

## **NERDLY PLATFORM TERMS OF USE AND PRIVACY POLICY**

These Nerdly Platform Terms of Use (the “Agreement”) set forth the terms under which users residing in the United States may use the [NerdRabbit.com](https://NerdRabbit.com) website (the “Site” or “Website”), the Nerdly Platform (the “Platform”), and the Nerdly Select service through the Platform (“Nerdly Select”). The Agreement includes the terms of our privacy policy. By using the Site, the Platform, and/or Nerdly Select you consent to and agree to be bound by this Agreement, whether or not you register to use the Site, the Platform, and/or Nerdly Select. If you object to anything in this Agreement, including the privacy policy contained in the Agreement, then do not use the Site, the Platform, and/or Nerdly Select.

### **1. Who We Are:**

NerdRabbit, a division of ReluTech, LLC (“NerdRabbit”)  
130 Technology Parkway, Suite 200  
Peachtree Corners, Georgia 30092  
Telephone: (770) 299.9100

### **2. Effective Date:**

This Agreement was last updated January 31, 2024.

### **3. The Platform:**

NerdRabbit provides the Platform to (a) connect employers who have registered to use the Platform (“Nerdherders”) and wish to recruit and hire, temporary hourly professionals with candidates who have registered to use the Platform (“Nerds”) and are seeking temporary hourly professional employment opportunities, and (b) facilitate project-based work for Nerdherders by Nerds through Nerdly Select (as further described below). The Platform enables Nerdherders and Nerds (together “Registered Users” or “Users”) to communicate and share information between Nerdherders and Nerds and, when applicable, NerdRabbit, for the purpose of establishing a temporary hourly professional employment or similar relationship. Use of the Site and the Platform is limited solely to such Registered Users for the purposes detailed herein. Any other use of the Site or the Platform is strictly prohibited. To the extent any of the aforementioned relationships are established between a Nerdherder and a Nerd, the Nerdherder will owe NerdRabbit the fees described below. All Registered Users are automatically enrolled to receive push notifications as a result of registering to use the Platform and have the ability to opt-out of all or specific notifications from the Platform settings at any time.

### **4. Authorized Use:**

A. The Site and the Platform are available only to individuals who are eighteen (18) years of age or older. Nerds must be permitted to legally work in the United States and must ensure any engagements they accept are in full compliance with any employment, work visa or other limitations or requirements applicable to them. All use of the Platform and the Site by Nerdherders and Nerds shall be in compliance at all times with applicable law.

B. To use the Platform, each Registered User will need to set up an account and choose a password. Nerdherders may establish an account including one administrator and one or more secondary users (a “Team Account”). Each Team Account must designate one “Administrator” who will be responsible for managing the Team Account and any number of “Secondary Users” who are authorized by the Team Account’s Administrator to

access and use its Nerdherder account (“Account”). Accounts may not be shared and are for the exclusive use of a single Registered User, which for clarity in the case of Team Accounts will include the Team’s Administrator and Secondary Users. Users registering as a legal entity represent and warrant that they are authorized to act for that entity. Each Registered User is responsible to safeguard its Account credentials, including those of its Administrators and Secondary Users in the case of Team Accounts, and should notify NerdRabbit immediately if such User learns of or suspects any unauthorized use of its Account. A Nerdherder establishing a Team Account acknowledges and agrees that (a) its Administrators and Secondary Users have full authority to act on behalf of and bind such Nerdherder, (b) its Administrator is the only User on behalf of such Nerdherder who is authorized to select payment option(s) for such Team Account, and (c) such Nerdherder is fully liable for all use of the Platform and the Site by its Administrator(s) and any Secondary User(s). Administrators and Secondary Users acknowledge that they are “Users” as defined herein and required to comply at all times with this Agreement.

## 5. Candidate Relationships:

A. Full-Time Temporary Contractors. Nerdherders interested in hiring temporary full-time contractors agree as follows:

Nerdherder shall pay NerdRabbit the quoted fee for each hour worked by a temporary full-time contractor Nerd engaged by such employer or its affiliates within twelve (12) months of the later of (a) the date that Nerdherder and any such Nerd connect on the Platform or (b) the date on which Nerdherder and any such Nerd have their last contact with one another on the Platform. NerdRabbit will establish a process for submittal of timesheets by the Nerd and approval and payment of the same.

If Nerdherder opts to purchase and pay for such hours through a NerdRabbit partner (“Partner”) marketplace, then all Candidate hours reflected on approved time sheets will be included as part of Nerdherder’s bill from such Partner for the applicable month or to the next month’s bill if the hours are worked after the then current monthly bill has been generated.

If Nerdherder does not opt to pay for such hours via a Partner marketplace, then amounts shall be payable to NerdRabbit in immediately available funds net thirty (30) days from date of invoice.

NerdRabbit will provide payroll services for each temporary full-time contractor Nerd engaged by such employer hereunder pursuant to a separate written agreement between NerdRabbit and each such Nerd.

