

**Effective Date: 10/25/2022**

# **User Agreement**

## **1 Introduction and Scope**

eNotaryLog (“Provider” or “we,” “us,” or “our”) has created a website (“Website”) and platform (together, the “Platform”) through which persons can have documents (1) electronically signed and/or notarized using Remote Online Notarization, or (2) electronically signed using the eSignature Solution. The purpose of this User Agreement (“Agreement”) is to set forth the terms and conditions under which Customers and Authorized Platform Users (together also, “you”) visit, access, and use the Platform and/or the Services we provide. An Authorized Platform User may also be a Visitor, and the General Terms & Conditions (“General Terms”), which governs Visitors, are incorporated by reference into this Agreement. To the extent of any inconsistency between the General Terms and the Agreement, the Agreement will prevail when you are an Authorized Platform User.

Please note that this Agreement contains a Dispute Resolution Section below (Section 6.7), which includes a class action and jury trial waiver that affects your rights under this Agreement and with respect to any dispute you have with us.

The Platform and the Services are only provided because you expressly acknowledge and agree to the following.

## **2 Agreeing to the Agreement and our ability to amend the Agreement**

### **2.1 Acceptance of the Agreement as an Authorized Platform User:**

Please read the Agreement carefully. As an Authorized Platform User, you agree to be bound and abide by this Agreement when you click to agree to this Agreement during the user registration process. If you do not want to agree to this Agreement, do not accept the Agreement, exit the Platform registration and make no use of the Platform or the Services.

To use the Platform, including to act as a Signatory or Witness/Participant, you must register as an Authorized Platform User. By registering as an Authorized Platform User, you certify to us that (i) all information you provide is accurate, including your name, email address, and any other information we may ask you to provide, to the best of your knowledge; and (ii) that you registered to use the Platform for legitimate purposes and not to commit fraud. You agree to update your registration information when necessary. If you provide inaccurate or untrue information when you registered, Provider may suspend or terminate your registration and refuse to allow you to access the Platform or use the Services. Further, we reserve the right to suspend, discontinue, or terminate your registration at any time and without notice, including for breach of this Agreement or misconduct.

## **2.2 Becoming a Customer:**

To become a Customer, you must purchase Platform Services by clicking to agree to this Agreement, creating an Account on the Platform, and selecting the Services package you wish to purchase. Services packages range from recurring subscriptions to a single Session. Customers shall pay the fees designated in the Services package selected by the Customer during the Account generation process or during any subsequent purchase of Services packages. If you do not wish to become a Customer, do not create an Account on the Platform. See section 5 below for additional information on Accounts.

## **2.3 Eligible Authorized Platform Users and Customers:**

The Platform and the Services offered are only offered and available to Authorized Platform Users and Customers who are 18 years old or older. By accepting this Agreement, you represent and warrant that you are at least 18 years old and are of legal age to form a binding contract with us. If you do not meet these requirements, you must not accept this Agreement or access or use the Platform.

Under no circumstances may anyone under 13 years old use the Platform and/or the Services for any purpose.

## **2.4 Changes to the Agreement:**

We may update the Agreement from time to time. The revised Agreement will be effective on the date we post it to the Platform Website, which will be reflected in the “Effective Date” section at the top of this Agreement. From that date, the revised Agreement will be posted for acceptance during the user registration process for Authorized Platform Users and the Account creation process for Customers. The revised Agreement will apply to all uses of the Platform and/or Services on or after that date.

If you are a recurring user of the Platform and/or Services, because of this Section 2.4, you agree that you will be deemed to have, at minimum, “inquiry” notice of any change in the terms of the Agreement. By accessing the Platform and/or using the Services on or after that date, you agree to be bound by the revised Agreement. You should check the Agreement each time you access the Platform and/or use the Services so that you are aware of any changes because they are binding on you. If you do not want to be bound by the revised Agreement, you must stop using the Platform and/or the Services.

# **3 General Customer and Authorized Platform User Terms**

## **3.1 Consent and license to use User Data**

Authorized Platform User and Customer each authorizes Provider to use and disclose User Data of such Authorized Platform User or Customer, as applicable, and such authorization includes a nonexclusive license for Provider to use and disclose User

Data, (i) to copy, reproduce, store, distribute, publish, retain, export, adapt, edit, and translate User Data to operate the Platform and provide the Services; (ii) to provide User Data to Service Providers as part of the Services generally, to perform a Session or for a Transaction, including to verify your identity using a third-party identity service provider and/or your credential (e.g., driver's license) using a third-party credential analysis provider; (iii) to provide access to or share such information with other parties to the Transaction or participants to the Session; (iv) to allow the Notary to meet any journal, Session recording or recordkeeping requirements dictated by Notarial Law; (v) to comply with a law enforcement or a regulatory agency request, provided such request is lawful and authorized pursuant to a judicial or administrative order, subpoena, or otherwise permitted by law; (vi) to the extent reasonably required for the performance of Provider's obligations and the exercise of Provider's rights under this Agreement; (vii) to the Secretary of State, Department of State, or other state agency that regulates Notaries as requested by such agency; and (viii) with respect to Authorized Platform Users, to disclose such information to the Customer having invited you to join the Session for purposes of performing, effectuating, servicing or otherwise managing the Transaction.

Authorized Platform User and Customer each warrants that User Data does not infringe any Intellectual Property Rights, shall not give rise to any liability for Provider, and does not violate any law, statute, or regulation, and Authorized Platform User or Customer, as applicable, indemnifies and holds Provider harmless from any damages and liability arising from any such infringement of Intellectual Property Rights.

