiration or termination will affect Customer's obligation to pay all Fees that may have become due before such expiration or termination or entitle Customer to any refunds for fees paid hereunder for any reason. Customer Data following termination shall be treated as set forth in Section 4(c).

(d) <u>Survival</u>. This Section 10(d) and Sections 3, 4(c), 9 10(c), 11, 12, 14, 15, and 16 shall survive termination or expiration of this Agreement.

11. **Reciprocal Disclosure of Confidential Information.** The Parties anticipate that each may disclose confidential information to the other. Accordingly, the Parties desire to establish terms governing the use and protection of Confidential Information one Party ("***Disclosing Party***") may disclose to the other Party ("***Recipient***").

(a) For purposes hereof, "***Confidential Information***" means the terms and conditions hereof, and other information of the Disclosing Party (i) which relates to the Services, including the Materials or Customer Data, as applicable, business models and plans, and technical information and data of Disclosing Party or its customers or suppliers, (ii) which, although not related to the Services, is nevertheless disclosed hereunder, and which, in any case, is disclosed by a Disclosing Party or an affiliate to Recipient in document or other tangible form bearing an appropriate legend indicating its confidential or proprietary nature, (iii) any other information which a reasonable person would deem confidential under the context of disclosure or due to the nature of the information disclosed,

or (iv) any information discerned from, based on, relating to, or containing any of the foregoing which may be prepared by Recipient ("***Notes***"). Confidential Information does not include information that: (i) is in the possession or control of Recipient at the time of its disclosure hereunder; (ii) is, or becomes publicly known, through no wrongful act of Recipient; (iii) is received by Recipient from a third party free to disclose it without obligation to Disclosing Party; or (iv) is independently developed by Recipient without use of or reference to Confidential Information.

(b) Recipient may use Confidential Information of Disclosing Party only for the purposes of fulfilling its obligations and exercising its rights under this Agreement and shall protect such Confidential Information from disclosure to others, using the same degree of care used to protect its own proprietary information of like importance, but in any case, using no less than a reasonable degree of care. Recipient may disclose Confidential Information received hereunder only as reasonably required to perform its obligations under this Agreement and only to its employees, consultants or representatives (collectively, "***Representatives***") who have a need to know for such purposes and who are bound by signed, written agreements to protect the received Confidential Information from unauthorized use and disclosure. Recipient shall ensure compliance with this Section by all of its Representatives and shall be responsible for any breach of this Section caused by its Representatives.

(c) Recipient further agrees that it shall:

   (i) immediately notify Disclosing Party of any breach of this Section or any other disclosure of Confidential Information not authorized under this Agreement (collectively, an "***Unauthorized Disclosure***"); and

   (ii) without limiting any remedies available to Disclosing Party, fully cooperate with the Disclosing Party to regain possession of the Confidential Information, prevent its further unauthorized use or disclosure, and limit and mitigate the damage of such Unauthorized Disclosure.

(d) If Recipient or any of its Representatives is required by a valid legal order to disclose any Confidential Information, Recipient shall notify Disclosing Party of such requirements so that Disclosing Party may seek, at Disclosing Party's expense, a protective order or other remedy, and Recipient shall reasonably assist Disclosing Party therewith. If Recipient remains legally compelled to make such disclosure, it shall: (a) only disclose that portion of the Confidential Information that it is required to disclose; and (b) use reasonable efforts to ensure that such Confidential Information is afforded confidential treatment.

(e) Following the expiration or termination of this Agreement, Recipient shall (a) at Disclosing Party's request, promptly return to Disclosing Party or destroy all Confidential Information in its and its Representatives' possession other than Notes, (b) destroy all Notes, and (c) within 10 days after Disclosing Party's request, provide Disclosing Party with a certificate confirming Recipient's compliance with this Section 12. Notwithstanding the foregoing, Recipient may retain copies of Confidential Information that are stored on Recipient's IT backup and disaster recovery systems until deleted in the ordinary course. Recipient shall continue to be bound by the terms and conditions of this Agreement with respect to such retained Confidential Information.

12. **<u>Representations and Warranties.</u>**

(a) <u>Representations and Warranties Generally</u>. Each Party hereby represents and warrants (i) that it is duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or organization; (ii) that the execution and performance of this Agreement will not conflict with or violate any provision of any law having applicability to such Party; (iii) that no pending or threatened claim or litigation known to it would have a material adverse impact on its ability to perform as required by this Agreement; and (iv) that this Agreement, when executed and delivered, will constitute a valid and binding obligation of such Party and will be enforceable against such Party in accordance with its terms.

(b) <u>Representations and Warranties of Customer</u>. Customer further represents and warrants (i) that it has the right to disclose and provide to Prevedere any data provided through use and access of the Services; and (ii) that Customer's use of and access to the Services complies with applicable laws and regulations.