In addition to the hourly fees set forth above, Nerdherder will also pay NerdRabbit a fee based on the schedule below for any temporary full-time contractor Nerd that is hired by Nerdherder or its affiliates as a direct hire employee within twelve (12) months of the later of (a) the date that Nerdherder and any such Nerd connect or (b) the date on which Nerdherder and any such Nerd have their last contact with one another. Such fee will be deemed earned upon the hiring of such Nerd as a direct hire employee by Nerdherder or its affiliates and will be based upon the following percentages of each such Nerd’s first year base salary and any guaranteed bonus:

Number of Hours Worked	Conversion Fee
0-500 hours	25%

501-1000 hours	20%
1001 -2000	15%
2001 or more hours	10%

Hours are calculated for each Nerd individually based on the aggregate number of hours such Nerd has worked for Nerdherder hereunder.

**B. Full-Time Direct Hire.** Nerdherders interested in hiring full-time direct hire employees agree as follows:

If Nerdherder or its affiliates hires a Nerd with whom Nerdherder connects on the Platform as a full-time direct hire employee Nerdherder shall pay NerdRabbit a fee equal to 25% of the Nerd's first year base salary plus any guaranteed bonus for any non-manager Candidate and 30% of the Nerd's first year base salary plus any guaranteed bonus for any manager level or above (defined as a Candidate with one or more direct reports) Candidate. The fee is due in full in advance upon the Nerd's acceptance of Nerdherder's or its affiliate's full-time direct hire offer. Nerdherder shall owe this fee for all Nerds hired by Nerdherder or its affiliates within twelve (12) months of the later of (a) the date on which Nerdherder and such Nerd connect or (b) the date on which Nerdherder and such Nerd have their last contact with one another.

No fee will be due pursuant to the immediately preceding paragraph for any such Nerd if within the 90-day period prior the date the candidate and Nerdherder connect, Nerdherder was already engaged in active discussions with such Nerd concerning prospective employment.

If within the first ninety (90) days of full-time direct hire employment with Nerdherder a Nerd hired by Nerdherder pursuant to this Agreement is terminated for cause by Nerdherder or voluntarily terminates his or her employment with Nerdherder without cause, NerdRabbit agrees to replace the candidate at no additional fee to the Nerdherder. If Nerdherder is past due on any amounts owed to NerdRabbit hereunder this replacement guaranty will not apply. This replacement clause does not apply to any resignation or termination for reasons relating to a restructuring, layoff, reduction in force, lack of work or similar.

If Nerdherder opts to purchase and pay for the direct hire fee through a Partner marketplace, then such fee will be included as part of Nerdherder's bill from such Partner for the applicable month in which the fee is incurred or to the next month's bill if the hours are worked after the then current monthly bill has been generated.

If Nerdherder does not opt to pay for such fee through a Partner marketplace, then amounts shall be payable to NerdRabbit in immediately available funds net thirty (30) days from date of invoice.

**C. Part-time Temporary Hourly Professionals.** Nerdherders interested in hiring part-time temporary hourly professionals agree as follows:

Nerdherder shall pay NerdRabbit the applicable quoted fee for each hour worked by a temporary hourly professional Nerd engaged by such employer, or in connection with each Nerdly Select SOW, pursuant to one of the following billing options:

**Pay-as-you-go.** Nerdherder shall select in advance the number of hours it wishes to purchase for a particular hourly professional Nerd. Nerdherder shall pay NerdRabbit the applicable hourly rate displayed for all such hours. The total hourly charges are payable in advance. Minimum purchase and billing increment is one (1) hour. Pay-as-you-go hours are tied to a specific Nerd and may not be transferred to another Nerd except pursuant to the account credit request process outlined below. Upon payment in full, the applicable hourly professional Nerd will begin work for Nerdherder and submit weekly timesheets until the allotted hours have been used in full. All hours must be consumed within ninety (90) days of date of purchase. Any unused hours remaining after such date will automatically expire. Timesheets are deemed approved within twenty-four hours of submittal. If Nerdherder has unused pay-as-you-go hours that have not yet expired Nerdherder may request an account credit for such hours, which credit may be used toward Nerdherder's purchase of hours from a different Nerd. No refunds for unused hours will be issued. Any hours purchased using a credit pursuant to this clause will be subject to the same expiration date as the original hours that were credited.

**Annual Subscription.** Nerdherder may purchase at a reduced rate an annual subscription of hourly professional labor hours to be used toward the work of one or more temporary hourly professional Nerds. Subscriptions are available at different pricing tiers or packages that we make available on the Site, all of which will be billed in equal monthly installments, payable in advance of each month. The minimum billing increment for a Nerd is one (1) hour. Subscription hours may be allocated to multiple Nerds. Timesheets will be submitted weekly as hours are worked by each Nerd. Annual subscriptions consist of a fixed allotment of hours per month for twelve (12) months. Each monthly allotment of hours purchased in an annual subscription must be used in that month. Unused hours in one month will not rollover to future months. Nerdherder may not exceed the monthly allotment of hours purchased in any given month of a subscription but may purchase additional hours on an ad hoc basis if needed. No hours will be worked in excess of those purchased and paid for by Nerdherder. All subscription hours must be used during the applicable monthly subscription period. Any unused hours remaining at the end of any month during an annual subscription period or at the end of the annual subscription period will automatically expire.

If Nerdherder opts to purchase and pay for hourly professional hours through a Partner marketplace, Nerdherder will be responsible to pay the Nerd's hourly charges at the applicable rate in addition to a marketplace convenience fee that we make available to you before your purchase. All such amounts will be included as part of Nerdherder's bill from such Partner for the applicable month in which the fees are incurred or if the charges are incurred after the monthly bill is generated then the charges will appear on the next monthly bill from such Partner.