### **3.2 Provider Intellectual Property Rights**

The Platform and its entire contents, features, and functionality constitute Provider Intellectual Property Rights and are owned by the Provider, its licensors, or other providers of such material. Provider Intellectual Property Rights are protected by United States copyright, trademark, patent, trade secret, and other intellectual property or proprietary laws.

Nothing in this Agreement provides any assignment or license to Provider's Intellectual Property Rights, except for a limited, nonexclusive, non-sublicensable, non-transferable, terminable right to use the Platform and Services in accordance with the Agreement.

### **3.3 No assignment of Intellectual Property Rights**

Nothing in this Agreement shall operate to assign or transfer any Intellectual Property Rights from Provider to Customer or any Authorized Platform User, or from Customer or any Authorized Platform User to Provider.

### **3.4 Your consent for us to record the Remote Online Notarization Session**

You acknowledge that the Services may include audio-video communication and, by accepting this Agreement, you provide your express consent to allow the Platform to

record every Remote Online Notarization Session in which you participate and to allow the Provider, on behalf of the Notary, to maintain the recording for the period required by Notarial Law. Your consent extends to anyone else who is not a Customer or an Authorized Platform User but may appear with you on your audio-video feed during the Session. You are responsible for ensuring that no person participates in, or can be seen in, your Session audio-video feed who you do not authorize or for whom you cannot provide consent. We will store the recorded Session electronically and we will do so for the time period required by the applicable Notarial Law. You further consent, on your behalf and on behalf of anyone displayed in your audio-video feed at any time during the Session, to the use and disclosure of the Session recording for the same purposes for which you consented to the use and disclosure of User Data in section 3.1 above, as well as disclosure and use of the recording by (i) the “qualified custodian” of any Documentation consisting of an electronic will notarized on the Platform; (ii) any person accepting a power of attorney notarized as Documentation on the Platform; and (iii) the mortgage servicer, mortgage aggregator, title agent, settlement agent, and title insurer related to any real estate Transaction notarized on the Platform. The recorded Session may be viewed by other authorized parties, including any state regulator of Notaries. We may, at our sole discretion, view a recorded Session for training or quality assurance purposes. The data from your Session may include, depending on the applicable Notarial Law: (i) the audio-video component of your Session; (ii) certain User Data, (iii) the results of credential analysis and any other processes authorized by Notarial Law to validate your identity, (v) any Documentation used; (vi) all information required for the Notary’s journal; and (vii) any other information that may be required to be recorded by the applicable Notarial Law.

### **3.5 Consent for others to participate in the Remote Online Notarization Session**

You agree that, in addition to the Notary, other parties, such as Signatories and Witnesses/Participants (*e.g.*, title agents) who are requested or allowed by relevant agreements (*e.g.* mortgage closing documents) or law, may participate in the Session. You may cancel or close the Session if you do not want to continue or if you believe that any other party is not allowed to participate.

By participating as an Authorized Platform User in a notarial Session on the Platform, you acknowledge and agree that you desire the notarial act to be performed by the Notary conducting the Session and under the law of the Notary’s state of commission.

### **3.6 Sessions**

If you are invited to participate in a Session by a Customer, you will receive an email from Provider to the email address provided to the Platform by such Customer. Provider does not certify the accuracy of any email address. Further, you acknowledge that you may not receive an email because (i) you provided us or the Customer the wrong email address; (ii) the Customer provided us the wrong email address for you; (iii) technical problems occurred during the sending or receipt of the email, such as

spam filtering, network problems, internet problems, etc.; or (iv) any other reason. You agree that Provider is not responsible in any way, if you are acting as the sender or the recipient, for any losses associated with the failure of a recipient to receive an email related to a Transaction.

If the Authorized Platform User applying an electronic signature to the Documentation in a Remote Online Notarial Session is physically located outside the United States at the time of signing Documentation, the Authorized Platform User warrants to Provider that:

- (i) it is not illegal or prohibited in the jurisdiction where the Authorized Platform User is physically located for Authorized Platform User and the Notary to make the requested notarial act or sign the Documentation; and
- (ii) the Documentation or Transaction is to be filed with, or pertains to a matter before, a court, governmental entity, public official, or other entity located in the territorial jurisdiction of the United States; or involves property located in the territorial jurisdiction of the United States or the Transaction is substantially connected with the United States.

At the end of the Session, Provider will make the notarized and/or electronically signed Documentation available to the Signatories of such Documentation for download on the Platform. Additionally, Provider will also send an email with a link to access the notarized and/or electronically signed Documentation online. Provider will only maintain such Documentation for thirty (30) days after the date of the Session. The Provider is not responsible for determining any legally required retention period for any Documentation. The Signatory is solely responsible for ensuring that the Signatory has obtained a copy of the notarized and/or electronically signed Documentation.

### **3.7 Identity verification and credential analysis**

If you are an Authorized Platform User participating in a Session, you may be asked to have your identity and identification credential verified before being able to proceed with the Transaction. Identity verification may include knowledge-based authentication (“KBA”). We use Service Providers to provide such Services and we are not responsible for the information or processes they use to verify your identity or identification credential. The Service Providers may use or rely on information that is inaccurate, out-of-date, or has some other source of error and that such errors may lead to incorrect results. By proceeding with identity verification or credential analysis, you acknowledge and agree that Provider is not accountable, liable, or responsible in any way if the results are inaccurate, including (i) if you are prevented from proceeding with the Transaction because the Service Provider could not verify your identity or identification credential or (ii) if the Service Provider incorrectly verifies another Authorized Platform User’s identity or identification credential and allows them to proceed with the Transaction.

