Pruuvn™ Business Agreement & Terms of Use

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Updated: 29 October 2021

Effective: 29 October 2021

This Pruuvn™ Business Agreement (the "Business Agreement") is between Pruuvn Inc if your organization is based outside the United States, its territories and possessions, Canada and Mexico ("North America") or, if your organization is based in North America, with Pruuvn, Inc., a Delaware corporation (each, "Pruuvn or Pruuvn ™") and the organization agreeing to these terms ("Customer"). This Agreement governs access to and use of the Services and Beta Services. By clicking "I agree, signing, and or initialing," signing your contract for the Services, or using the Services, you agree to this Agreement as a Customer.

To the extent that Pruuvn, Inc. is, on behalf of the Customer, Processing Customer Data that is subject to EU Data Protection Laws, by clicking "I agree", you are also agreeing to the Data Processing Agreement and EU Standard Contractual Clauses, defined below, with Pruuvn, Inc. for the transfer of Personal Data to processors.

If you are agreeing to this Agreement and, if applicable, the Data Processing Agreement, for use of the Services by an organization, you are agreeing on behalf of that organization. You must have the authority to bind that organization to these terms, otherwise you must not sign up for the Services.

1. Services.

    1. Provision. The Agreement governs access to, and use of, the Services and Software purchased under a service agreement or proposal. Customer and End Users may access and use the Services in accordance with the Agreement.

    2. Modifications. Pruuvn™ may update the Services from time to time. If Pruuvn™ changes the Services in a manner that materially reduces their functionality, Pruuvn™ will notify Customer at the email address associated with the account, and Customer may provide notice within thirty days of the change to terminate the Agreement. This termination right will not apply to updates made to features provided on a beta or evaluation basis. For certain significant new features, Pruuvn™ may notify Administrators or End Users of the new features via email, provided that an option to unsubscribe from receiving such emails will be available to any potential recipient.

3. <u>Software</u>.

    a. <u>Generally</u>. Some of the Services allow Customer and End Users to download Software that may update automatically. If any component of the Software is offered under an open-source license, Pruuvn™ will make the license available to Customer and to the extent the provisions of that license grant Customer additional rights, those provisions will expressly override some terms of the Agreement with respect to that component of the Software.

    b. <u>License</u>. Pruuvn™ hereby grants to Customer during the Term a limited non-exclusive license to use the Software solely in connection with the Services and in accordance with the Agreement. This license is non-transferable (subject to Section 14.8), irrevocable (except as set forth in Section 9), non-sublicensable, and will be fully paid up upon Customer's payment of the Fees.

4. <u>Customer Domains</u>. Prior to providing the Services Pruuvn™ may require Customer to verify that Customer owns or controls the Customer Domains. If Customer does not own or control the Customer Domains, then Pruuvn™ will have no obligation to provide Customer with the Services.

2. <u>Customer Obligations</u>.

    1. <u>Customer Administration of the Services</u>. Customer may specify End Users as Administrators, including through multiple tiers of Administrators, through the Admin Console. Administrators may be able to: (a) access, disclose, restrict or remove Customer Data in or from End User Accounts; and (b) monitor, restrict, or terminate access to End User Accounts. The End User Accounts Administrators may manage as described in the preceding sentence may include End User Accounts of lower tier Administrators. Customer is responsible for maintaining the confidentiality of passwords and Admin Accounts and managing access to Admin Accounts. Pruuvn™' s responsibilities do not extend to the internal management or administration of the Services for Customer.

    2. <u>Third Party Administration</u>. The Customer acknowledges that, if the Customer purchases the Services through a reseller and designates any of the reseller's personnel as Administrators of the Customer's Services account, the reseller may be able to control

account information, including Customer Data, and access the Customer's Services account as described above.

3. <u>Unauthorized Use or Access</u>. Customer will prevent unauthorized use of the Services by its End Users and terminate any unauthorized use of or access to the Services. End User Accounts may only be provisioned, registered, and used by a single End User. The Services are not intended for End Users under the age of 13. Customer will ensure that it does not allow any person under 13 to use the Services. Customer will promptly notify Pruuvn™ of any unauthorized use of or access to the Services.

