



## **Master Subscription Agreement**

### **REVEGY TERMS OF USE:**

BY ACCEPTING OR ACKNOWLEDGING THE REVEGY ORDER FORM OR BY USING THE SERVICE, YOU AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT GOVERNING YOUR USE OF REVEGY'S ONLINE SOFTWARE SERVICE, INCLUDING OFFLINE COMPONENTS. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST SELECT THE "I DECLINE" BUTTON AND MAY NOT USE THE SERVICE. BY PRESSING "AGREE," YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT.

Subject to the terms of this Agreement, Revegy, Inc. ("Revegy") will provide you with use of the Service, including a browser interface and data encrypted, transmission, access and storage. Your registration for, or use of, the Service shall be deemed to be your agreement to abide by this Agreement including any materials available on the Revegy website incorporated by reference herein, including but not limited to Revegy's privacy and security policies.

### **1. Definitions**

As used in this Agreement and in any Order Forms, the following terms will have the following meanings:

"Revegy" means collectively Revegy, Inc., a Georgia corporation, having its principal place of business at 300 Galleria Parkway, Suite 1850, Atlanta, GA 30339;

"Agreement" means these terms of use, any Order Forms, and any materials available on the Revegy website specifically incorporated by reference herein;

"Content" means the audio and visual information, documents, software, products and services contained or made available to you in the course of using the Service;

"Customer Data" means any data, information or material provided or submitted by you to the Service in the course of using the Service;

"Effective Date" means the earlier of either the date this Agreement is accepted by selecting the "I Accept" option presented on the screen after this Agreement is displayed or the date you begin using the Service;

"Initial Term" means the initial period indicated on the applicable Order Form;

"Intellectual Property Rights" means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world;

“License” means the type and number of licenses to access the Service as indicated on the applicable Order Form(s).

"License Administrator(s)" means those Users designated by you who are authorized to purchase licenses online using the Online Order Center or by executing Order Forms and to create User accounts and otherwise administer your use of the Service;

"Subscription Term(s)" means the Initial Term and any Renewal Term(s);

"Order Form(s)" means the Revegy form evidencing the initial subscription for the Service and any subsequent order forms submitted online or in written form, specifying, among other things, the number of licenses and other services contracted for, the applicable fees, the billing period, and other charges as agreed to between the parties, each such Order Form is incorporated into and to become a part of this Agreement (in the event of any conflict between the terms of this Agreement and the terms of any such Order Form, the terms of this Agreement shall prevail unless the Order Form expressly supercedes the applicable portions of the terms and conditions). Each Order Form constitutes an independent legal obligation between the parties;

“Professional Services” means any consulting or profession services specified in the relevant Order Form(s)

“Renewal Term” means the successive one year terms following the Initial Term.

"Revegy Technology" means all of Revegy’s proprietary technology (including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) made available to you by Revegy in providing the Service;

"Service(s)" means the specific edition of Revegy’s online solution identified during the ordering process, developed, operated, and maintained by Revegy, accessible via <http://www.revegy.com> or another designated web site or IP address, or ancillary online or offline products and services provided to you by Revegy, to which you are being granted access under this Agreement, including the Revegy Technology and the Content, together with any Professional Services specified in the relevant Order Form(s);

"User(s)" means your employees, representatives, consultants, contractors or agents who are authorized to use the Service and have been supplied user identifications and passwords by you (or by Revegy at your request).

## **2. Privacy & Security; Disclosure**

Revegy’s privacy and security policies may be viewed at <http://www.revegy.com>. Revegy reserves the right to modify its privacy and security policies in its reasonable discretion from time to time. Note that because the Service is a hosted, online application, Revegy occasionally may need to notify all users of the Service (whether or not they have opted out as described above) of important announcements regarding the operation of the Service. If you are a paying customer of the Service, you agree that Revegy can disclose the fact that you are a paying customer and the edition of the Service that you are using.

## **3. License Grant & Restrictions**

Revegy hereby grants you a non-exclusive, non-transferable, worldwide right to use the Service, solely for your own internal business purposes, subject to the terms and conditions of this

Agreement and the number of Licenses indicated in the applicable Order Form(s). All rights not expressly granted to you are reserved by Revegy and its licensors.

You are not authorized to access, and you may not access, the Service if you are a competitor of Revegy, except with Revegy's prior written consent. In addition, you may not access the Service for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes.

You shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Service or the Content in any way; (ii) modify or make derivative works based upon the Service or the Content; (iii) create Internet "links" to the Service or "frame" or "mirror" any Content on any other server or wireless or Internet-based device; or (iv) reverse engineer or access the Service in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of the Service, or (c) copy any ideas, features, functions or graphics of the Service. User licenses cannot be shared or used by more than one individual User but may be reassigned from time to time to new Users who are replacing former Users who have terminated employment or otherwise changed job status or function and no longer use the Service.

You may use the Service only for your internal business purposes and shall not: (i) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (ii) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or in violation of third party privacy rights; (iii) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (iv) interfere with or disrupt the integrity or performance of the Service or the data contained therein; or (v) attempt to gain unauthorized access to the Service or its related systems or networks.

#### **4. Your Responsibilities**

You are responsible for all activity occurring under your User accounts and shall abide by all applicable local, state, national and foreign laws, treaties and regulations in connection with your use of the Service, including those related to data privacy, international communications and the transmission of technical or personal data. You shall: (i) notify Revegy immediately of any unauthorized use of any password or account or any other known or suspected breach of security; (ii) report to Revegy immediately and use reasonable efforts to stop immediately any copying or distribution of Content that is known or suspected by you or your Users; and (iii) not impersonate another Revegy user or provide false identity information to gain access to or use the Service.

#### **5. Account Information and Data**

As between the parties, you own any data, information or material that you submit to the Service in the course of using the Service ("Customer Data"). You, not Revegy, shall have sole responsibility for the accuracy, quality, integrity, legality, backing up, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data. In the event this Agreement or any Order Form is terminated (other than by reason of your breach), Revegy will make available to you a file of the Customer Data within 30 days of termination of the Agreement or the Order Form, as applicable, if you so request within 30 days of the time of such termination, providing you agree to pay any consulting fees relating to the creation of the Customer Data file. You agree and acknowledge that Revegy has no obligation to retain the Customer Data, and may delete such Customer Data, more than 30 days after termination. Revegy reserves the right to withhold, remove and/or discard Customer Data without notice for any breach, including, without limitation, your non-payment. Upon termination for cause, your right to access or use Customer

Data immediately ceases, and Reveyg shall have no obligation to maintain or forward any Customer Data.

## **6. Intellectual Property Ownership**

Reveyg (and its licensors, where applicable) shall own all right, title and interest, including all related Intellectual Property Rights, in and to the Reveyg Technology, the Content and the Service and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by you or any other party relating to the Service. This Agreement is not a sale and does not convey to you any rights of ownership in or related to the Service, the Reveyg Technology or the Intellectual Property Rights owned by Reveyg. The Reveyg name, the Reveyg logo, and the product names associated with the Service are trademarks of Reveyg or third parties, and no right or license is granted to use them.

## **7. Charges and Payment of Fees**

You shall pay all fees or charges to your account in accordance with the fees, charges, and billing terms in this Agreement and the applicable Order Form. Unless otherwise set forth in the applicable Order Form, all fees are payable in U.S. Dollars and annually in advance. All payment obligations are non-cancelable and all amounts paid are nonrefundable. You are responsible for paying for all User licenses ordered for the entire Subscription Term, whether or not such User licenses are actively used. You must provide Reveyg with valid credit card or approved purchase order information as a condition to signing up for the Service. An authorized License Administrator may add licenses by executing an additional written Order Form. Added licenses will be subject to the following: (i) added licenses will be coterminous with the preexisting Subscription Term (either Initial Term or Renewal Term); (ii) the license fee for the added licenses will be the then current, generally applicable license fee; and (iii) licenses added in the middle of a billing month will be charged in full for that billing month. Reveyg reserves the right to modify its fees and charges and to introduce new charges at any time, to be effective at the beginning on the next Renewal Term, upon at least 30 days prior notice to you, which notice may be provided by e-mail. All pricing terms are confidential, and you agree not to disclose them to any third party. If you believe your bill is incorrect, you must contact us in writing within 60 days of the invoice date of the invoice containing the amount in question to be eligible to receive an adjustment or credit.

Each Order Form will automatically renew at the end of the Initial Term (and thereafter) for additional Renewal Terms unless terminated by either party by at least thirty days written notice (which, in Reveyg's case, shall include email) prior to the end of the then-current term. Reveyg will automatically bill your credit card or issue an invoice to you annually in advance unless otherwise set forth in the applicable Order Form. Fees for each Renewal Term will be equal to the then-current fees in effect during the prior term, unless Reveyg has given you at least 30 days prior written or emailed notice of a fee increase, which shall be effective upon the next Renewal Term and thereafter. Fees for other Professional Services will be charged on an as-quoted basis. Reveyg's fees are exclusive of all taxes, levies, withholdings or duties imposed by taxing authorities, and you shall be responsible for payment of all such taxes, levies, withholdings or duties.