### **3.8 Privacy policy**

All information we collect on the Platform is subject to our [Privacy Policy](#). By visiting the Platform, you consent to all actions taken by us with respect to your information in compliance with the [Privacy Policy](#).

### **3.9 Communications**

You consent to allow us or our Service Providers to contact you about any Session in which you participated, a Transaction, or any other information relating to your use of the Services, and, with respect to Customers, your Account and any past-due amounts owed to us, at any telephone number you provide (including any cellphone number, or any number that is converted into a cellphone number) using an autodialer and/or an artificial voice call. While you may revoke your consent for us or our Service Providers to call you using an autodialer and/or an artificial voice call, you may not revoke your consent for us or our Service Providers to call you via any telephone that does not constitute an “automatic telephone dialing system” under the Telephone Consumer Protection Act. We or our Service Providers may also contact you via any email address that you provide.

### **3.10 Disclaimer**

You understand that we cannot and do not guarantee or warrant that the Platform, Documentation, or other materials available through our Platform will be free of viruses or other destructive code. You are responsible for implementing sufficient anti-virus protection and, unless you are a Customer that has purchased Platform storage Services, for maintaining a means external to our Platform for any reconstruction of any lost data. To the fullest extent provided by law, we will not be liable for any loss or damage caused by a distributed denial-of-service attack, viruses, or other technologically harmful material that may infect your computer equipment, computer programs, data, or other proprietary materials due to your use of the Platform and/or Services. Your use of the Platform and/or the Services is at your own risk.

The Platform and the Services are provided on an “as is” and “as available” basis, without any warranties of any kind, either express or implied. Neither the Provider nor any person associated with the Provider makes any warranty or representation with respect to the completeness, security, reliability, quality, accuracy, or availability of the Platform. Without limiting the foregoing, neither the Provider nor anyone associated with the Provider represents or warrants that (a) the Platform or Services will be accurate, reliable, error-free, or uninterrupted; (b) defects will be corrected; (c) the Platform or Services will meet your needs, requirements, or expectations; (d) Services will be compatible with any other software or systems other than those that Services are designed to be compatible with, which may not include the software or systems you use; (e) Services or use of Services by Customer or any Authorized Platform User will not give rise to any legal liability on the part of Customer, Authorized Platform User or any other person; (f) Documentation provided by

Customers will (i) comply with any legal requirements applicable to such Documentation, including any requirements applicable to such Documentation when in electronic form; (ii) be eligible to be executed electronically under the applicable Electronic Signature Law and/or the Notarial Law, (iii) be accurate, (iv) if signatures are required, that the location for the electronic signature would be the same location if the Transaction were conducted on paper, and (v) that the Documentation requiring notarization will include a pre-marked location for a Notary to place his or her stamp; (g) a Notary will agree to perform Remote Online Notarization for any specific Transaction; (h) any third party will accept Documentation notarized or electronically signed through the Platform; or (i) a court, regulator, or other competent authority will recognize Documentation notarized or electronically signed through the Platform as valid or enforceable.

To the fullest extent provided by law, the Provider hereby disclaims all warranties of any kind, whether express or implied, statutory, or otherwise, including, but not limited to, any warranties of merchantability, non-infringement, fitness for a particular purpose, and compliance with Electronic Signature Law, Notarial Law, or any other applicable law. The foregoing does not affect any warranties that cannot be excluded or limited under applicable law.

### **3.11 Limitations on liability**

To the fullest extent provided by law, in no event will the collective liability of Provider, its affiliates, licensors, Service Providers, employees, agents, officers, and directors to any party (regardless of the form of action, whether in contract, tort (including negligence), breach of a statutory duty, or otherwise) exceed the amount you have paid to the Provider for the Services out of which the liability arose, or \$100, whichever is greater. The limitation of liability set out above does not apply to liability resulting from our gross negligence or willful misconduct. The foregoing does not affect any liability that cannot be excluded or limited under applicable law.

Damages shall not include any indirect, special, incidental, consequential, or punitive damages of any kind, including, without limitation, any claim for lost profits, lost revenue, lost business, lost data, misuse of data, or loss or interruption of use of the Platform and/or Services, even if foreseeable.

Each Customer and Authorized Platform User agrees and acknowledges Provider has no obligations or liability for any of the following:

- (a) Force Majeure Event;
- (b) fault or failure of Internet or telecommunications networks;
- (c) fault or failure of the computer systems or networks of Customer or any Authorized Platform User;
- (d) breach by any Customer or Authorized Platform User of this Agreement; and

(e) Platform maintenance, which may be performed at any time and at Provider's sole discretion.

### **3.12 IMPORTANT NOTE TO NEW JERSEY CONSUMERS**

If you are a consumer residing in New Jersey, the following provisions of this Agreement do not apply to you (and do not limit any rights that you may have) to the extent that they are unenforceable under New Jersey Law: (i) the disclaimer of liability for any indirect, special, incidental, consequential, or punitive damages of any kind (for example, to the extent unenforceable under the New Jersey Punitive Damages Act, the New Jersey Products Liability Act, the New Jersey Uniform Commercial Code, and the New Jersey Consumer Fraud Act); (ii) the limitation on liability for lost profits or loss or misuse of any data (for example, to the extent unenforceable under the New Jersey Identity Theft Protection Act and the New Jersey Consumer Fraud Act); (iii) application of the limitations of liability to the recovery of damages that arise under contract and tort, including, without limitation, negligence, strict liability, or any other theory (for example, to the extent such damages are recoverable by a consumer under New Jersey law, including, without limitation, the New Jersey Products Liability Act; and (iv) the Governing Law provision (for example, to the extent that your rights as a consumer residing in New Jersey are required to be governed by New Jersey law).