4. <u>Restrictions</u>. Customer will not: (a) sell, resell, or lease the Services or Software; (b) use the Services or Software for activities where use or failure of the Services or Software could lead to physical damage, death, or personal injury; (c) reverse engineer the Services or Software, or attempt or assist anyone else to do so, unless this restriction is prohibited by law; (d) use the Services or Software, including the export or re-export of Customer Data, in violation of Export Control Laws; (e) violate or circumvent any Service Limits of the Services or otherwise configure the Services to avoid Service Limits; or (f) establish a Pruuvn™ Business account as an individual for personal, family, or household purposes.

5. <u>Compliance</u>.

   a. <u>Generally</u>. Customer and its End Users must use the Services in compliance with the Acceptable Use Policy. Customer will comply with laws and regulations applicable to Customer's use of the Services. Customer must satisfy itself that: (i) the Services are appropriate for its purposes, taking into account the nature of the Customer Data; and (ii) the technical and organizational requirements applicable to Pruuvn™ under EU Data Protection Laws are satisfied by the Security Measures and the Agreement.

   b. <u>End Users</u>. Customer is responsible for use of the Services by its End Users. Customer will obtain and maintain from End Users any consents necessary to allow Administrators to engage in the activities described in the Agreement and to allow Pruuvn™ to deliver the Services.

c. <u>Customer Actions</u>. Customer will not take any action that would cause Pruuvn™ to violate EU Data Protection Laws, the U.S. Foreign Corrupt Practices Act of 1977, as amended, the U.K. Bribery Act of 2010, or any other applicable anti-bribery, anti-corruption, or anti-money laundering law.

d. <u>HIPAA</u>. Customer will not store, transmit or otherwise process any information via the Services that falls within the definition of "Protected Health Information" under the HIPAA Privacy Rule (45 C.F.R. Section 164.051), unless Customer and Pruuvn™ separately enter into a HIPAA Business Associate Agreement, which may be done via the Admin Console.

6. <u>Third-Party Apps and Integrations</u>. If Customer uses any third-party service or applications, such as a service that uses a Pruuvn™ API, with the Services: (a) Pruuvn™ will not be responsible for any act or omission of the third-party, including the third-party's access to or use of Customer Data; and (b) Pruuvn™ does not warrant or support any service provided by the third-party. Customer will comply with any API limits associated with the Services plan purchased by Customer.

3. <u>Customer Data</u>.

1. <u>Customer Data Limitations</u>. Pruuvn™ and its Subcontractors will only access, use, store, and transfer Customer Data to deliver the Services and to fulfill Pruuvn™'s obligations in the Agreement. Any Pruuvn™ personnel who have access to Customer Data will be bound by appropriate confidentiality obligations.

2. <u>Security Measures</u>. Pruuvn™ will use industry standard technical and organizational security measures to transfer, store, and Process Customer Data that, at a minimum, will comply with the Security Measures. Pruuvn™ may update the Security Measures from time to time. Pruuvn™ will provide Customer with at least sixty days prior notice if Pruuvn™ updates the Security Measures in a manner that materially diminishes the administrative, technical, or physical security features of the Services taken as a whole. Within five business days of receipt of this notice, Customer may elect to terminate the Agreement and associated Services by providing written notice to Pruuvn™.

3. <u>Third-Party Requests</u>.

a. <u>Customer Responsibility</u>. Customer is responsible for responding to Third-Party Requests via its own access to information. Customer will seek to obtain information required to respond to Third-Party Requests and will contact Pruuvn™ only if it cannot comply with the Third-Party Request despite diligent efforts.

b. <u>Pruuvn™ Responsibility</u>. If Pruuvn™ receives a Third-Party Request, Pruuvn™ will make commercially reasonable efforts, to the extent allowed by law and by the terms of the Third-Party Request, to: (i) promptly notify Customer of Pruuvn™'s receipt of a Third-Party Request; (ii) comply with Customer's commercially reasonable requests regarding its efforts to oppose a Third-Party Request; and (iii) provide Customer with information or tools required for Customer to respond to the Third-Party Request, if Customer is otherwise unable to respond to the Third-Party Request. If Pruuvn™ is prohibited from notifying Customer of a Third-Party Request or Customer fails to promptly respond to any Third-Party Request, then Pruuvn™ may, but will not be obligated to do so, to the extent permitted by applicable law.

