NEUANALYTICS TERMS OF SERVICE

The following are the terms and conditions for use of the NeuAnalytics service (the "Service") between Neu Consulting Group, LLC DBA NeuAnalytics ("**NeuAnalytics**") and you (either an individual or a legal entity that you represent as an authorized employee or agent) ("**You**"). Any reference to NeuAnalytics will include any parents or wholly-owned subsidiaries.

Please read the terms and conditions carefully. BY COMPLETING THE REGISTRATION PROCESS AND/OR USING THE SERVICE, YOU ARE STATING YOU ARE ELIGIBLE FOR AN ACCOUNT AND YOU AGREE TO BE BOUND BY ALL OF THESE TERMS AND CONDITIONS OF THE SERVICE ("**Service Agreement**"). The Service is offered to you conditioned on your acceptance without modification of the terms, conditions, and notices contained herein.

If the parties have executed a Master Service Agreement ("**MSA**") or Third Party Connection Agreement ("**TPCA**") and any terms or conditions of those agreements conflict with this Service Agreement, then the MSA or TPCA will govern in regards to those conflicting terms or conditions.

1. DEFINITIONS

"**Account**" refers to the account for the Service.

"**Customer Data**" means the data concerning the characteristics and activities of customers that is collected through use of the Data Management and then forwarded to the Servers and analyzed by the Processing Software.

"**Documentation**" means any accompanying proprietary documentation made available to You by NeuAnalytics for use with the Processing Software, including any documentation available online or otherwise.

"**Processing Software**" means the proprietary NeuAnalytics Software, and all upgrades to such, which analyzes the Customer Data and generates the Reports.

"**Profile**" means the collection of settings that together determine the information to be included in, or excluded from, a particular Report. For example, a Profile could be established to view a small portion of data as a unique Report. There can be multiple Profiles established under a single Site.

"**Report**" means the resulting analysis shown at *unique_client*.neunalytics.net (or such other URL NeuAnalytics may provide from time to time) for an individual profile. The number of charts, graphs, and statistics contained in a Report varies with the edition of the Service.

"**Servers**" mean the servers controlled by NeuAnalytics upon which the Processing Software and Customer Data are stored.

"**Site**" means a group of web pages that are linked to an Account and use the same Client.

"**Software**" means the Data Management and the Processing Software.

2. **FEES AND SERVICES**. Subject to a separate written agreement or Section 15 herein, the Service is provided without charge to You.

NeuAnalytics may change its fees and payment policies for the Service from time to time including but not limited to the addition of costs for geographic data, the importing of cost data from vendors, or other fees charged to NeuAnalytics by third party vendors for the inclusion of data in the Software or reports. The changes to the fees or payment policies are effective upon Your acceptance of such changes which will be posted on the site's login page (or such other URL NeuAnalytics may provide from time to time). Unless otherwise stated, all fees are quoted in U.S. Dollars. Any outstanding balance becomes immediately due and payable upon termination of this Service Agreement for any reason and any collection expenses (including attorneys' fees) incurred by NeuAnalytics will be included in the amount owed, and may be charged to the credit card or other billing mechanism associated with your account.

3. **MEMBER ACCOUNT, PASSWORD, AND SECURITY**. To register for the Service, You must complete the registration process by providing NeuAnalytics with current, complete and accurate information as prompted by the registration form, including Your e-mail address, username and password. You shall protect your passwords and take full responsibility for Your own, and third party, use of Your accounts. You are solely responsible for any and all activities that occur under Your Account. You agree to notify NeuAnalytics immediately upon learning of any unauthorized use of Your Account or any other breach of security. From time to time, NeuAnalytics' support staff may log in to the Service under Your customer password in order to maintain or improve service, including to provide You assistance with technical or billing issues. You hereby acknowledge and consent to such access.

4. **NONEXCLUSIVE LICENSE**.