### **3.13 Indemnification**

You agree to defend, indemnify, and hold harmless the Provider, its affiliates, licensors, and Service Providers, and their respective officers, directors, employees, contractors, agents, licensors, suppliers, successors, and assigns from and against any claims, liabilities, damages, judgments, awards, losses, costs, expenses, or fees (including reasonable attorneys' fees) arising out of or relating to your violation of this Agreement or your use of the Platform and/or Services, including, but not limited to, any use of the Platform's content or Services other than as expressly authorized in this Agreement, or your use of any information obtained from the Platform.

### **3.14 Applicable Notarial Law**

Notaries perform Remote Online Notarizations requested by Customers through the Platform pursuant to the applicable Notarial Law of their commission state. Notaries perform Remote Online Notarizations solely under the authority of such Notarial Laws regardless to the geographical location of the Customer or any Authorized Platform User.

### **3.15 Legal advice not provided**

While accessing the Platform or receiving the Services, you may receive information from us concerning our Services, such as information on electronic signatures, Remote Online Notarizations, and other subject matter areas. We provide you this information for general informational purposes only. This information does not constitute legal advice. If you believe that you need legal advice before using the



Platform or Services, or before executing a Transaction on the Platform, you are solely responsible for obtaining such advice from an attorney licensed to practice law in your jurisdiction. eNotaryLog notaries are not authorized to give legal advice or accept fees for legal advice pertaining to any documents, including eWills.

### **3.16 Facilitation**

The Provider provides the Platform to facilitate the notarization and/or electronic execution of Documentation. Nothing in this Agreement shall make Provider a party to any Documentation notarized and/or electronically signed through the Platform.

### **3.17 Confidentiality**

Each Customer and Authorized Platform User hereby authorizes the disclosure of User Confidential Information to Provider's officers, employees, professional advisers, insurers, agents and subcontractors who have a need to access User Confidential Information for performance of their work with respect to the Platform and/or the Services.

Provider has no obligations with respect to User Confidential Information that:

- (a) is known to the Provider before disclosure under this this Agreement and is not subject to any other obligation of confidentiality;
- (b) is or becomes publicly known through no act or default of the Provider; or
- (c) is obtained by the Provider from a third party in circumstances where the Provider has no reason to believe that there has been a breach of an obligation of confidentiality.

Provider may disclose User Confidential Information that is required to be disclosed by any law or regulation, by any judicial or governmental order or request, or pursuant to disclosure requirements relating to the listing of the stock of the Provider on any recognized stock exchange. Provider's obligations of confidentiality to Customer or Authorized Platform User, as applicable, shall terminate two (2) years from the date of disclosure unless a longer term is required by law, statute or regulation.

## **4 Acceptable Use Policy**

### **4.1 Prohibited uses of the Platform**

You agree to comply with the "Prohibited Uses of the Platform" section in the General Terms, which is incorporated into this Agreement.

### **4.2 General usage rules**

You may only use the Platform and Services for lawful purposes and in accordance with this Agreement and the General Terms. You must not use the Platform and/or Services:

- In any way that causes, or may cause, damage to the Platform and/or Services or impairment of the availability or accessibility of the Platform and/or Services.
- In any way that is unlawful, illegal, fraudulent, deceptive or harmful.
- In connection with any unlawful, illegal, fraudulent, deceptive or harmful purpose or activity.
- To conduct any systematic or automated data scraping, data mining, data extraction or data harvesting, or other systematic or automated data collection activity, by means of or in relation to the Platform and/or Services.
- To link to any material using or by means of the Platform and/or Services that would, if it were made available through the Platform and/or Services, breach the provisions of this Agreement.
- To attempt to gain or gain unauthorized access to the Platform and/or Services.
- To impersonate or attempt to impersonate the Provider, a Provider employee, another user, or any other person or entity (including, without limitation, by using email addresses associated with any of the foregoing).
- To research our Platform and/or Services for purposes of creating a similar or competitive platform or service.
- To access, decompile, or reverse engineer the software code (including object code, intermediate code, and source code) of the Platform.

### 4.3 Content rules

You agree that all materials, information, Documentation, User Data or other content (“**Content**”) that you upload, display, or otherwise share with the Platform is your sole responsibility. We do not verify or guarantee the accuracy or integrity of any Content you upload to the Platform. All Content must comply with this Agreement, including:

- Content must not be illegal or unlawful, must not infringe any person's legal rights, and must not be capable of giving rise to legal action against any person (in each case in any jurisdiction and under any applicable law);
- Content, and the use of Content by us in any manner licensed or otherwise authorized by you, must not:
  - (a) be libelous or maliciously false;
  - (b) contain any material that is defamatory, obscene, indecent, abusive, offensive, harassing, violent, hateful, inflammatory, or otherwise objectionable;
  - (c) infringe any copyright, database right, trademark right, design right, right in passing off, or other intellectual property right;
  - (d) infringe any right of privacy or right under data protection legislation;
  - (e) be in contempt of any court, or in breach of any court order; or
  - (f) constitute a breach of any contractual obligation owed to any person.