You agree to provide Reveyg with complete and accurate billing and contact information. This information includes your legal company name, street address, e-mail address, and name and telephone number of an authorized billing contact and License Administrator. You agree to update this information within 30 days of any change to it. If the contact information you have provided is false or fraudulent, Reveyg reserves the right to terminate your access to the Service in addition to any other legal remedies.

## **8. Term and Termination**

a. Term. This Agreement shall commence on the Effective Date and shall remain in full force and effect until terminated as set forth below. Each Order Form will have its own term as specified therein.

b. Termination. An Order Form may be terminated as follows: (i) by either party upon thirty days written notice if the other party (which, in Revegy's case, shall include email) is in breach of any material provision of this Agreement (including non-payment of fees), unless such breach is cured before the end of such thirty day period, (ii) for as provided in Section 10 (Termination upon Expiration/Reduction in Number of Licenses), and (ii) immediately by Revegy for any violation by you of Revegy's Intellectual Property Rights. This Agreement may be terminated as follows: (i) coterminous with the termination of an Order Form if no other Order Forms are then in effect, or (ii) for convenience upon fifteen days written notice (which, in Revegy's case, shall include email) if no Order Form is then in effect.

c. Effect of Termination. Upon any termination, (i) all rights and licenses granted to you under the affected Order(s) shall immediately terminate, and (ii) any rights to payment, any right of action for breach of the Agreement prior to termination shall survive, together with all other the provisions of this Agreement concerning the ongoing interests of the parties. If Revegy terminates an Order Form for a material breach by you, then all payment obligations under the affected Order Form(s) will accelerate and become immediately due and payable.

## **9. Non-Payment and Suspension**

In addition to any other rights granted to Revegy herein, Revegy reserves the right to suspend or terminate this Agreement and your access to the Service if your account becomes delinquent (falls into arrears). You will continue to be charged for User licenses during any period of suspension. If you or Revegy initiates termination of this Agreement, you will be obligated to pay the balance due on your account computed in accordance with the Charges and Payment of Fees section above. You agree that Revegy may charge such unpaid fees to your credit card or otherwise bill you for such unpaid fees. Revegy reserves the right to impose a reconnection fee in the event you are suspended and thereafter request access to the Service.

## **10. Termination upon Expiration/Reduction in Number of Licenses**

Either party may terminate this Agreement or reduce the number of Licenses, effective only upon the expiration of the then current Subscription Term, by notifying the other party in writing at least thirty days prior to the commencement date of the following term. In the case of free trials or a proof of concept, notifications provided by Revegy indicating the remaining number of days in the free trial or proof of concept shall constitute notice of termination.

## **11. Representations & Warranties**

Each party represents and warrants that it has the legal power and authority to enter into this Agreement. Revegy represents and warrants that it will provide the Service in a manner consistent with general industry standards reasonably applicable to the provision thereof and that the Service will perform substantially in accordance with the online Revegy help documentation under normal use and circumstances. Your sole remedy for any breach of this warranty is for Revegy to modify the Services so that it complies with the warranty. You represent and warrant that you have not falsely identified yourself nor provided any false information to gain access to the Service and that your billing information is correct.

## **12. Mutual Indemnification**

You shall indemnify and hold Revegy, its licensors and each such party's parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (i) a claim alleging that use of the Customer Data infringes the rights of, or has caused harm to, a third party; (ii) a claim, which if true, would constitute a violation by you of your representations and warranties; or (iii) a claim arising from the breach by you or your Users of this Agreement.

Revegy shall defend or settle at its expense any claim or suit (an "**Action**") against you, arising out of or in connection with an assertion that the Service or the use thereof as specifically authorized by Revegy, infringes any U.S. patent in existence as of the Effective Date, U.S. copyright or trademark rights or misappropriates a trade secret of any third party; provided that Revegy shall have no obligation under this Section to the extent any claim of infringement or misappropriation results from (i) use of the Services in combination with any other hardware or software supplied by any third person or entity other than Revegy; (ii) any alteration or modification of the Services not provided Revegy; or (iii) use of the Services in a way not intended by Revegy or not provided for or described in the applicable Documentation, if such infringement would not have occurred but for such combination, alteration, modification or unintended or unauthorized use of the Services.