4.1 <u>License</u>. NeuAnalytics hereby grants You a limited, revocable, non-exclusive, non-sublicensable license to install, copy and use the Account solely as necessary to use the Service for one or more clients (collectively, the "**Client Site**"). Subject to the terms and conditions of this Service Agreement, You may remotely access, view and download Your Reports stored at *unique_client*.neunalytics.net (or such other URL NeuAnalytics may provide from time to time). Your license, use and access to the Software and the Service (which may include, without limitation, the Software, Documentation and the Reports) is conditioned upon Your compliance with the terms and conditions of the Service Agreement, including the following:

  (a) You will not nor will You allow any third party to: (i) copy, modify, adapt, translate or otherwise create derivative works of the Software or the Documentation; (ii) reverse engineer, de-compile, disassemble or otherwise attempt to discover the source code of the Software, except as expressly permitted by the law in effect in the jurisdiction of Kansas; (iii) rent, lease, sell, assign or otherwise transfer rights in or to the Reports, the Processing Software, the Documentation or the Service; (iv) remove any proprietary notices or labels on the Software or placed by the Service; or (v) use, post, transmit or introduce any device, software or routine which interferes or attempts to interfere with the operation of the Service or the Software.

  (b) You will use the Software, Service and Reports solely for Your own internal use, and will not make the Software or Service available for timesharing, application service provider or service bureau use.

(c) You will comply with all applicable laws and regulations in Your use of and access to the Documentation, Software, Service and Reports.

4.2 <u>Termination</u>. This license will terminate immediately if You fail to comply with the terms of this Service Agreement or any other agreement between You and NeuAnalytics. Upon such termination, You must destroy all originals and copies of the Reports in Your possession and so certify in writing to NeuAnalytics within three (3) business days of termination and cease any further use of the Service without the express written consent of NeuAnalytics.

5. **CONFIDENTIALITY**.

5.1 <u>Definition</u>. For the purposes of this Service Agreement, "**Confidential Information**" means, without limitation, any and all information, documentation, or knowledge concerning any of the following, as it pertains to NeuAnalytics: accounts and billings, business (past, present or future) information or activities, computer software or hardware, computer/software code(s) and coding, business or technical concepts, contemplated new products or services, contracts, customer lists and information, data analyses and compilations, designs, diagrams, discoveries, drawings, financial information, flow charts, forecasts, information systems data and materials, inventions, innovations, know how, marketing plans and information, physical or digital materials, methods, models, operations information and data, plans, business policies and procedures, price lists and policies, procedures, processes, product and service information, business programs, business records, research, sales data and documents, specifications, suppliers, systems, technical data, techniques, and trade secrets. All information furnished hereunder or made available in any manner pursuant to this confidentiality agreement is deemed confidential information whether or not identified as such.

5.2 <u>Exclusions</u>. Confidential Information does not include that which (i) is or becomes part of the public domain other than as a result of disclosure by one of the parties; (ii) becomes available to You on a non-confidential basis from a source other than NeuAnalytics, provided that source is not bound with respect to that information by a confidentiality agreement with NeuAnalytics or is otherwise prohibited from transmitting that information by a contractual, legal or other obligation; or (iii) was already lawfully known by and was reduced to writing by You prior to the date of this Service Agreement, access to any Confidential Information or services, or any confidential discussions between the parties. In any dispute with respect to these exclusions, the burden of proof will be on the party claiming the exclusion applies and such proof will be by clear and convincing evidence.

5.3 <u>Disclosure</u>. You will not use or disclose NeuAnalytics' Confidential Information without prior written consent except for the purpose of performing its obligations under this Service Agreement or if required by law, regulation, or court order. If You are compelled to disclose Confidential Information You shall give NeuAnalytics as much notice as is reasonably practicable prior to disclosing such information.

5.4 <u>Return</u>. Upon termination of this Service Agreement, You will promptly either return or destroy all Confidential Information and, upon request, provide written certification of such.

5.5. <u>Use</u>. You are responsible for safeguarding the confidentiality of Your password(s) and user name(s) issued to You by NeuAnalytics, and for any use or misuse of Your account resulting from any third party using a password or user name issued to You. You agree to immediately notify NeuAnalytics of any unauthorized use of Your account or any other breach of security known to You.