4. <u>Customer Data Sharing</u>. The Services may enable End Users to share Customer Data, including to other Customer End Users and to third parties. Recipients of shared Customer Data may access, view, download, and share this Customer Data, including in and through their own Services accounts. Customer understands: (a) it is solely Customer's, and its End Users', choice to share Customer Data; (b) Pruuvn™ cannot control third parties with whom Customer has shared Customer Data; and (c) Customer and its End Users are solely responsible for their use of the Services, including any sharing of Customer Data through the Services.

4. <u>Data Transfers</u>.

   1. <u>Data Transfer</u>. Customer agrees that Pruuvn™ and its Subcontractors may transfer Customer Data to and access, use, and store Customer Data in locations other than Customer's country.

   2. <u>Data Processing Agreement</u>. To the extent Customer Data is subject to EU Data Protection Laws and is processed by Pruuvn™ on Customer's behalf, Customer and

Pruuvn™ agree to the Data Processing Agreement. The Data Processing Agreement applies only to the Services and does not apply to Beta Services.

3. <u>EU-U.S. and Swiss-U.S. Privacy Shield Programs</u>. Pruuvn™ is certified and complies with the EU-U.S. and Swiss-U.S. Privacy Shield Programs, as set forth by the U.S. Department of Commerce regarding the collection, use, and retention of Personal Data transferred from the EEA, Switzerland, and the United Kingdom (to the extent it is no longer part of the EEA) to the United States in reliance on Privacy Shield. If the Privacy Shield Programs are invalidated, Pruuvn™ will use commercially reasonable efforts to comply with alternate or successor data transfer mechanisms.

5. <u>Payment</u>.

1. <u>Fees</u>. Customer will pay Pruuvn™ or Customer's reseller all applicable Fees for the Services, in the currency and pursuant to the payment terms indicated in the Service Agreement or proposal, or in the applicable agreement between Customer and Customer's reseller. Customer authorizes Pruuvn™, or Customer's reseller, to charge Customer for all applicable Fees using Customer's selected payment method, and Customer will issue the required purchasing documentation. Fees are non-refundable except as required by law or as otherwise specifically permitted in the Agreement.

2. <u>Payment</u>. Customer will pay Pruuvn™ invoices on the payment interval set forth in the Service Agreement. Pruuvn™ may suspend or terminate the Services if Fees are past due. Customer will provide complete and accurate billing and contact information to Pruuvn™ or to Customer's reseller.

3. <u>Taxes</u>. Fees are exclusive of taxes and Customer is responsible for all Taxes. Pruuvn™, or Customer's reseller, will charge Taxes when required to do so. If Customer provides Pruuvn™ or its reseller with a valid exemption certificate, Pruuvn™ will not collect the taxes covered by that certificate.

4. <u>Withholding Taxes</u>. Customer will pay Pruuvn™ or its reseller net of any applicable Withholding Taxes. Customer and Pruuvn™, or Customer's reseller if applicable, will work together to avoid any Withholding Tax if exemptions, or a reduced treaty withholding rate, are available. If Pruuvn™ or Customer's reseller qualifies for a tax exemption, or a reduced treaty withholding rate, Pruuvn™ or Customer's reseller will provide Customer

with reasonable documentary proof. Customer will provide Pruuvn™ or Customer's reseller reasonable evidence that it has paid the relevant authority for the sum withheld or deducted.

5. <u>Auto-renewals and Trials</u>. IF THE CUSTOMER'S ACCOUNT IS SET TO AUTO-RENEWAL OR IS IN A TRIAL PERIOD AND THE CUSTOMER HAS ALREADY PROVIDED A METHOD OF PAYMENT TO PRUUVN™ FOR THE SERVICES, PRUUVN™ (OR THE CUSTOMER'S RESELLER) MAY CHARGE AUTOMATICALLY AT THE END OF THE TRIAL OR FOR THE RENEWAL, UNLESS THE CUSTOMER NOTIFIES PRUUVN™ (OR THE CUSTOMER'S RESELLER, AS APPLICABLE) THAT THE CUSTOMER WANTS TO CANCEL OR DISABLE AUTO-RENEWAL. Pruuvn™ may revise Services rates by providing the Customer at least thirty days' notice prior to the next charge.

6. <u>Purchase Orders</u>. If Customer requires the use of a purchase order or purchase order number, Customer: (i) must provide the purchase order number at the time of purchase; and (ii) agrees that any terms and conditions on a Customer purchase order will not apply to this Agreement and are null and void. If the Customer is purchasing via a reseller, any terms and conditions from the Customer's reseller or in a purchase order between the Customer and its reseller that conflict with the Agreement are null and void.