Should Services become, or in Revegy's opinion be likely to become, the subject of an Action, Revegy may, at its discretion, (i) obtain for you, at no additional cost, the right to continue using the Services under this Agreement; (ii) modify or replace the Services to avoid such claim, or (iii) if Revegy determines that neither (i) or (ii) is commercially practicable, terminate the license to the Services and refund the pre-paid, unused fees. THIS SECTION STATES REVEGY'S ENTIRE LIABILITY AND LICENSEE'S EXCLUSIVE REMEDY FOR ANY CLAIMED, POTENTIAL OR ACTUAL INFRINGEMENT OR FOR ANY ACTION.

As an express condition to the foregoing indemnity obligations, the party seeking indemnity shall (i) promptly notify the indemnifying party in writing of any such actual or threatened loss, suit, claim, liability, expense or proceeding, (ii) allow the indemnifying party, at its own expense, to direct the defense of such suit, claim or proceeding, (iii) give the indemnifying party all information and assistance the indemnifying party considers reasonably useful to defend such suit, claim or proceeding, and (iv) not enter into any settlement of any such suit, claim or proceeding without the indemnifying party's written consent.

## **13. Disclaimer of Warranties**

EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

## **14. Internet Delays**

REVEGY'S SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. REVEGY IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

### **15. Limitation of Liability**

IN NO EVENT SHALL REVEGY'S AGGREGATE LIABILITY UNDER THIS AGREEMENT EXCEED THE AMOUNTS ACTUALLY PAID BY YOU IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL REVEGY BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THIS SERVICE, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICE, OR FOR ANY CONTENT OBTAINED FROM OR THROUGH THE SERVICE, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE IN THE CONTENT, EVEN IF REVEGY HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Certain states and/or jurisdictions do not allow the exclusion of implied warranties or limitation of liability for incidental, consequential or certain other types of damages, so the exclusions set forth above may not apply to you.

### **16. Compliance with Local Laws and Export Control Laws**

You are responsible for complying with applicable laws that relate to your use of the Services. The Service uses software and technology that may be subject to United States export controls administered by the U.S. Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, and other U.S. agencies, as well as the export control regulations of other countries. You agree to comply with all such laws and regulations.

Revegy and its licensors make no representation that the Service is appropriate or available for use in other locations. You are solely responsible for compliance with all applicable laws, including without limitation export and import regulations of other countries. Any diversion of the Content contrary to United States law or other applicable law is prohibited. None of the Content, nor any information acquired through the use of the Service, is or will be used for nuclear activities, chemical or biological weapons, or missile projects, unless specifically authorized by the United States government or other appropriate governmental authority for such purposes.

### **17. Notice**

Revegy may give notice by means of a general notice on the Service, electronic mail to your e-mail address on record in Revegy's account information, or by written communication sent by first class mail or pre-paid post to your address on record in Revegy's account information. Such notice shall be deemed to have been given upon the expiration of 48 hours after mailing or posting (if sent by first class mail or pre-paid post) or 12 hours after sending (if sent by email). You may give notice to Revegy (such notice shall be deemed given when received by Revegy) at any time by any of the following: letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail to Revegy, Inc., 300 Galleria Parkway, Suite 1850, Atlanta, GA 30339.

### **18. Modification to Terms**

Revegy reserves the right to modify the terms and conditions of this Agreement or its policies relating to the Service at any time, all modifications to this Agreement would be effective upon the next Renewal Term. You are responsible for regularly reviewing this Agreement. Continued use of the Service after any such changes shall constitute your consent to such changes.

**19. Assignment; Change in Control**

This Agreement may not be assigned by you without the prior written approval of Revegy. Revegy may assign this Agreement without consent upon the sale of all or substantially all its assets, merger or reorganization. Any purported assignment in violation of this section shall be void.

**20. General**

This Agreement shall be governed by the laws of the State of Georgia (U.S.) law and controlling United States federal law, without regard to the choice or conflicts of law provisions of any jurisdiction. Any disputes, actions, claims or causes of action arising out of or in connection with this Agreement or the Service shall be subject to the exclusive jurisdiction of the state and federal courts located in Atlanta, Georgia. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect. No joint venture, partnership, employment, or agency relationship exists between you and Revegy as a result of this agreement or use of the Service. The failure of Revegy to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Revegy in writing. This Agreement, all Order Forms and any Revegy policies incorporated herein comprise the entire agreement between you and Revegy regarding the subject matter contained herein and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding such subject matter. Without limiting the foregoing, any terms contained in your purchase orders or other similar documents are deemed to be for administrative convenience only and do not modify the terms of this Agreement. The terms of any such documents are deemed rejected by Revegy.