6. **INFORMATION RIGHTS AND PUBLICITY**. NeuAnalytics may retain and use, subject to the terms of its Privacy Policy (located at www.neucg.com/pages/privacy_policy.html, or such other URL as NeuAnalytics may provide from time to time), information collected in Your use of the Service. NeuAnalytics will not share information associated with You or your Site with any third parties unless NeuAnalytics (i) has Your consent; (ii) concludes that it is required by law or has a good faith belief that access, preservation or disclosure of such information is reasonably necessary to protect the rights, property or safety of NeuAnalytics, its users or the public; or (iii) provides such information in certain limited circumstances to third parties to carry out tasks on NeuAnalytics behalf (e.g., billing or data storage) with strict restrictions that prevent the data from being used or shared except as directed by NeuAnalytics . When this is done, it is subject to agreements that oblige those parties to process such information only on NeuAnalytics' instructions and in compliance with this Service Agreement and appropriate confidentiality and security measures.

7. **PRIVACY**. You will not (nor allow any third party to) use the Service to track or collect personally identifiable information of Internet users. You will also not (nor allow any third party to) associate any data gathered from the Reports with any personally identifying information from any source as part of Your use (or such third parties' use) of the Service. You will have and abide by an appropriate privacy policy and will comply with all applicable laws relating to the collection of information sent.

8. **INDEMNIFICATION**.

8.1 You agree to indemnify, hold harmless and defend NeuAnalytics at Your expense, for any and all third-party claims, actions, proceedings, and suits brought against NeuAnalyics or any of its officers, directors, employees, agents or affiliates, and all related liabilities, damages, settlements, penalties, fines, costs or expenses (including, without limitation, reasonable attorneys' fees and other litigation expenses) incurred by NeuAnalytics or any of its officers, directors, employees, agents or affiliates, arising out of or relating to:

   (a) Your breach of any term or condition of this Service Agreement,

   (b) Your use of the Service,

   (c) Your violations of applicable laws, rules or regulations in connection with the Service,

   (d) Your brand features,

   (e) Any representations or warranties made by You concerning the Service, the Software, or the Reports to any third party;

   (f) Any claims made by or on behalf of a third party pertaining to Your use of the Service, the Software, or the Reports;

   (g) Violations of Your obligations of privacy to any third party; and

   (h) Any claims about acts or omissions of third parties in connection with the Services, the Software, or the Reports.

8.2 NeuAnalytics will provide You with written notice of any such claim, suit or action. You shall cooperate as fully as reasonably required in the defense of any claim. NeuAnalytics reserves the right, at its own expense, to assume the exclusive defense and control of any matter subject to indemnification by You.

9. **INTELLECTUAL PROPERTY**.

9.1 <u>Definition of Intellectual Property.</u> For purposes of this Service Agreement "**Intellectual Property**" will mean, without limitation: Business information, business methods, codes and coding methods, compilations, copyrightable works, designs, developments, discoveries, drawings, engineering, formulas, hardware configuration information, improvements, innovations, inventions, machines, original works of authorship, processes, products, service marks, software, technical data, technology, trade dress, trade secrets, trademarks, and writings.

9.2 <u>Ownership</u>. All Intellectual Property rights in any Software, Site, Documentation, and any other related services or products of this Service Agreement, belong to NeuAnalytics. The rights in the Intellectual Property include, but are not limited to: all rights under U.S. and foreign trademark, trade secret, patent and copyright laws; all reproduction, performance, display and distribution rights; the right to modify, distort or alter; the right to produce derivative works; and all so-called moral rights. Intellectual Property is deemed Confidential Information and Section 5 (Confidentiality) of this Service Agreement will govern any disclosures or exclusions.

10. **DISCLAIMER OF WARRANTIES**.

10.1 The information and services included in or available through the Service, including the Reports, may include inaccuracies or typographical errors. Changes are periodically added to the information herein. NeuAnalytics and/or its respective suppliers may make improvements and/or changes in the Service or Software at any time, with or without notice.