6. <u>Suspension</u>.

   1. <u>Of End User Accounts by Pruuvn™</u>. If an End User: (a) violates the Agreement; or (b) uses the Services in a manner that Pruuvn™ reasonably believes will cause it liability, then Pruuvn™ may request that Customer suspend or terminate the applicable End User account. If Customer fails to promptly suspend or terminate the End User account, then Pruuvn™ may do so.

   2. <u>Security Emergencies</u>. Notwithstanding anything in the Agreement, if there is a Security Emergency, Pruuvn™ may automatically suspend use of the Services. Pruuvn™ will make commercially reasonable efforts to narrowly tailor the suspension as needed to prevent or terminate the Security Emergency.

7. <u>Intellectual Property Rights</u>.

1. <u>Reservation of Rights</u>. Except as expressly set forth herein, the Agreement does not grant: (a) Pruuvn™ any Intellectual Property Rights in Customer Data; or (b) Customer any Intellectual Property Rights in the Services or Pruuvn™ trademarks and brand features.

2. <u>Limited Permission</u>. Customer grants Pruuvn™ only the limited rights that are reasonably necessary for Pruuvn™ to deliver the Services. This limited permission also extends to Subcontractors or Sub-processors.

3. <u>Suggestions</u>. Pruuvn™ may use, modify, and incorporate into its products and services, license and sublicense, any feedback, comments, or suggestions on the Services that Customer or End Users may send Pruuvn™ or post in Pruuvn™'s forums without any obligation to Customer.

8. <u>Term</u>.

   1. <u>Agreement Term</u>. The Agreement will remain in effect for the Term.

   2. <u>Services Term</u>. Pruuvn™ will deliver the Services to Customer for the Services Term. Unless the parties agree otherwise in writing, End User Accounts purchased during any Services Term will have a prorated term ending on the last day of the pre-existing Services Term.

   3. <u>Automatic Renewals</u>. Unless otherwise specified on the Service Agreement, following the Initial Services Term or a Renewal Term, the subscription to the Services will automatically renew for a Renewal Term, unless either Party gives the other written notice of termination at least thirty days prior to the expiration of the then-current Services term. If Customer has provided a payment method to Pruuvn™ for recurring charges as provided in Section 5.5, Customer may elect to terminate the Agreement via the Admin Console prior to the day a Renewal Term begins.

9. <u>Termination</u>.

   1. <u>Generally</u>. Either Party may terminate this Agreement, including all Service Agreements, if: (i) the other Party is in material breach of the Agreement and fails to cure that breach within thirty days after receipt of written notice; or (ii) the other Party ceases its business operations or becomes subject to insolvency proceedings and the proceedings are not

dismissed within ninety days. Pruuvn™ may terminate this Agreement and suspend Customer's access to the Services if required to do so by law or for an egregious violation by Customer of the Acceptable Use Policy.

2. <u>Effects of Termination</u>. If the Agreement terminates: (a) except as set forth in this Section, the rights and licenses granted by Pruuvn™ to Customer will cease immediately; (b) Customer may, prior to termination, request reasonable additional time to export its Stored Data, provided that Pruuvn™ may charge Customer for this extended access based on Pruuvn™'s then-current standard fees; and (c) Pruuvn™ will delete any End User Accounts and Stored Data in Customer's account in a commercially reasonable period of time following receipt of an Administrator's request to do so prior to termination of the Services. Pruuvn™ may make instructions available to Customer regarding how to submit the Administrator request described in clause (c) of the previous sentence and Customer is responsible for following these instructions to initiate a deletion.

3. <u>Survival</u>. The following sections will survive expiration or termination of the Agreement: 3.3 (Third Party Requests), 5 (Payment), 7 (Intellectual Property Rights), 9.2 (Effects of Termination), 9.3 (Survival), 10 (Indemnification), 11 (Disclaimers), 12 (Limitation of Liability), 13 (Disputes), and 14 (Miscellaneous). Notwithstanding the foregoing, Section 3.3 (Third-Party Requests) shall not survive termination if Pruuvn™ has exercised a right to terminate the Agreement.

10. <u>Indemnification</u>.