#### 4.4 Terminate or suspend access to the Platform and/or Services

Provider reserves the right, in its sole discretion, to:

- Remove Content for any reason.
- Take any action regarding any Content that we deem necessary or appropriate in our sole discretion, including if we believe that such Content violates this Agreement, infringes any intellectual property right or other right of any person or entity, threatens the personal safety of Platform users or the public or could create liability for Provider.
- Disclose your identity or other information about you to any third party who claims that material posted by you violates their rights, including their intellectual property rights or their right to privacy.
- Take appropriate legal action, including without limitation, referral to law enforcement, for any illegal or unauthorized use of the Platform.
- Terminate or suspend your access to all or part of the Platform for any or no reason, including without limitation, any violation of this Agreement.

Without limiting the foregoing, we have the right to fully cooperate with any law enforcement authorities or court order requesting or directing us to disclose the identity or other information of anyone posting any materials on or through the Platform. You waive and hold harmless Provider, its affiliates, licensors, and Service Providers from any action taken by Provider or any of the foregoing parties during or as a result of its investigations and from any actions that result from such investigations by either Provider, law enforcement authorities, or any regulator.

Provider does not review **any** Content before it is uploaded to the Platform and therefore cannot ensure prompt removal of objectionable material after it has been posted. Accordingly, we assume no liability for any action or inaction regarding Content provided by any Customer, Authorized Platform User or third party. We have no liability or responsibility to anyone for performance or nonperformance of the activities described in this section.

#### 4.5 Copyright infringement

If you believe that any Content violates your copyright, please see our [Copyright Policy](#) for instructions on sending us a notice of copyright infringement. It is our policy to terminate the user registrations and, with respect to Customers, the Accounts of repeat infringers.

## 5 Accounts, Sessions, and Payment for Services

### 5.1 Creating a Customer Account

To purchase Platform Services, including to initiate a Session and to invite Authorized Platform Users to a Session, you must create an Account. By creating an Account, you certify to us that (i) all information you provide is accurate, including your name, email address, and any other information we may ask you to provide, to

the best of your knowledge; and (ii) that you created an Account for legitimate purposes and not to commit fraud. You agree to update your Account information when necessary. If you provide inaccurate or untrue information when creating your Account, Provider may suspend or terminate your Account and refuse to allow you to access the Platform or use the Services. Further, we reserve the right to suspend, discontinue, or terminate your Account at any time and without notice, including for breach of this Agreement or misconduct.

When creating an Account, you will create a username and password. You will maintain your username and password in confidence and not disclose it to unauthorized persons. You agree to notify us via email to [support@eNotaryLog.com](mailto:support@eNotaryLog.com) of any unauthorized use, or suspected unauthorized use, of your login credentials or Account. You will use best efforts to ensure that no unauthorized person may gain access to Services using your login credentials or Account, including, without limitation, commercially reasonable security measures relating to Account access.

If you are a business or entity, you will ensure that only those people within your business or entity that have the appropriate authority and permissions will have access to create and/or use the business or entity Account. We will treat anyone who accesses and uses the Platform or our Services under your Account as (i) having agreed to this Agreement, and (2) have authority to use the Platform and Services on your behalf, including to initiate and/or participate in Sessions.

## **5.2 Authority**

If you are creating an Account, accessing the Platform, or using our Services on behalf of another person, business, or entity, you represent and warrant to us that you are authorized (a) to act on behalf of such other person, business, or entity and that such authority allows you to bind them to this Agreement; (b) to use the Platform and all Services; and (c) to provide, access, transmit and use all User Data and User Confidential Information according to this Agreement.

## **5.3 Sessions**

Once you have created an Account, you may initiate Sessions from your Account. You may also participate in a Session initiated by another Customer (*e.g.*, as a Signatory or a Witness/Participant). If you are initiating a Session, you are solely responsible for determining whether the Transaction and any associated Documentation (i) may be signed electronically by you or other Signatories or Witnesses/Participants; (ii) if required, may be notarized using Remote Online Notarization; and (iii) that the recipient will proceed with the Transaction electronically. We do not represent and warrant, however, that any Notary using the Platform will agree to perform a Remote Online Notarization for any specific Transaction. For example, the Notary may determine that Remote Online Notarization is not allowed for such a Transaction.

Further, certain laws applicable to a Transaction may impose requirements applicable to Transactions involving consumers. These requirements include, but are not limited to, that the consumer consent in the manner required by the applicable

Electronic Signature Law. Provider is not responsible for (i) determining whether any Authorized Platform User is a consumer, (ii) providing any consent disclosures required by the applicable Electronic Signature Law, (iii) reviewing any consent disclosures provided by the Customer for use on the Platform for compliance with the applicable Electronic Signature Law, (iv) obtaining any consumer consent required by the applicable Electronic Signature Law, or (v) determining whether any Authorized Platform User has withdrawn any consent previously given.

At the end of a Session, Provider will upload the notarized and/or electronically signed Documentation to Customer's Account. Unless Customer has purchased Platform storage Services, Provider will only maintain such Documentation for a limited period and will notify Customer of that period. The Customer is solely responsible for ensuring that it has a copy of the Documentation.

#### **5.4 Charges and payments**

Customer shall pay charges to Provider in accordance with this Agreement and the Services package selected by the Customer during the Account opening process. Charges for Services are listed on the Platform Website and may be updated from time to time without prior notice. Authorizations to transfer payments from Customer payment accounts, whether bank accounts, credit card or debit card, or any other account, are irrevocable, except as provided on Provider's Website for termination or cancellation of the Services.