If Nerdherder does not opt to pay for such hours via a Partner marketplace, then the applicable hourly rate due hereunder shall be paid in advance by credit card or other means accepted by NerdRabbit on the Platform and will be subject to an additional payment processing fee.

NerdRabbit will pay each Nerd for hours reflected on approved timesheets conditioned on the applicable Nerdherder having paid NerdRabbit for such Nerd's hours in advance. NerdRabbit will remit such payments to Nerd within two (2) business days of approval of the applicable timesheet.

D. Hourly Professional Nerds acknowledge and agree that they shall not commence any work for a Nerdherder or for NerdRabbit under a Nerdly Select SOW until NerdRabbit confirms such work has been paid for by the

applicable Nerdherder and shall not perform any work in excess of that paid for by the Nerdherder. Hourly professional Nerds shall submit time sheets by the end of the day on Friday for all hours worked in such week. If an hourly professional Nerd submits a timesheet for hours that have not been paid for, or in excess of those that have been paid for, by a Nerdherder, or as stated in the applicable Nerdly Select SOW(s), such hours will be deemed unauthorized and no amounts will be payable to Nerd for such hours unless and until the Nerdherder approves the timesheet with the excess hours or such excess hours are approved under the applicable Nerdly Select SOW(s) and all corresponding fees in connection with such excess hours are remitted to NerdRabbit. Hourly professional Nerds are responsible for reporting and paying all taxes associated with any amounts received hereunder. Hourly professional Nerds acknowledge that NerdRabbit will process payments to them using Stripe. Each hourly professional Nerd will be required to establish a Stripe account and agree to Stripe's Connected Account Agreement as a condition to receiving such payments. NerdRabbit is not affiliated with Stripe and makes no representations or warranties as to Stripe or its service or platform.

E. Except for payrolling of temporary full-time contractor Nerds engaged to perform work for a Nerdherder under the Platform, or for Nerds engaged to perform contract work for NerdRabbit pursuant to and in connection with a Nerdly Select SOW, NerdRabbit does not employ any of the Nerds seeking employment opportunities on the Platform. Nerds acknowledge and agree that they do not qualify as regular employees of NerdRabbit and are not eligible to participate in any health, welfare or other benefit plans of NerdRabbit; nor are Nerds eligible for any other benefits of employment available to NerdRabbit employees generally. NerdRabbit does not guarantee any minimum salary or compensation to Nerds in connection with the Platform or these Terms. Nerdherders are responsible for complying with all employment, non-discrimination, labor, wage and hour, safety and health, and other laws applicable to any employment or other relationship they establish with any Nerds, including in connection with their recruitment, selection and hiring activities. NerdRabbit is an independent contractor and shall not be deemed an employee or agent of Nerdherder or its customers.

F. Other than work performed by Nerds pursuant to and in connection with a Nerdly Select SOW, Nerdherder: (i) shall address any issues or concerns with the work of a Nerd directly with such Nerd, (ii) Nerdherder acknowledges that NerdRabbit will not manage or oversee the work performed by any Nerd or guarantee the results or quality of any such work, (iii) all services performed by a Nerd for Nerdherder are provided AS-IS without any warranty of any kind, (iv) acknowledges that NerdRabbit assumes no and hereby disclaims any and all liability (v) for any deliverables or other work product created by Nerds and (vi) for the results of any work performed by Nerds, and (vii) Nerdherder solely is responsible to obtain any intellectual property assignment, confidentiality or similar agreements from any Nerd it engages hereunder.

## **6. Content:**

A. NerdRabbit does not make any representations about the accuracy or suitability of any job opportunities posted on the Platform or the skills or suitability of, or the quality, accuracy, timeliness or otherwise of any services to be provided by, any Nerds. Nerds assume sole and full responsibility for evaluating the accuracy and suitability of any job opportunities posted by Nerdherders and Nerdherders assume sole and full responsibility for evaluating and assessing the adequacy and suitability of any Nerds, including conducting any background checks, pre- or post-employment screenings, reference checks and verifications or otherwise. Each Nerdherder and Nerd agrees to hold NerdRabbit harmless from any claim, loss, damage or liability arising out of any relationship that may be established between any Nerd and Nerdherder as a result of or in connection with use of the Site, the Platform, and/or Nerdly Select.

B. NerdRabbit is not responsible for material, data or other content ("Content") posted on, uploaded to or transmitted through the Platform by any User, including any Nerd or Nerdherder; nor is NerdRabbit responsible for any conduct, whether on the Platform or otherwise, of any Nerdherder or Nerd. NerdRabbit

shall not be liable for any claims relating to or arising out of any Content posted on, transmitted through or uploaded to the Site, the Platform, and/or Nerdly Select. NerdRabbit does not endorse any Nerd or Nerdherder. Further NerdRabbit does not independently verify the accuracy of any Content posted on, uploaded to or transmitted through the Platform, and/or Nerdly Select by any Nerd or Nerdherder. NerdRabbit hereby disclaims any and all liability arising from any use of the Site, the Platform, and/or Nerdly Select by, or any Content posted on, transmitted through or uploaded to the Site, the Platform, and/or Nerdly Select by, any User, including any Nerd or Nerdherder. All Users, whether registered or otherwise, hereby waive any claim, whether known or unknown, against NerdRabbit that they have or may have arising out of their use of the Site, the Platform, and/or Nerdly Select.