1. <u>By Customer</u>. Customer will indemnify, defend, and hold harmless Pruuvn™ from and against all liabilities, damages, and costs (including settlement costs and reasonable attorneys' fees) arising out of any Claim against Pruuvn™ and its Affiliates regarding: (a) Customer Data; (b) Customer Domains; or (c) Customer's, or Customer's End Users', use of the Services in violation of the Agreement.

2. <u>By Pruuvn™</u>. Pruuvn™ will indemnify, defend, and hold harmless Customer from and against all liabilities, damages, and costs (including settlement costs and reasonable attorneys' fees) arising out of any Claim against Customer to the extent based on an allegation that Pruuvn™'s technology used to deliver the Services to the Customer infringes or misappropriates any copyright, trade secret, U.S. patent, or trademark right of the third party. In no event will Pruuvn™ have any obligations or liability under this

section arising from: (a) use of any Services in a modified form or in combination with materials not furnished by Pruuvn™; and (b) any content, information, or data provided by Customer, End Users, or other third parties.

3. <u>Possible Infringement</u>. If Pruuvn™ believes the Services or Software infringe or may be alleged to infringe a third party's Intellectual Property Rights, then Pruuvn™ may: (a) obtain the right for Customer, at Pruuvn™'s expense, to continue using the Services or Software; (b) provide a non-infringing functionally equivalent replacement; or (c) modify the Services or Software so that they no longer infringe. If Pruuvn™ does not believe the options described in this section are commercially reasonable, then Pruuvn™ may suspend or terminate Customer's use of the affected Services or Software, with a pro-rata refund of prepaid fees for the Services or Software.

4. <u>General</u>. The Party seeking indemnification will promptly notify the other Party of the claim and cooperate with the other Party in defending the claim. The indemnifying Party will have full control and authority over the defense, except that: (a) any settlement requiring the Party seeking indemnification to admit liability requires prior written consent, not to be unreasonably withheld or delayed; and (b) the other Party may join in the defense with its own counsel at its own expense. THE INDEMNITIES ABOVE ARE PRUUVN™ AND CUSTOMER'S ONLY REMEDY UNDER THE AGREEMENT FOR VIOLATION BY THE OTHER PARTY OF A THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS.

11. <u>Disclaimers</u>.

1. <u>Generally</u>. THE SERVICES AND SOFTWARE ARE PROVIDED "AS IS." TO THE FULLEST EXTENT PERMITTED BY LAW, EXCEPT AS EXPRESSLY STATED IN THE AGREEMENT, NEITHER CUSTOMER NOR PRUUVN™ AND ITS AFFILIATES, SUPPLIERS, AND DISTRIBUTORS MAKE ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE, OR NON-INFRINGEMENT. CUSTOMER IS RESPONSIBLE FOR USING THE SERVICES OR SOFTWARE IN ACCORDANCE WITH THE TERMS SET FORTH HEREIN AND BACKING UP ANY STORED DATA ON THE SERVICES.

2. <u>Beta Services</u>.

a. Use In Customer's Discretion. Despite anything to the contrary in the Agreement:
(a) Customer may choose to use Beta Services in its sole discretion; (b) Beta
Services may not be supported and may be changed at any time without notice;
(c) Beta Services may not be as reliable or available as the Services; (d) Beta
Services have not been subjected to the same Security Measures and auditing to
which the Services have been subjected; and (e) PRUUVN™ WILL HAVE NO
LIABILITY ARISING OUT OF OR IN CONNECTION WITH BETA SERVICES -
USE AT YOUR OWN RISK.

b. Feedback. Pruuvn™ offers Beta Services in order to get user feedback. In
exchange for using Beta Services, Customer Agrees that Pruuvn™ may contact
Customer and its End Users to obtain feedback regarding Beta Services.
Customer agrees to: (i) and hereby does, assign to Pruuvn™ all right, title, and
interest in any feedback; and (ii) provide Pruuvn™ any reasonable assistance
necessary to document and maintain Pruuvn™'s rights in the feedback. This
feedback may include oral or written comments, suggestions, error reports, and
analysis.

c. Confidential. Beta Services are confidential until officially launched by Pruuvn™.
Customer will take reasonable measures to keep information regarding the Beta
Services confidential, including at least those measures Customer takes to
protect its own confidential information of a similar nature. Customer will not
disclose information regarding Beta Services to any third parties, and will keep
new features and functionality confidential until officially launched by Pruuvn™.
Customer may disclose information regarding Beta Services to the extent
required by law or regulation if Customer gives Pruuvn™ reasonable advance
written notice, to the extent permitted, so Pruuvn™ can seek to prevent or limit
the disclosure.