10.2 **NeuAnalytics does not represent or warrant that the Service will be uninterrupted or error-free, that defects will be corrected, or that the Service, the Software or any other software on the Server are free of viruses or other harmful components. NeuAnalytics does not warrant or represent the use of the Service or the Reports will be correct, accurate, timely or otherwise reliable. Complete accuracy in all aspects of Your Reports at all times also is not guaranteed.**

10.3 **You specifically agree that NeuAnalytics will not be responsible for unauthorized access to or alteration of the Customer Data or data submitted by You.**

10.4 **The Service, the Software and the Reports are provided "as is" and there are no warranties, claims or representations made by NeuAnalytics either express, implied, or statutory, with respect to the Service, the Software, the Documentation and Reports, including warranties of quality, performance, non-infringement, merchantability, or fitness for a particular purpose, nor are there any warranties created by course of dealing, course of performance, or trade usage. NeuAnalytics does not warrant the Service, the Software or the Reports will meet your needs or be free from errors, or the operation of the service will be uninterrupted.**

10.5 The foregoing exclusions and disclaimers are an essential part of this agreement and formed the basis for determining the price charged for the Service. Some states do not allow exclusion of an implied warranty, so this disclaimer may not apply to You.

11. **LIMITATION OF LIABILITY.**

11.1 NeuAnalytics will not be liable to any user or third-party claimant for any indirect, special, punitive, consequential (including, without limitation, lost profits or lost data collected through the service), or incidental damages, whether based on a claim or action of contract, warranty, negligence, strict liability, or other tort, breach of any statutory duty, indemnity or contribution, or otherwise, even if NeuAnalytics has been advised of the possibility of such damages. The exclusion contained in this paragraph will apply regardless of the failure of the exclusive remedy provided in the following paragraph.

11.2 <u>Limitation of Damages</u>. NeuAnalytics' total cumulative liability to You or any other party for any loss or damages resulting from any claims, demands, or actions arising out of or relating to this Service Agreement will not exceed U.S. $500.

11.3 Some states do not allow the limitation or exclusion of liability for incidental or consequential damages, so the limitations or exclusions in this section may not apply to You.

12. **SERVICE LEVELS**. NeuAnalytics does not guarantee the Service will be operable at all times or during any down time (i) caused by outages to any public Internet backbones, networks or servers, (ii) caused by any failures of Your equipment, systems or local access services, (iii) for previously scheduled maintenance or (iv) relating to events beyond NeuAnalytics' control such as strikes, riots, insurrection, fires, floods, explosions, war, governmental action, labor conditions, earthquakes, natural disasters, or interruptions in Internet services to an area where NeuAnalytics or Your servers are located or co-located. 13. **PROPRIETARY RIGHTS NOTICE**. The Service, which includes but is not limited to the Reports and the NeuAnalytics Software and all intellectual property rights in the Service are, and shall remain, the property of NeuAnalytics. All rights in and to the Processing Software not expressly granted to You in this Service Agreement are hereby expressly reserved and retained by NeuAnalytics and its licensors without restriction, including, without limitation, NeuAnalytics' right to sole ownership of the NeuAnalytics Software and Documentation. Without limiting the generality of the foregoing, You agree not to (and to not allow any third party to): (a) sublicense, distribute, or use the Service outside of the scope of the License granted herein; (b) copy, modify, adapt, translate, prepare derivative works from, reverse engineer, disassemble, or decompile the Processing Software or otherwise attempt to discover any source code or trade secrets related to the Service; (c) use, register, attempt or assist anyone else to register the trademarks, trade names, service marks, logos, domain names and other distinctive brand features or any copyright or other proprietary rights associated with the Service for any purpose without the express written consent of NeuAnalytics; or (d) remove, obscure, or alter any notice of copyright, trademark, or other proprietary right appearing in or on any item included with the Service.

14. **U.S. GOVERNMENT RIGHTS**. If the use of the Service is being acquired by or on behalf of the U.S. Government or by a U.S. Government prime contractor or subcontractor (at any tier), in accordance with 48 C.F.R. 227.7202-4 (for Department of Defense (DOD) acquisitions) and 48 C.F.R. 2.101 and 12.212 (for non-DOD acquisitions), the Government's rights in the Software, including its rights to use, modify, reproduce, release, perform, display or disclose the Software or Documentation,

will be subject in all respects to the commercial license rights and restrictions provided in this Service Agreement.

15. **TERM and TERMINATION**.