C. Registered Users are solely responsible for Content they post, upload or transmit on the Platform, and/or Nerdly Select. Each Registered User shall ensure that all such Content is accurate, complete and not misleading. Each Registered User is prohibited from posting, uploading or transmitting any Content that invades the privacy rights of any party, that violates the rights of any third party or that is false, misleading, defamatory, derogatory, discriminatory, explicit, obscene, profane, harassing, infringing, unlawful or otherwise inappropriate.

D. Each Registered User (a) acknowledges and agrees that NerdRabbit has no obligation to but may, in its sole discretion, review or remove any Content, in whole or in part, from the Site, the Platform, and/or Nerdly Select, including where NerdRabbit determines that the Content violates the terms of this Agreement and (b) hereby grants to NerdRabbit a worldwide, fully-transferable, perpetual, irrevocable and fully paid-up license to use, copy, distribute, display, modify or remove any Content posted by such User, which license shall include the right to sublicense and the right create derivative works of such Content. Without limiting the generality of the foregoing, each Registered User further acknowledges and agrees that in order to recruit new Users to the Platform NerdRabbit may, and is hereby authorized to, share with recipients outside of the Platform Content from the Site or the Platform consisting of sanitized excerpts of Nerd profiles, Nerdherder opportunities including Nerdly Select services.

## **7. Nerdly Select:**

Nerdly Select is a project-based service provided by NerdRabbit through offers submitted through the Platform (“Offers”) to engage Nerds for certain hourly professional services (“Services”) as defined and agreed upon in separate statements of work (each, a “SOW”). In addition to the terms stated herein for using the Site and the Platform, the following terms shall also apply, and where applicable shall control, to the Nerdly Select Services. Use of Nerdly Select is limited solely to Nerds and Nerdherders for such purpose. Any other use of Nerdly Select is strictly prohibited. To use Nerdly Select, each Nerd and Nerdherder will need to set up an account and choose a password. Accounts may not be shared and are for the exclusive use of a single Nerd or Nerdherder. Nerdherders registering as a legal entity represent and warrant that they are authorized to act for that entity. Each Nerd and Nerdherder is responsible to safeguard its account credentials and should notify NerdRabbit immediately if such Nerd or Nerdherder learns of or suspects any unauthorized use of its account.

### **A. Services; Warranty; Acceptance:**

1. In consideration of the fees stated in the applicable SOW (“Fees”), NerdRabbit or Nerd will provide the Services and Deliverables (collectively, the “Work Product”) described therein.
2. NerdRabbit and/or Nerd warrant that at the time of performance all Services will be performed in a good and workmanlike manner and in accordance with generally accepted industry standards. EXCEPT FOR THE FOREGOING, NERDRABBIT MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, AND NERDRABBIT SPECIFICALLY DISCLAIMS ALL OTHER SUCH



WARRANTIES, INCLUDING THE WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE OR USE.

3. Unless indicated otherwise in the applicable Nerdly Select SOW: (a) Nerdherder shall address any issues or concerns with the work of a Nerd directly with such Nerd, (b) Nerdherder acknowledges that NerdRabbit will not manage or oversee the work performed by any Nerd or guarantee the results or quality of any such work, (c) all services performed by a Nerd for Nerdherder are provided AS-IS without any warranty of any kind, (d) NerdRabbit assumes no and hereby disclaims any and all liability (i) for any deliverables or other work product created by Nerds and (ii) for the results of any work performed by Nerds, and (e) Nerdherder solely is responsible to obtain any intellectual property assignment, confidentiality or similar agreements from any Nerd it engages hereunder.

**B. Statements of Work:**

Each SOW shall include: (i) a description of the services (“Services”) and any deliverables (“Deliverables”) to be provided by Nerd or NerdRabbit, (ii) Nerd or NerdRabbit’s compensation, (iii) the period during which the Services will be provided (if applicable) (the “Service Period”), and (iv) any additional terms and conditions. Each SOW shall be incorporated into and governed by this Agreement. Any changes to a SOW shall be agreed upon in writing by the applicable parties. Nerdherder agree that this Agreement and the applicable SOW(s) for Services or Deliverables shall govern and supersede any terms and conditions stated on any purchase order submitted by Nerdherder for such Services or Deliverables. In the event of any conflict between this Agreement and a SOW, the SOW will control. Whenever used herein or in any SOW, the term "Agreement" shall mean and include this Agreement and all executed SOWs including all applicable Nerdly Select Offers.

**C. Billing Options:**

Nerdherder shall pay NerdRabbit the applicable quoted fee in connection with each SOW in advance pursuant to one of the following billing options:

**Fixed Price.** NerdRabbit shall determine in advance the number of hours required to perform the Services and provide the Deliverables which shall be reflected as a fixed fee listed in the applicable SOW. Nerdherder shall pay the fixed fee in advance.

**Weekly Recurring.** NerdRabbit shall determine in advance the number of weekly hours required to perform the Services and provide the Deliverables which shall be reflected as a fixed weekly fee listed in the applicable SOW. Nerdherder shall pay the fixed weekly fee on the first day of the weekly period in advance.