12. Limitation of Liability.

1. Limitation on Indirect Liability. TO THE FULLEST EXTENT PERMITTED BY LAW,
EXCEPT FOR PRUUVN™ OR CUSTOMER'S INDEMNIFICATION OBLIGATIONS,
NEITHER CUSTOMER NOR PRUUVN™ AND ITS AFFILIATES, SUPPLIERS, AND
DISTRIBUTORS WILL BE LIABLE UNDER THE AGREEMENT FOR (I) INDIRECT,

SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES,
OR (II) LOSS OF USE, DATA, BUSINESS, REVENUES, OR PROFITS (IN EACH CASE
WHETHER DIRECT OR INDIRECT), EVEN IF THE PARTY KNEW OR SHOULD HAVE
KNOWN THAT SUCH DAMAGES WERE POSSIBLE AND EVEN IF A REMEDY FAILS
OF ITS ESSENTIAL PURPOSE.

2. <u>Limitation on Amount of Liability</u>. TO THE FULLEST EXTENT PERMITTED BY LAW,
PRUUVN™'S AGGREGATE LIABILITY UNDER THE AGREEMENT WILL NOT
EXCEED THE LESSER OF $100,000 OR THE AMOUNT PAID BY CUSTOMER TO
PRUUVN™ HEREUNDER DURING THE TWELVE MONTHS PRIOR TO THE EVENT
GIVING RISE TO LIABILITY.

13. <u>Disputes</u>.

1. <u>Informal Resolution</u>. Before filing a claim, each Party agrees to try to resolve the dispute
by contacting the other Party through the notice procedures in Section 14.6. If a dispute
is not resolved within thirty days of notice, Customer or Pruuvn™ may bring a formal
proceeding.

2. <u>Arbitration</u>. Customer and Pruuvn™ agree to resolve any claims relating to the
Agreement or the Services through final and binding arbitration, except as set forth
below. The [American Arbitration Association](#) (AAA) will administer the arbitration under
its Commercial Arbitration Rules. The arbitration will be held in San Francisco (CA), or
any other location both parties agree to in writing.

3. <u>Exception to Arbitration</u>. Either Party may bring a lawsuit in the federal or state courts of
San Francisco County, California solely for injunctive relief to stop unauthorized use or
abuse of the Services or infringement of Intellectual Property Rights without first
engaging in the informal dispute notice process described above. Both Customer and
Pruuvn™ consent to venue and personal jurisdiction there.

4. <u>NO CLASS ACTIONS</u>. Customer may only resolve disputes with Pruuvn™ on an
individual basis and will not bring a claim in a class, consolidated or representative
action. Class arbitrations, class actions, private attorney general actions and
consolidation with other arbitrations are not allowed.

14. <u>Miscellaneous</u>.

1. <u>Terms Modification</u>. Pruuvn™ may revise this Agreement from time to time and the most current version will always be posted on the Pruuvn™ Business website. If a revision, in Pruuvn™'s sole discretion, is material, Pruuvn™ will notify Customer (by, for example, sending an email to the email address associated with the applicable account). Other revisions may be posted to Pruuvn™'s blog or terms page, and Customer is responsible for checking these postings regularly. By continuing to access or use the Services after revisions become effective, Customer agrees to be bound by the revised Agreement. If Customer does not agree to the revised Agreement terms, Customer may terminate the Services within thirty days of receiving notice of the change.

2. <u>Entire Agreement</u>. The Agreement supersedes any prior agreements or understandings between the Parties, and constitutes the entire agreement between the Parties related to this subject matter. All attachments to this Business Agreement, the Data Processing Agreement, Customer invoices, and Service Agreements executed by the Parties, are hereby incorporated into the Agreement by this reference.

3. <u>Interpretation of Conflicting Terms</u>. If there is a conflict between the documents that make up the Agreement, the documents will control in the following order: the invoice, the Services Addenda, Service Agreement, the Business Agreement. The terms and conditions of the Agreement will be considered the confidential information of Pruuvn™, and Customer will not disclose the information to any third parties. Customer agrees that any terms and conditions on a Customer purchase order will not apply to the Agreement and are null and void. If End Users are required to click through terms of service in order to use the Services, those click through terms are subordinate to this Agreement and the Agreement will control if there is a conflict.