If the charges are based in whole or part upon time spent providing Services, charges are nonrefundable after any of the Services are provided. All amounts stated in or in relation to any charges, unless the context requires otherwise, are exclusive of any applicable taxes, which may be added to those amounts and, if added, shall be paid by Customer to Provider. Customer is solely responsible for the payment of all taxes assessed or incurred in Customer's receipt of the Services, whether or not such taxes are invoiced by Provider. Provider may elect to vary any element of the charges.

Provider may issue invoices for charges to Customer prior to or after rendering Services and before releasing any serviced materials. Customer shall pay charges promptly to Provider. Customer shall pay charges by debit card, credit card, direct debit, bank transfer or other methodology only as provided on the Platform by Provider. Provider may refuse any other form of payment, and this provision is deemed material to this Agreement.

Provider may suspend Services to Customer, may refused to deliver serviced materials to Customer (including copies of notarized Documentation), and may delete any and all data entered by Customer or otherwise maintained by Customer on the Platform, without prior notice, if any amount to be paid by Customer to Provider is overdue. Provider may refuse to deliver serviced materials to Customer for failure to pay any amount in advance and may delete all Customer data with respect to Services for which payment by Customer is not promptly made.

## **6 Miscellaneous**

### **6.1 Maintenance Services**

Provider shall provide Maintenance Services at the sole discretion of Provider unless Customer enters into a separate maintenance agreement with Provider for Maintenance Services.

Provider may schedule Maintenance Services that affect availability of Services or have a material negative impact upon Services, with or without notice, and, if practical, Provider shall attempt to provide commercially reasonable notice of planned outages. Two (2) calendar days' notice shall be deemed "commercially reasonable notice" throughout this Agreement but fewer days' notice or no notice may be commercially reasonable under the circumstances. Provider may schedule Upgrades or security Updates to the Platform that affect availability of the Platform or Services, or have a material negative impact upon the Platform Services, with or without notice, and, if practical, shall attempt to provide commercially reasonable notice of planned outages due to Upgrades or Updates.

### **6.2 Support Services**

Nothing in this Agreement requires Provider to provide Support Services to Customer. Any Support Services will be subject to terms and conditions of a separate support agreement between Customer and Provider.

### **6.3 Notices**

All notices to Provider shall be delivered via email to [legal@enotarylog.com](mailto:legal@enotarylog.com). Postings of notices by Provider to Provider's Website will be considered written notice and sufficient notice for all changes to charges, Services, maintenance, support, Updates and Upgrades. It is the responsibility of the Customer to check the Provider's website for such postings. All notices directed to a specific Customer will be sent via the email address listed on the Customer's Account.

### **6.4 Waiver and severability**

No waiver by Provider of any term or condition set out in this Agreement shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of the Provider to assert a right or provision under this Agreement shall not constitute a waiver of such right or provision.

If any provision of this Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of this Agreement will remain in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will remain in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).

## 6.5 Interpretation

The interpretation provisions of the General Terms are incorporated within. Additionally, in this Agreement, a reference to a statute or statutory provision includes (i) a reference to that statute or statutory provision as modified, consolidated and/or reenacted from time to time; and (ii) any subordinate legislation made under that statute or statutory provision.

## 6.6 Governing law

Each Customer and Authorized Platform User agrees that any question, conflict, requirement, or interpretation related to Remote Online Notarization will be governed and subject to the Notarial Law and the Electronic Signature Law of the state in which the Notary is commissioned, without giving effect to any choice or conflict of law provision or rule. This Agreement shall be governed by and construed in accordance with Florida law as if executed and fully performed in Florida, without giving effect to any choice or conflict of law provision or rule (whether of the State of Florida or any other jurisdiction).

## 6.7 Dispute resolution

### 6.7.1 Arbitration, jury waiver, and class action waiver

You agree that all claims, disputes, or disagreements that may arise out of the interpretation or performance of this Agreement, or that in any way relate to your use of the Platform, the Services, and/or other content on the Platform or any other dispute with Provider, shall be submitted exclusively to binding arbitration, except that each party retains the right to bring an individual action in small claims court for disputes and actions within the scope of such court's jurisdiction and the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation, or violation of a party's copyrights, trademarks, trade secrets, patents, or other Intellectual Property Rights. Arbitration means that an arbitrator and not a judge or jury will decide the claim. Rights to prehearing exchange of information and appeals may also be limited in arbitration. You acknowledge and agree that you and Provider are each waiving the right to a trial by jury. You further acknowledge and agree that you waive your right to participate as a plaintiff or class member in any purported class action or representative proceeding. Further, unless both you and Provider otherwise agree in writing, the arbitrator may not consolidate more than one person's claims and may not otherwise preside over any form of any class or representative proceeding. If this class action waiver is held unenforceable, then the entirety of this "Dispute Resolution" section will be deemed void. Except as provided in the preceding sentence, this "Dispute Resolution" section will survive any termination of this Agreement. You further acknowledge that any claim arising under this Agreement must be brought within one year of its accrual or it will be waived. The arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve any dispute relating to the interpretation, applicability, enforceability, or formation of this

agreement to arbitrate, as well as all threshold arbitrability issues, including whether this Dispute Resolution provision is unconscionable and any defense to arbitration.