**Monthly Recurring.** NerdRabbit shall determine in advance the number of monthly hours required to perform the Services and provide the Deliverables which shall be reflected as a fixed monthly fee listed in the applicable SOW. Nerdherder shall pay the fixed monthly fee on the first day of the monthly period in advance.

**Pay-as-you-go.** Nerdherder shall agree in advance the number of hours it wishes to purchase for a particular project. Nerdherder shall pay NerdRabbit the applicable hourly rate displayed for all such hours. The total hourly charges are payable in advance. Minimum purchase and billing increment is one (1) hour. Pay-as-you-go hours are tied to a specific Offer and may not be transferred to another Offer except pursuant to the account credit request process outlined below. Upon payment in full, work will commence for Nerdherder until the allotted hours have been used in full. All hours must be consumed within ninety (90) days of date

of purchase. Any unused hours remaining after such date will automatically expire. If Nerdherder has unused pay-as-you-go hours that have not yet expired Nerdherder may request an account credit for such hours, which credit may be used toward Nerdherder's purchase of hours for a different Offer and such credit shall be listed on the applicable SOW. No refunds for unused hours will be issued. Any hours purchased using a credit pursuant to this clause will be subject to the same expiration date as the original hours that were credited.

**Annual Subscription.** Nerdherder may purchase at a reduced rate an annual subscription of hourly professional labor hours to be used toward the work in connection with one or more SOWs. Subscriptions are available at different pricing tiers or packages that we make available through Nerdly Select, all of which will be billed in equal monthly installments, payable in advance of each month. The minimum billing increment is one (1) hour. Hours consumed will be submitted weekly. Annual subscriptions consist of a fixed allotment of hours per month for twelve (12) months. Each monthly allotment of hours purchased in an annual subscription must be used in that month. Unused hours in one month will not rollover to future months. Nerdherder's order may not exceed the monthly allotment of hours purchased in any given month of a subscription but may purchase additional hours on an ad hoc basis if needed. No hours will be worked in excess of those purchased and paid for by Nerdherder. All subscription hours must be used during the applicable monthly subscription period. Any unused hours remaining at the end of any month during an annual subscription period or at the end of the annual subscription period will automatically expire.

#### **D. Payment:**

Unless specified otherwise in the applicable SOW, Nerdly Select projects are time and materials engagements. Nerdherder shall pay NerdRabbit the fees for Nerdly Select services as set forth in the fee schedule contained in the applicable SOW, including when applicable, the reasonable travel and living expenses of Nerds incurred in the course of performance of the services. Nerds shall be paid by NerdRabbit as set forth in the fee schedule contained in the applicable SOW between NerdRabbit and Nerd. All fees shall be invoiced and paid through Nerdly Select. The applicable rate due from Nerdherder in connection with any Nerdly Select SOW shall be paid in advance by credit card or other means accepted by NerdRabbit and will be subject to an additional payment processing fee.

#### **E. Non-Solicit, No-Hire:**

Nerdherder acknowledges and agrees that it will not solicit or employ, directly or indirectly, the Nerds in connection with any engagement agreed upon through Nerdly Select during the term of the applicable SOW and continuing for one year after the last day of work under the applicable SOW otherwise Nerdherder agrees that NerdRabbit is due a settlement fee. See Section 5.2 and Section 8 for details regarding the settlement fee.

#### **F. Confidentiality:**

To the extent that confidential and proprietary information of NerdRabbit and Nerdherder ("Confidential Information") is exchanged and received in connection with the Services, User agrees not to use Confidential Information except in the performance of, or as authorized by, the applicable SOW, and not to disclose, sell, license, distribute or otherwise make available such information to third parties. Use by third party contractors may be permitted so long as such contractor has a need to know and is required to maintain the confidentiality of such information as required by this Section 7.F. "Confidential Information" includes



(but is not limited to) NerdRabbit Information (as defined in Section 7.G (2) below), and does not include: (i) information that was publicly available at the time of disclosure or subsequently becomes publicly available other than by a breach of this provision, (ii) information previously known by or developed by User independent of the Confidential Information, (iii) information that User rightfully obtains without restrictions on use and disclosure, or (iv) information which is required to be released by law.

#### **G. Rights in Work Product.**

(1) Subject to Sections G (2) and (3) below, and except for materials that NerdRabbit acquires under license from a third party, all Deliverables created specifically for and provided to Nerdherder by NerdRabbit under an SOW shall be the property of Nerdherder for Nerdherder's internal use.

(2) Any NerdRabbit proprietary or Confidential Information used to perform the Services, included in any Deliverable, or acquired, conceived, or developed at any time independent of NerdRabbit's work under any SOW, including but not limited to software, appliances, methodologies, code, templates, tools, policies, records, working papers, knowledge, data, know-how, architectures, concepts, techniques, templates, works of authorship or other intellectual property, written or otherwise (collectively, "NerdRabbit Information"), shall remain the exclusive property of NerdRabbit.