4. <u>Governing Law</u>. THE AGREEMENT WILL BE GOVERNED BY DELAWARE LAW EXCEPT FOR ITS CONFLICTS OF LAWS PRINCIPLES.

5. <u>Severability</u>. Unenforceable provisions will be modified to reflect the parties' intention and only to the extent necessary to make them enforceable, and the remaining provisions of the Agreement will remain in full effect.

6. <u>Notice</u>. Notices must be sent via email, first class, airmail, or overnight courier and are deemed given when received. Notices to Customer may also be sent to the applicable account email address and are deemed given when sent. Notices to Pruuvn™ must be

sent to Pruuvn™ Legal at support@pruuvn.com, with a copy to Pruuvn, Inc.,2605 Circle 75 Parkway, Atlanta, GA 30339 , attn.: Legal Department.

7. Waiver. A waiver of any default is not a waiver of any subsequent default.

8. Assignment. Customer may not assign or transfer the Agreement or any rights or obligations under the Agreement without the written consent of Pruuvn™, except that Customer may assign the Agreement to the surviving entity in connection with a merger, acquisition, or sale of all or substantially all of its assets by providing written notice to Pruuvn™. Pruuvn™ may not assign the Agreement without providing notice to Customer, except Pruuvn™ may assign the Agreement or any rights or obligations under the Agreement to an Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets without providing notice. Any other attempt to transfer or assign is void.

9. No Agency. Pruuvn™ and Customer are not legal partners or agents, but are independent contractors.

10. Independent Contractors. Pruuvn™ "End Users" and or Candidates are considered independent contractors where the payer/customer has the right to control or direct only the result of the work and not what will be done and how it will be done.

11. Subcontracting. Pruuvn™ will remain liable for all acts or omissions of its Subcontractors or Sub-processors, and for any subcontracted obligations.

12. Force Majeure. Except for payment obligations, neither Pruuvn™ nor Customer will be liable for inadequate performance to the extent caused by a condition that was beyond the Party's reasonable control (for example, natural disaster, act of war or terrorism, riot, labor condition, governmental action, and Internet disturbance).

13. No Third-Party Beneficiaries. There are no third-party beneficiaries to the Agreement. Without limiting this section, a Customer's End Users are not third-party beneficiaries to Customer's rights under the Agreement.

15. Definitions.

1. "Acceptable Use Policy" means the Pruuvn™ acceptable use policy set forth at the following link, or other link that Pruuvn™ may provide: https://www.pruuvn.com/terms#acceptable_use.

2. "Account Data" means the account and contact information submitted to the Services by Customer or End Users.

3. "Administrator" means a Customer-designated technical End User who administers the Services to End Users on Customer's behalf, through multiple tiers.

4. "Admin Account" means an administrative account provided to Customer by Pruuvn™ for the purpose of administering the Services.

5. "Admin Console" means the online tool provided by Pruuvn™ to Customer for use in administering the Services.

6. "Affiliate" means any entity that controls, is controlled by or is under common control with a Party, where "control" means the ability to direct the management and policies of an entity.

7. "Agreement" means, collectively, this Business Agreement, each applicable Service Agreement, the Data Processing Agreement and, if applicable, the HIPAA Business Associate Agreement and any Services Addenda entered into by the Parties.

8. "Beta Services" means services or features identified as alpha, beta, preview, early access, or evaluation, or words or phrases with similar meanings.

9. "Claim" means a claim by a third party, including a regulatory penalty.

10. "Customer Data" means Stored Data, Account Data, and messages, comments, structured data, images, and other content submitted to the Services by Customer or End Users.

11. "Customer Domains" means Customer's Internet domain names.

12. "Data Processing Agreement" means the agreement with Pruuvn™ related to compliance with EU Data Protection Laws set forth at the following link:

https://assets.pruuvn.com/documents/en/legal/dfb-data-processing-agreement.pdf or other link that Pruuvn™ may provide.

13. "EEA" means European Economic Area.

14. "Effective Date" means the date this Business Agreement is last signed by a Party.

15. "End Users" means users of Customer's Services account. End Users may include Customer's and its Affiliate's employees and consultants.

16. "End User Account" means a Pruuvn™ hosted account established by Customer through the Services for an End User.

17. "EU Data Protection Laws" means, to the extent in force and applicable from time to time, those laws implementing the EU General Data Protection Regulation (2016/679) and any implementing laws in each EU member state.