(c) <u>Representations and Warranties of Prevedere</u>. Prevedere further represents, warrants and covenants that:

(i) Prevedere has, and during the Term, will have, the right, power, and authority to provide the Services and to grant all rights and licenses under this Agreement.

(ii) neither Prevedere's grant of the rights or licenses hereunder, its provision of the Services, nor the performance of any of its other obligations hereunder, does, to Prevedere's knowledge as of the Effective Date (A) conflict with or violate any applicable law, including any law relating to data privacy, data security, or personal information; (B) require the consent, approval, or authorization of any governmental or regulatory authority or other third party; or (C) require the provision of any payment or other consideration by Customer or any Permitted User to any third party;

(d) <u>Disclaimer</u>. **EXCEPT FOR THE EXPRESS WARRANTIES SPECIFIED HEREIN, THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE", AND PREVEDERE DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR DATA ACCURACY. PREVEDERE MAKES NO WARRANTY OF ANY KIND THAT THE SERVICES OR ANY RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE**

13. **Indemnification.**

(a) <u>Indemnification by Customer</u>. Customer shall indemnify, defend, and hold harmless Prevedere, its licensors, service providers, and their respective affiliates, managers, agents and employees, from and against all losses, damages, liabilities, costs, and expenses, including reasonable attorneys' fees ("*Losses*") from any third-party claim arising from Customer's use of the Services not authorized or in violation of this Agreement. Prevedere shall promptly notify Customer in writing of any such claim for which it believes it is entitled to indemnification under this Section 14(a). Customer shall, at its sole cost and expense, assume control of the defense and settlement of such claim, provided, however, that Customer shall not settle any third-party claim without the consent of Prevedere. Prevedere shall have the right, at its option, to defend itself against any such claim or to participate in the defense thereof by counsel of its own choice.

(b) <u>Indemnification by Prevedere</u>. Prevedere shall indemnify, defend, and hold harmless Customer, its affiliates, managers, agents and employees, from and against all Losses arising from any third-party claims that the Services or Materials infringe such third party's intellectual property rights. Customer shall promptly notify Prevedere of any such claim in writing of any claim for which it believes it is entitled to indemnification under this Section 14(b). Prevedere shall, at its sole expense, and as Customer's sole remedy for such claims, defend against such claim and pay any final judgment against Customer, provided that Prevedere is given sole control over the defense and settlement of such claim. Prevedere may, without the knowledge or consent of Customer, agree to any resolution of the dispute that does not require on the part of Customer a payment or an admission of wrongdoing. Without limiting the preceding sentence, Prevedere may (i) seek to obtain through negotiation the right of Customer to continue using the Services; (ii) modify the Services to make it non-infringing; or (iii) replace the Services, as long as there is no material adverse change in the operational characteristics of the Services. If none of these alternatives is available in Prevedere's sole discretion, Prevedere may terminate this Agreement and refund or credit to Customer an amount equal to any unused fees paid. This Section 14(b) shall not apply if the alleged infringement arises, in whole or in part, from: (i) modification of the Services or the Materials by Customer (ii) combination, operation or use of the Services with other software, hardware or

technology not provided by Prevedere, if such infringement would have been avoided by use of the Services alone; or (iii) use of a superseded or altered release of the Service or the Materials, if such infringement would have been avoided by the use of a then-current release of the Services or the Materials, as applicable, and if such then-current release has been made available to Customer.

14. **Limitation of Liability**. **IN NO EVENT WILL PREVEDERE BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, REGARDLESS OF THE NATURE OF THE CLAIM, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, COSTS OF DELAY, ANY FAILURE OF DELIVERY, BUSINESS INTERRUPTION, COSTS OF LOST OR DAMAGED DATA OR DOCUMENTATION, OR LIABILITIES TO THIRD PARTIES ARISING FROM ANY SOURCE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE CUMULATIVE LIABILITY OF PREVEDERE TO CUSTOMER FOR ALL CLAIMS ARISING FROM OR RELATING TO THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY CAUSE OF ACTION SOUNDING IN CONTRACT, TORT, OR STRICT LIABILITY, WILL NOT EXCEED THE TOTAL AMOUNT OF ALL FEES PAID TO PREVEDERE BY CUSTOMER DURING THE PRECEEDING TWELVE (12) MONTH PERIOD GIVING RISE TO THE CLAIM.**

15. **Notices.** The Parties should direct notices to the other Party at the following addresses by United States Certified Mail, postage prepaid, return receipt requested or by Federal Express or other similar nationally recognized courier, or by email, and such notices will be deemed effective upon actual receipt or rejection.

To **Prevedere**:	**with a copy to**:
580 North Fourth Street, Suite 240	The Gillespie Law Group, Ltd.
Columbus, Ohio 43215	875 North High Street, 3^t Floor
Attn: General Counsel	Columbus, Ohio 43215
	Email: ekasler@gillespiegroup.law

To **Customer**:
To such addresses provided in the Order Form.