(3) Nerdherder acknowledges that NerdRabbit provides similar services to other Nerdherders and that nothing in this Agreement shall be construed to prevent NerdRabbit from carrying on such business or from acquiring, licensing, marketing, distributing, developing for itself or others or having others develop for it similar products, services or materials performing the same or similar functions as the Services and Deliverables contemplated by this Agreement or any SOW. Therefore, notwithstanding Section G(1), NerdRabbit has the right to retain and use internally copies of the Deliverables, provided, however, that the foregoing does not include rights to distribute, disclose or create derivative works from Nerdherder's Confidential Information that is incorporated into the Deliverables. Similarly, notwithstanding Section G(1), Nerdherder acknowledges that the Work Product is not a work for hire and that Nerdherder shall not sell, transfer, publish, disclose, display or otherwise make available the Work Product or any NerdRabbit Information except as expressly permitted herein.

The rights and obligations of a User which by their nature must survive termination or expiration of this Agreement or any SOW in order to achieve its fundamental purposes will survive any termination of this Agreement or any SOW.

#### **8. Prohibited Activities:**

A. By using the Site, Platform, and/or Nerdly Select, each User hereby agrees that it shall not use the Site, Platform, and/or Nerdly Select (a) in any harmful, fraudulent, harassing, offensive, abusive, discriminatory or defamatory way; (b) for any unlawful purpose; (c) for any commercial solicitation purposes; (d) in a manner intended to disrupt or damage the proper functioning of the Site, Platform, and/or Nerdly Select, or to disrupt or damage a third party's computer system, network or browser; (e) to harvest, collect or commercialize personal data or other information about Registered Users; (f) to compete with NerdRabbit or (g) in a manner that circumvents, directly or indirectly, the obligation to pay NerdRabbit fees due for use of the Site, Platform, and/or Nerdly Select or for permanent employment, temporary full-time contractor or temporary hourly professional relationships established in connection with such use. Without limiting the generality of the foregoing, NerdRabbit provides equal opportunities to all employees and applicants and prohibits discrimination of any type in connection with the use of the Site, the Platform, and/or Nerdly Select, including as to race, color, religion, age, sex (including pregnancy and gender identity), national origin, disability, genetic information, military or veteran status, sexual orientation or any other characteristic protected by applicable law. By using the Site, Platform, and/or Nerdly Select each User agrees to comply with all applicable state, local and federal employment laws in connection with its activities hereunder,

including in the selection, hiring, placement, promotion, termination, layoff, recall, transfer, leave, compensation, training processes as well as any other employment-related actions.

B. Each User further agrees not to introduce any harmful or malicious code in connection with its use of the Site, Platform, and/or Nerdly Select or interfere with the proper functioning of the Site, Platform, and/or Nerdly Select. By using the Site, Platform, and/or Nerdly Select, each Registered User agrees not to circumvent, avoid, bypass or obviate, directly or indirectly, the intent of this Agreement, the Site, Platform, and/or Nerdly Select in order to avoid paying NerdRabbit fees due for permanent employment, temporary full-time contractor or temporary hourly professional relationships established in connection with use of the Site, Platform, and/or Nerdly Select. If after a Nerdherder “connects” with a Nerd, such Nerdherder enters into a permanent employment, temporary full-time contractor or temporary hourly professional relationship with such Nerd outside the Site, Platform, and/or Nerdly Select and/or in avoidance of the fees that would have been due to NerdRabbit for such relationship, the Nerdherder or Nerdherder shall pay NerdRabbit the following fees:

Type of Hire	Fee
Nerd hired as full-time permanent employee	Two times the fee that would have been due for such Nerd under this Agreement
Nerd engaged as a full-time temporary contractor Hire	Two times the hourly rate paid to the Nerd times the number of hours worked by such Nerd for Nerdherder outside the Platform. The obligation is ongoing and payable for all hours worked by a Nerd outside the Platform in violation of this Agreement.
Nerd engaged as an hourly professional	Two times the hourly rate paid to the Nerd times the number of hours worked by such Nerd for Nerdherder outside the Platform. The obligation is ongoing and payable for all hours worked by a Nerd outside the Platform in violation of this Agreement.
Nerd converted from temp to permanent employee	Two times the conversion fee that would have been due for such Nerd under this Agreement.

C. NerdRabbit may, in its sole discretion, terminate any User’s access or deny any User access to the Site, Platform, and/or Nerdly Select for any or no reason. NerdRabbit has no obligation to make any Content available to any User whose access is terminated.

#### 9. **Disclaimers:**

A. The Site, Platform, and/or Nerdly Select are provided AS IS without any warranty of any kind. NERDRABBIT MAKES NO WARRANTIES, WHETHER EXPRESS OR IMPLIED, AS TO THE SITE, PLATFORM, AND/OR NERDLY SELECT, INCLUDING CONTENT. NERDRABBIT DOES NOT WARRANT THAT THE SITE, PLATFORM, AND/OR NERDLY SELECT WILL OPERATE UNINTERRUPTED OR ERROR FREE. NERDRABBIT DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, AS TO THE SITE, THE PLATFORM, NERDLY SELECT, AND CONTENT, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE AND NON-INFRINGEMENT.