18. "EU-US Privacy Shield Program" means the EU-U.S. Privacy Shield Program framework and its principles as set forth by the US Department of Commerce and the European Commission regarding the collection, use, and retention of personal data from EU member states.

19. "Excluded Features" means services or features listed here https://assets.pruuvn.com/documents/en-us/legal/dfb-services-exceptions.pdf , which list may be updated from time to time by Pruuvn™, provided that non-Beta features incorporated in the Services as of the Effective Date will not be transitioned to the Excluded Features list during the Term.

20. "Export Control Laws" means all applicable export and re-export control laws and regulations, including the Export Administration Regulations ("EAR<") maintained by the U.S. Department of Commerce, trade and economic sanctions maintained by the Treasury Department's Office of Foreign Assets Control, and the International Traffic in Arms Regulations ("ITAR") maintained by the Department of State.

21. "Fees" means the amounts invoiced to Customer by Pruuvn™ for the Services.

22. "HIPAA Business Associate Agreement" means an agreement between Customer and Pruuvn™ detailing each Party's obligations regarding "Protected Health Information" under the HIPAA Privacy Rule (45 C.F.R. Section 164.051).

23. "Initial Services Term" means the term for the applicable Services beginning on the Provisioning Date and continuing for the duration set forth in the Service Agreement.

24. "Intellectual Property Rights" means current and future worldwide rights under patent, copyright, trade secret, trademark, moral rights, and other similar rights.

25. "Service Agreement" means the ordering document, or order page, for the Services.

26. "Personal Data, "Process," and "Processing"" have the meaning given to those terms in the EU Data Protection Laws.

27. "Provisioning Date" is the date upon which Pruuvn™ makes the Services available to Customer.

28. "Renewal Term" means, unless otherwise agreed to in writing by the Parties, the twelve-month renewal term following either the Initial Services Term, or a previous Renewal Term. Renewal Terms are set forth in the Service Agreement.

29. "Security Emergency" means: (i) use of the Services that do or could disrupt the Services, other customers' use of the Services, or the infrastructure used to deliver the Services; or (ii) unauthorized third-party access to the Services.

30. "Security Measures" means the technical and organizational security measures described at https://assets.pruuvn.com/documents/en/legal/security-measures.pdf or other link that Pruuvn™ may provide.

31. "Services" means the services requested by Customer via a service request or through the platform. The Services are described at https://www.pruuvn.com/, or other link that Pruuvn may provide. Any other Services will be referenced in the applicable service request or proposal.

32. "Services Addendum" means a document attached to a service request or proposal that lists particular Services, and includes terms and conditions specific to those Services.

33. "Services Term" means the Initial Services Term and all Renewal Terms for the applicable Services.

34. "Service Limits" means rate, storage, End User or other limits on Customers use of the Services as described in the applicable service request or proposal.

35. "Software" means the client software provided as part of the Services, either directly by Pruuvn™ or through third party distribution channels such as app stores.

36. "Stored Data" means the files uploaded to the Services using the Software by Customer or End Users.

37. "Subcontractor" means an entity to whom Pruuvn™ subcontracts any of its obligations under the Agreement.

38. "Sub-processor" means an entity who agrees to Process Customer Data on Pruuvn™'s behalf, or on behalf of another Pruuvn™ sub-processor, in order to deliver the Services.

39. "Taxes" means any sales, use, value added, goods and services, consumption, excise, local stamp, or other tax, (including but not limited to ISS, CIDE, PIS, CONFINS), duty or other charge of any kind or nature excluding tax that is based on Pruuvn™'s net income, associated with the Services or Software, including any related penalties or interest.

40. "Term" means the term of the Agreement, which will begin on the Effective Date and continue until the earlier of: (i) the end of all applicable Services Terms; or (ii) the Agreement is terminated as set forth herein.

41. "Third-Party Request" means a request from a third-party for records relating to an End User's use of the Services including information in or from an End User Account, or from Customer's Services account. Third-Party Requests may include valid search warrants, court orders, or subpoenas, or any other request for which there is written consent from End Users, or an End User's authorized representative, permitting a disclosure.

42. "Withholding Taxes" mean any income taxes that are imposed on Pruuvn™ or Customer's reseller in which Customer is required by law to withhold or deduct on the payment to Pruuvn™ or Customer's reseller.