#### 6.7.2 Arbitration rules

The arbitration will be administered by the American Arbitration Association ("AAA"). Except as modified by this "Dispute Resolution" provision, the AAA will administer the arbitration in accordance with either (A) the Commercial Arbitration Rules then in effect, or (B) the Consumer Arbitration Rules then in effect if the matter involves a "consumer" agreement as defined by Consumer Arbitration Rule R-1 (together, the "**Applicable AAA Rules**"). The Applicable AAA Rules are available at <https://www.adr.org> or by calling the AAA at 1-800-778-7879. The Federal Arbitration Act will govern the interpretation and enforcement of this entire "Dispute Resolution" provision.

#### 6.7.3 Arbitration process

A party who desires to initiate arbitration must provide the other party with a written Demand for Arbitration as specified in the Applicable AAA Rules. The arbitrator will be either a retired judge or an attorney licensed to practice law in the county in which you reside and will be selected in accordance with the Applicable AAA Rules. If the parties are unable to agree upon an arbitrator within fourteen (14) days of the AAA's notice to the parties of its receipt of the Demand for Arbitration, then the AAA will appoint the arbitrator in accordance with the AAA Rules.

#### 6.7.4 Arbitration location and procedure

Any required arbitration hearing may be conducted, at your option, (a) in Tampa, Florida; (b) if you prefer a hearing in or closer to your hometown area, at a reasonable alternative location you and Provider identify upon conferring in good faith; or (c) by telephone or video conference. The arbitration shall be conducted in English. If your claim does not exceed \$10,000, then the arbitration will be conducted solely on the basis of documents you and Provider submit to the arbitrator, unless you request a hearing, or the arbitrator determines that a hearing is necessary. If your claim exceeds \$10,000, your right to a hearing will be determined by the Applicable AAA Rules. Subject to the Applicable AAA Rules, the arbitrator will have the discretion to direct a reasonable exchange of information by the parties, consistent with the expedited nature of the arbitration.

#### 6.7.5 Arbitrator's decision

The arbitrator will render an award within the time frame specified in the Applicable AAA Rules. The arbitrator's decision will include the essential findings and conclusions upon which the arbitrator based the award. Judgment on the arbitration award may be entered in any court having jurisdiction thereof. The arbitrator's award of damages and/or other relief must be consistent with the terms of the "Limitation of Liability" section above as to the types and the amounts of damages or other relief for which a party may be held liable. The arbitrator may award declaratory or injunctive



relief only in favor of the claimant and only to the extent necessary to provide the relief warranted by the claimant's individual claim. If the arbitrator determines that you are the prevailing party in the arbitration, and only if authorized under applicable law, the arbitrator may award reasonable attorneys' fees and expenses. Provider will not seek, and hereby waives, all rights Provider may have under applicable law to recover attorneys' fees and expenses if Provider prevails in arbitration unless the arbitrator finds that either the substance of your claim or the relief sought in your Demand for Arbitration was frivolous or was brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)).

#### 6.7.6 Fees

Your responsibility to pay any AAA filing, administrative and arbitrator fees will be solely as set forth in the Applicable AAA Rules. However, if your claim for damages does not exceed \$5,000, Provider will pay all such fees unless the arbitrator finds that either the substance of your claim or the relief sought in your Demand for Arbitration was frivolous or was brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)).

#### 6.7.7 Changes

Provider reserves the right to change this "Dispute Resolution" section, but any such changes will not apply to disputes arising before the effective date of such amendment. Notwithstanding the provisions of the modification-related provisions above, if Provider changes this "Dispute Resolution" section after the date you first accepted this Agreement (or accepted any subsequent changes to this Agreement), you agree that your continued use of the Platform after such change will be deemed acceptance of those changes. If you do not agree to such change, you may reject any such change by providing Provider written notice of such rejection by mail or hand delivery to: 10012 N. Dale Mabry Hwy. Tampa, FL 33618, or by email from the email address associated with your account to [legal@enotarylog.com](mailto:legal@enotarylog.com), within 30 days of the date such change became effective, as indicated in the effective date at the top of this document. In order to be effective, the notice must include your full name and clearly indicate your intent to reject changes to this "Dispute Resolution" section. By rejecting changes, you are agreeing that you will arbitrate any dispute between you and Provider in accordance with the provisions of this "Dispute Resolution" section as of the date you first accepted this Agreement (or accepted any subsequent changes to this Agreement, as applicable).

#### 6.7.8 Other remedies for California residents

The provisions of this Section 6.7 do not prohibit California residents from obtaining provisional or ancillary remedies such as injunctive relief.

## 6.8 Entire agreement

If you are a Notary, additional terms and conditions may apply to your use of the Platform. This Agreement, which incorporates the General Terms, constitutes the sole and entire agreement between you and Provider regarding the Platform and Services and supersede all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, regarding the Platform and Services.

## 6.9 Termination

This Agreement will be effective when you accept them as described above and will continue in full force and effect while (i) Provider is performing or carrying out the Services, (2) the Customer's Account or Authorized Platform User's registration, as applicable, is active and not closed or disabled, or (3) the Provider is otherwise required to maintain records, take actions, give notices or otherwise to comply with applicable law in regards to the Sessions in which you participated. Upon termination or expiration of this Agreement, Provider shall cease providing Services to you and all your licenses (if any) and rights to access the Platform shall end. The following shall survive termination or expiration of this Agreement for whatever reason or cause: Section 3 (General Customer and Authorized Platform User Terms), Section 4.4 (Terminate or suspend access to the Platform and/or Services), Section 5.4 (Charges and payments) (with respect to Customer's obligations to pay charges incurred as of the termination/expiration date), Section 6.3 (Notices), Section 6.4 (Waiver and Severability), Section 6.5 (Interpretation), Section 6.6 (Governing Law), Section 6.7 (Dispute Resolution), Section 6.8 (Entire Agreement), Section 6.9 (Termination) (survival portion only) and Section 7 (Definitions).