16. **Miscellaneous.**

(a) <u>Amendment</u>. This Agreement may not be amended except through a written agreement executed by representatives of each Party.

(b) <u>Independent Contractors</u>. Prevedere is an independent contractor and shall not be deemed to be an agent, employee, representative or servant of Customer for any purpose whatsoever. <u>No Waiver</u>. Neither Party will be deemed to have waived any of its rights under this Agreement by lapse of time or by any statement or representation other than by an explicit written waiver. No waiver of a breach of this Agreement will constitute a waiver of any prior or subsequent breach of this Agreement.

(c) <u>Force Majeure</u>. In no event shall either Party be liable to the other Party, or be deemed to have breached this Agreement, for any failure or delay in performing its obligations under this Agreement (except for any obligations to make payments), if and to the extent such failure or delay is caused by any circumstances beyond such Party's reasonable control, including but not limited to acts of God, flood, fire, earthquake, pandemic, explosion, war, terrorism, invasion, riot or other civil unrest, strikes, labor stoppages or slowdowns or other industrial disturbances, or passage of law or any action taken by a governmental or public authority, including imposing an embargo.

(d) <u>Assignment & Successors</u>. Customer may not assign this Agreement without the prior consent of Prevedere, which consent may be withheld by Prevedere in its sole discretion. Any attempted assignment in violation of this Section 16(d) shall be null and void. No assignment or delegation will relieve the assigning Party of any of its obligations hereunder. This Agreement will be binding upon and inure to the benefit of the respective successors and permitted assigns of the Parties.

(e) <u>Choice of Law & Jurisdiction</u>. This Agreement is governed by and construed in accordance with the internal laws of the State of Ohio without reference to such State's principles of conflicts of law. Any legal suit, action, or proceeding arising out of or related to this Agreement or the licenses granted hereunder will be instituted exclusively in the federal courts of the United States or the courts of the State of Ohio in each case located in the city of Columbus and County of Franklin, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

(f) <u>Severability</u>. To the extent permitted by applicable law, the Parties hereby waive any provision of law that would render any clause of this Agreement invalid or otherwise unenforceable in any respect. In the event that a provision of this Agreement is held to be invalid or otherwise unenforceable, such provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by applicable law, and the remaining provisions of this Agreement will continue in full force and effect.

(g) <u>Entire Agreement and Order of Precedence</u>. This Agreement sets forth the entire agreement of the Parties and supersedes all prior or contemporaneous writings, negotiations, and discussions with respect to the subject matter hereof. Neither Party has relied upon any such prior or contemporaneous communications. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (i) the applicable Order Form; and (ii) this Agreement.

Exhibit A

Service Level Agreement

1. Prevedere promises that the Application will be available and operational 98% of the time (the "***Promised Uptime***" and the percentage of downtime allowed, 2%, is the "***Maximum Downtime***"). In the event that Prevedere exceeds the Maximum Downtime in an Annualized Term, Customer shall receive a percentage credit to be applied to its next Annualized Term's payment due (the "***Credit***"). Such Credit shall be calculated as the amount of the cumulative percentage of downtime in that Annualized Term that exceeds the Maximum Downtime as set forth in the SLA. In no event shall a Credit for a single Annualized Term exceed 5% of the subsequent Annualized Term's total payment due. Credit issued pursuant to this Exhibit applies to outstanding or future payments for the immediately following Annualized Term only and are forfeited upon termination of this Agreement. Prevedere is not required to issue refunds or to make payments against such credits under any circumstances, including without limitation termination of this Agreement. Any Credit issued pursuant to this Exhibit is Customer's sole remedy for Prevedere exceeding the Maximum Downtime in any given Annualized Term.

2. Customer service support shall include the following:

   a) Support via email at support@Prevedere.com or phone at 888.686.7746. Support shall be available 9:00 AM through 5:00 PM Eastern Time, Monday – Friday, excluding Prevedere's fourteen (14) holidays. Requests received by 12:00PM will receive same-day first response.

   b) Customer assistance in resolution of basic usage questions or other issues where such issues are resolvable through direct communication (e.g. phone, instant messaging and email) with Prevedere customer service staff.

   c) Resolution of service bugs or a work around by Prevedere in a timely manner. Reported bugs must be reproducible by Customer using service.

   d) Troubleshooting connectivity and other service issues.

3. Customer service support not covered under the SLA includes consulting, implementation, configuration chargeable training courses and analytic services.

4. The SLA does not cover Application unavailability or software errors caused by any of the following:

a) Actions of Permitted Users;

b) Networks or equipment not owned or controlled by Prevedere or its contractors; or

c) Email latency not caused by networks, equipment or software owned or controlled by Prevedere or its contractors.

d) API when rate is exceeded.