15.1 <u>Term</u>. Either party to the Service Agreement may terminate it at any time and for any reason, unless otherwise agreed to in an MSA or TPCA. This Service Agreement will last for as long as the Service is provided or until termination.

15.2 <u>After Termination</u>. Upon any termination or expiration of this Service Agreement, NeuAnalytics will cease providing the Service, and You will delete all copies of NeuAnalytics' Reports and Documentation from all devices and certify thereto in writing to NeuAnalytics within three (3) business days of such termination. In the event of any termination (a) You will not be entitled to any refunds of any usage fees or any other fees, and (b) any (i) outstanding balance for Service rendered through the date of termination, and (ii) other unpaid payment obligations during the remainder of the Initial Term will be immediately due and payable in full and (c) all of Your historical report data will no longer be available to You unless a purchase or professional services agreement for the exchange and transfer of such data is entered into as a component of termination.

16**. MODIFICATIONS TO TERMS OF SERVICE AND OTHER POLICIES**. NeuAnalytics reserves the right to change or modify any of the terms and conditions contained in this Service Agreement or any policy governing the Service, at any time, by posting the new agreement to the site login page at *unique_client*.neunalytics.net (or such other URL NeuAnalytics may provide from time to time). You are responsible for regularly reviewing the policy. No amendment to or modification of this Service Agreement will be binding unless (i) in writing and signed by a duly authorized representative of NeuAnalytics, (ii) You accept updated terms online, or (iii) You continue to use the Service after NeuAnalytics has posted updates to the Service Agreement or to any policy governing the Service.

17. **MISCELLANEOUS**

17.1 <u>Force Majeure</u>. NeuAnalytics shall be excused from performance hereunder to the extent that performance is prevented, delayed or obstructed by causes beyond its reasonable control.

17.2 <u>Entire Agreement</u>. This Service Agreement (including any amendment agreed upon by the parties in writing) represents the complete agreement between the parties concerning its subject matter. No amendment, change, or modification of this Service Agreement will be valid unless in writing.

17.3 <u>Severability</u>. If any provision of this Service Agreement is held to be unenforceable for any reason, such provision shall be reformed to the extent necessary to make it enforceable to the maximum extent permissible so as to affect the intent of the parties, and the remainder of this Service Agreement shall continue in full force and effect.

17.4 <u>Choice of Law and Venue</u>. This Service Agreement will be governed by and construed under the laws of the state of Kansas without reference to its conflict of law principles. In the event of any conflicts between foreign law, rules, and regulations, and Kansas law, rules, and regulations, Kansas law, rules and regulations shall prevail and govern. Each party agrees to submit to the exclusive and personal jurisdiction of the courts located in Johnson County, Kansas. The United Nations Convention

on Contracts for the International Sale of Goods (CISG) and the Uniform Computer Information Transactions Act (UCITA) shall not apply to this Service Agreement. The Software is controlled by U.S. Export Regulations, and it may be not be exported to or used by embargoed countries or individuals.

17.5 <u>Headings</u>. Section headings are not to be considered part of this Service Agreement nor are they intended to be a full or accurate description of the contents.

17.6 <u>Notices</u>. Any notices to NeuAnalytics must be sent to: NeuAnalytics, 6900 W. 80th Street, Suite 202, Overland Park, KS 66204, USA, Attn. Legal Department, via first class or air mail or overnight courier, and are deemed given upon receipt.

17.7 <u>Waiver</u>. A waiver of any right(s) is not a continuing waiver of that or any other right(s).

17.8 <u>Assignment and Relationship</u>. You may not assign or otherwise transfer any of Your rights hereunder without NeuAnalytics' prior written consent, and any such attempt is void. The relationship between NeuAnalytics and You is not one of a legal partnership relationship, but is one of independent contractors. This Service Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto.

17.9 <u>Survival</u>. The following sections of this Service Agreement will survive any termination: 1 (Definitions), 4 (Nonexclusive License), 5 (Confidentiality), 6 Information Rights and Publicity), 7 (Privacy), 8 (Indemnification), 9 (Third Parties), 10 (Disclaimer of Warranties), 11 (Limitation of Liability), 13 (Proprietary Rights Notice), 15 (Term and Termination), and 17 (Miscellaneous).