B. IN NO EVENT WILL NERDRABBIT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, BUSINESS INTERRUPTION, LOST PROFITS, OR LOST REVENUE DAMAGES ARISING OUT OF THIS AGREEMENT OR ANY SERVICES, DELIVERABLES OR WORK PRODUCT, OR IN CONNECTION WITH THE USE OF THE SITE, THE PLATFORM, AND/OR NERDLY SELECT, OR ANY CONTENT EVEN IF A PARTY HAS BEEN ADVISED OF OR WAS AWARE OF THE POTENTIAL FOR SUCH DAMAGES IN ADVANCE. IN NO EVENT WILL NERDRABBIT BE LIABLE FOR ANY LOST DATA OR CONTENT ARISING IN CONNECTION WITH THE USE OF THE SITE, THE PLATFORM, AND/OR NERDLY SELECT SERVICES. NERDRABBIT'S MAXIMUM AGGREGATE LIABILITY TO ANY USER OF THE SITE, THE PLATFORM, NERDLY SELECT SERVICES, DELIVERABLES OR WORK PRODUCT PROVIDED BY NERDRABBIT, WHETHER IN CONTRACT, TORT OR OTHERWISE, ARISING IN CONNECTION WITH THIS AGREEMENT, THE USE OF THE SITE, THE PLATFORM, AND/OR NERDLY SELECT, OR ANY CONTENT, SHALL IN THE CASE OF A NERDHERDER NO EVENT EXCEED THE FEES THERETOFORE PAID BY SUCH NERDHERDER TO NERDRABBIT UNDER THIS AGREEMENT IN THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING THE CLAIM FOR THE SERVICE THAT IS THE SUBJECT MATTER OF THE CLAIM AND IN THE CASE OF A NERD SHALL IN NO EVENT EXCEED \$500. IN NO EVENT SHALL NERDRABBIT BE LIABLE FOR ANY CLAIM MADE BY NERDHERDER OR ANY OTHER PERSON TO THE EXTENT SUCH CLAIM ARISES OUT OF MATERIALS PROVIDED BY NERDHERDER TO NERDRABBIT TO USE IN DEVELOPING, PERFORMING OR CUSTOMIZING ANY SERVICES OR DELIVERABLES.

**10. Indemnification:**

By using the Site, Platform, and/or Nerdly Select, each User hereby agrees to indemnify, defend and hold harmless NerdRabbit, its affiliates, parent entities and each of their respective officers, managers, members, directors and employees, from and against any claims, losses, liabilities, damages and expenses, including reasonable attorneys' fees, that they may incur in connection with such User's use of the Site, Platform, and/or Nerdly Select, any relationship formed by any Nerdherder, or Nerd in connection with the Site, Platform, and/or Nerdly Select or any Content posted, uploaded or transmitted by such User on the Platform, Site and/or Nerdly Select. NerdRabbit reserves the right to assume control of the defense of any claim subject to the indemnification obligation set forth herein and no indemnifying party may settle any claim without NerdRabbit's prior written consent.

**11. Force Majeure:**

No party will be liable for any loss, damage or delay resulting from any event beyond such party's reasonable control (a "Force Majeure") and delivery nor performance dates will be extended to the extent of any delays resulting from a Force Majeure. The affected parties will promptly notify the other affected parties upon becoming aware that any Force Majeure has occurred or is likely to occur and will use its best efforts to minimize any resulting delay in or interference with the performance of its obligations under this Agreement.

**12. Ownership of Intellectual Property:**

Each User's use of the Site and the Platform shall be revocable, limited and non-exclusive. NerdRabbit may terminate a User's use of the Site, Platform, and/or Nerdly Select or discontinue providing access to the Site, Platform, and/or Nerdly Select at any time and for any reason. A User may not transfer, assign or sublicense its use of the Site, Platform, and/or Nerdly Select. The Site, Platform and Nerdly Select are provided free of charge on an AS-IS basis by NerdRabbit. NerdRabbit does not make any warranty, whether express or implied, as to the Site, Platform, and/or Nerdly Select. NERDRABBIT DISCLAIMS ALL IMPLIED WARRANTIES INCLUDING AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT WITH RESPECT TO THE Site, Platform, and/or Nerdly Select. NerdRabbit does not warrant or represent that use of the

Site, Platform, and/or Nerdly Select will be uninterrupted or error free. All right, title and interest in and to the Site and the Platform are owned exclusively by NerdRabbit and its licensors. All rights in and to the Site and the Platform are reserved by NerdRabbit and its licensors. Users may not use the Site, Platform, and/or Nerdly Select except as expressly permitted in writing by NerdRabbit. Users may not modify, copy, commercialize, distribute, reverse engineer, reverse compile, disassemble, or transfer the Site, Platform, and/or Nerdly Select. All additions, developments, modifications, enhancements, customizations or adaptations, including all derivative works, of or to the Site, Platform, and/or Nerdly Select and all feedback pertaining to the Site, Platform, and/or Nerdly Select shall belong solely to NerdRabbit and its licensors.

### **13. Privacy:**

#### **A. The Information We Collect**

This policy applies to all information collected or submitted on the Site, the Platform, and/or Nerdly Select. NerdRabbit and its parent companies are the sole owners of the information collected or submitted on our Site, Platform, and Nerdly Select. Our server automatically records the IP address, browser type, ISP referring/exit pages, click stream data, date/time stamp of each visitor to our Site where possible. We do not automatically record individual e-mail addresses or other personally identifiable information unless this information is supplied voluntarily by a visitor. Visitors volunteer their information when they complete Site, Platform, and/or Nerdly Select registration forms, complete newsletter registration forms, use or communicate on the Platform, and/or Nerdly Select, upload or post Content to the Platform or participate in Site surveys. Information volunteered by our visitors is also collected.