## 7 Definitions

In this Agreement, except to the extent expressly provided otherwise, the following definitions apply, in addition to those terms for which definitions are provided above:

**"Account"** means an account a Customer creates that enables the Customer to purchase the Services and allow Authorized Platform Users to access and use the Services.

**"Authorized Platform User"** means a natural person authorized by a Customer to access the Platform. Authorized Platform Users include Session invitees such as Signatories, Witness/Participants, and Notaries.

**"Customer"** means the natural person or entity who creates an Account to purchase the Platform Services. Customers who are natural persons may serve in the capacity of any role in a Transaction on the Platform, such as Signatory or Witness/Participant. Customers, or Authorized Platform Users associated with such Customer's Account on behalf of such Customer, are enabled by the Platform to upload Documentation to the Platform, initiate Sessions, and invite Signatories and/or Witness/Participants to a Session.

**"Documentation"** means the electronic document(s) that the Customer uploads to the Platform as part of a Transaction for use by that Customer and/or other parties authorized by that Customer, such as Authorized Platform Users.

**"Electronic Signature Law"** means the Electronic Signatures in Global and National Commerce Act, the electronic signature laws of the Notary's commissioning state or territory, and/or the electronic signature laws of the state or territory applicable to the Transaction, as applicable.

**"eSignature Solution"** means the electronic signature technology used to electronically sign Documentation

**"Force Majeure Event"** means an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, pandemics, epidemics, disasters, explosions, fires, floods, riots, terrorist attacks, and wars).

**"Intellectual Property Rights"** means any and all rights in intangibles, worldwide, whether registered or unregistered, including, without limitation, application for intellectual property rights, any and all rights to file such applications, including, without limitation, copyrights, data compilations, trade secrets, know-how, discoveries, inventions, creative ideas, good will, going concern, workforce obligations, covenants, indemnifications, business names, trade names, trademarks, service marks, trade dress, patents, utility models, industrial designs, domain names and any other intangibles having value, however defined worldwide.

**"Maintenance Services"** means the general maintenance of the Platform and Services, and the application of Updates and Upgrades.

**"Notarial Law"** means the law(s) of each state or territory of the United States governing the conduct of Remote Online Notarizations by a Notary duly commissioned in such state or territory to perform Remote Online Notarizations.

**"Notary"** means an individual commissioned as a notary public by a state or territory of the United States, who has the required certifications and training to perform Remote Online Notarizations, and who is a Customer or an Authorized Platform User of the Platform.

**"Platform"** means the platform managed by the Provider and used by the Provider to provide the Services, including the application and database software for the Services, the system and server software used to provide the Services, and the computer hardware on which that application, database, system and server software is installed.

**"Remote Online Notarization"** means the use of audio-video communication technology to complete a notarial act when the Signatory, or a Witness/Participant, applies an electronic signature to Documentation using the eSignature Solution, and

is not in the same physical location as the Notary at the time the notarial act is performed.

“**Services**” means those services that Provider provides to Customer concerning the conduct of Remote Online Notarization Sessions and/or the eSignature Solution Sessions including, without limitation, access to any of Provider’s websites, information or applications, and, if purchased by Customer, Support Services and Maintenance Services.

“**Service Provider**” means any third-party service provider to the Provider, including any identity verification provider or credential analysis provider.

“**Session**” means that portion of the Services which consists of (1) the specific Remote Online Notarization session that may be initiated by a Customer, or in which at least two Authorized Platform Users participate, through our Platform; or (2) the specific eSignature Solution session that may be initiated by a Customer through our Platform.

“**Session Data**” means the metadata associated with a Session that we may use to create an audit trail or other evidentiary log.

“**Signatory**” means an Authorized Platform User that is a natural person selected by a Customer to sign Documentation as a party to a Transaction.

“**Support Services**” means support in relation to the use of, and the identification and resolution of errors in, the Services, but shall not include the provision of training services.

“**Transaction**” means the consumer or commercial agreements evidenced by the Documentation reviewed and executed during the Session.

“**Update**” means a hotfix, patch or minor version update to any Platform software.

“**Upgrade**” means a major version upgrade of any software or Services.

“**User Confidential Information**” means any information disclosed by or on behalf of the Customer or Authorized Platform User to the Provider at any time before the termination of this Agreement (whether disclosed in writing, orally, or otherwise) that at the time of disclosure was marked or described as “confidential,” or should have been reasonably understood by the Provider to be confidential.

“**User Data**” means all data, works and materials uploaded to or stored on the Platform by the Customer or Authorized Platform User; or supplied by the Customer or Authorized Platform User to the Provider for uploading to, transmission by, or storage on the Platform. User Data includes, but is not limited to, personal information, Content, User Confidential Information, Documentation, credentials, identity information, and payment information. User Data does not include analytics data relating to the use of the Platform and server log files.

**“Witness/Participant”** means an Authorized Platform User that is a natural person selected by a Customer to perform one of the various functions of the Documentation review and execution process that are not performed by a Notary or a party to the Transaction, such as watching the Signatory sign.