#### **B. Cookies**

We use cookies on our Site to make it easier for visitors to navigate our Site. The cookies enable us to track and target the interests of our visitors so that we can improve our Site and our visitors' experience on our Site.

#### **C. How We Use the Information We Collect Automatically**

Information we collect automatically from our visitors, including the use of cookies, is used to improve the content of our Site, to analyze trends, to administer our Site, to gather information about our visitor base as a whole and to track movements around our Site.

#### **D. How We Use the Information We Collect Voluntarily**

Personally identifiable information that our visitors voluntarily supply is used to respond to visitor inquiries submitted to us, to notify visitors about updates to our Sites, to connect Users on the Platform, and Nerdly Select to facilitate communications, engagements and payments on the Platform, and Nerdly Select and for all other uses consistent with the purposes for which the Platform, and Nerdly Select have been designed. In addition, visitors who provide their postal addresses may receive periodic mailings from us with information on new products and services or upcoming events. Visitors who provide their phone numbers may receive periodic telephone calls from us with information on new products and services or upcoming events. If you do not wish to receive these materials, or you do not want us to use your information for purposes other than those for which it was originally collected, please let us know by contacting us at the address or phone number above.

#### **E. Who We Share Information With**

Except as otherwise provided in the Agreement, we do not share any information collected or supplied on our Site, Platform, and/or Nerdly Select with any unaffiliated companies for commercial purposes. We may share the

information we collect with our sister or parent companies or with marketing companies we work with solely for internal purposes to guide our marketing strategies. We may also share such information with other Registered Users as intended by the Platform and with third parties to facilitate payments due in connection with the Platform, and/or Nerdly Select or on a sanitized basis to recruit new Users.

#### **F. Commitment to Children's Privacy**

Our Site is not structured to attract visitors under the age of 13 and we do not maintain any information collected from visitors we know to be under the age of 13.

#### **G. Agreement Changes**

From time to time, we may make changes to this Agreement, including to the ways we use information collected or supplied from our Site. If our Agreement changes, we will post the changes on our Site and provide a mechanism for you to opt out of any changes. If you are concerned about how your information may be used, please check back with our Site periodically to review any updates to this Agreement or the included privacy policy.

#### **H. How To Access Your Information**

If you would like to review, correct or change information we maintain about you from this Site, contact us at the address or phone number above.

#### **14. Miscellaneous:**

##### **A. Term and Termination**

This Agreement shall be binding upon Users upon the date each such User accepts them electronically or starts using the Site, Platform, and/or Nerdly Select. By using or accessing the Site, Platform, and/or Nerdly Select, each User accepts and agrees to be bound by this Agreement. If any User does not wish to agree to the terms of this Agreement, then such User shall stop using or accessing the Site, the Platform, and/or Nerdly Select. Fixed price, pay-as-you-go, weekly recurring, monthly recurring and annual subscription purchases are non-cancelable by Nerdherders and no refunds for unused hours will be issued. NerdRabbit may terminate this Agreement with respect to any User and thereby terminate a User's access to the Site, Platform, and/or Nerdly Select at any time and for any reason. Upon termination of this Agreement, all rights to use the Site, the Platform, and/or Nerdly Select shall cease. Termination of this Agreement shall not relieve any party of its obligations incurred prior to the effective date of termination. Termination of this Agreement shall not operate to terminate any SOW that is then outstanding and this Agreement shall continue to govern all such outstanding SOWs unless and until they are complete or are terminated when and as permitted therein. Upon any termination of this Agreement when and as permitted herein, NerdRabbit shall be entitled to be paid for all work performed and all accrued charges costs incurred up to the effective date of termination. Nerdherder's obligation to pay fees and expenses due hereunder shall survive any termination of this Agreement. Without limiting the generality of the foregoing, if after termination of this Agreement a Nerdherder hires as a permanent employee, engages a temporary full-time or temporary hourly professional Nerd or converts a temporary full-time or temporary hourly professional Nerd and the date of such hire, engagement or conversion is within 12 months of the later of the date the Nerdherder and Nerd connect on the Platform or have their last contact on the Platform, then Nerdherder shall owe the fees due under this Agreement, as applicable for such Nerd.

## **B. General**

This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof, and supersedes all contracts, proposals or agreements, whether oral or in writing, and all negotiations, discussions and conversations, between the parties with respect thereto. NerdRabbit reserves the right to modify this Agreement. Users shall review this Agreement regularly to be aware of updates and modifications. This Agreement may not be altered, amended or modified by a User. Except for modifications to this Agreement published by NerdRabbit on the Site, Platform, and/or Nerdly Select, no changes to this Agreement or waiver of its terms shall be binding upon NerdRabbit unless it has agreed to such change and waiver in a signed writing. This Agreement shall be governed by the laws of the State of Georgia without regard to conflicts of law rules. Any and all actions arising out of or relating to this Agreement shall be brought only in the courts located in the State of Georgia located in Gwinnett County or the United States District Court for the Northern District of Georgia. The parties irrevocably submit to the jurisdiction of each such court in any such action or proceeding. Sections that by their terms are intended to survive termination of this Agreement shall so survive. In case any one or more of the provisions contained in this Agreement should be invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be in any way affected or impaired thereby. Nerdherders and Nerdherders will owe interest on past due amounts hereunder at the maximum interest rate allowed by law.