Axios HQ® Terms and Conditions

These Axios HQ Terms and Conditions (“T&Cs”) are incorporated by reference into any Order between Axios HQ Inc. (“Axios HQ”) and the Customer identified in such Order. These T&Cs are legally binding on both parties unless the parties have entered into a superseding agreement expressly governing the Order. These T&Cs and the Order, together with any applicable exhibits, appendices, annexes, or schedules incorporated by attachment or express reference, are collectively referred to herein as the “Agreement.” The Agreement’s Effective Date is the date of last signature on the Order.

DEFINITIONS

**Authorized Users** means all employees, agents, and contractors of Customer (and its authorized Affiliates) who have access to the HQ Platform or Professional Services under an Order.

**Affiliate** means any present or future entity controlling, controlled by, or under common control with, a party to the Agreement, where “control” means ownership of or the right to control greater than 50% of the voting securities of such entity.

**Customer** means the organization identified as “Customer” in the Order and those Affiliates of Customer which are expressly authorized to access and use the HQ Platform or Professional Services pursuant to the Order.

**Customer Content** means any editorial content and creative materials that Customer and Authorized Users input into the HQ Platform or provide to Axios HQ in connection with the HQ Platform or Professional Services, including any text, images, photos, audiovisual components, and other files, whether or not ultimately used in Customer’s Newsletters.

**Customer Data** means the data that Customer and Authorized Users input into the HQ Platform or provide to Axios HQ in connection with the HQ Platform or Professional Services, including Personal Data about Authorized Users and Recipients, but expressly excluding HQ System Data.

**Documentation** means any technical manuals, functional manuals, operator and user guides, training materials, instructions, and other documentation and information regarding the HQ Platform made available by Axios HQ to Customer in any format or medium, including through Customer’s Account or published online, and as updated by Axios HQ from time-to-time.

**HQ Platform** means the Axios HQ® SaaS platform for the creation and distribution of Smart Brevity-enabled Newsletters and all HQ Technology and HQ Content therein.

**HQ Content** means the text, data, video, photos, audio, writing tips, images, designs, and other materials created or provided through or in connection with the HQ Platform (excluding Customer Content and Customer Data) and the HQ Professional Services.

**HQ System Data** means data which is automatically generated or collected through the HQ Platform, and which is deidentified, aggregated or anonymized in such a manner that it cannot reasonably be reassociated with Customer, its Authorized Users, or its Recipients.

**HQ Technology** means all technology made available to Customer and Authorized Users by Axios HQ through the HQ Platform, including software, processes, algorithms, API’s, user interfaces, know-how, techniques, designs and other tangible or intangible materials or information.

**Newsletters** means the Smart Brevity® enabled newsletters and other communications (such as memoranda, presentations, and reports) created by or on behalf of Customer during the Term of the Agreement using the HQ Platform or Professional Services, whether or not ultimately distributed to Recipients.

**Order** means the document(s) by which Customer orders HQ Platform and Professional Services. An Order may consist of a letter of agreement, statement of work, order form, quotation, or another contractual instrument, provided that it has been signed by both Customer and Axios HQ.
Personal Data means any personal information or personal data associated with, or reasonably capable of being associated with, an individual (including names and email addresses) and which is regulated under any applicable data privacy and protection laws.

Professional Services means the training, editorial, consulting, and other professional services provided by Axios HQ pursuant to an Order.

Recipients means the individuals to whom the Customer’s Newsletters are sent.

1. PROFESSIONAL SERVICES AND HQ PLATFORM

1.1 Professional Services. If the applicable Order includes Professional Services, such Professional Services are subject to the Professional Services Terms set forth in Exhibit A in addition to the generally applicable provisions found in the body of the Agreement (including those pertaining to confidentiality, indemnification and limitations of liability). Terms specific to the HQ Platform do not apply unless Customer receives access to the HQ Platform in connection with the Professional Services.

1.2 Access and Use of HQ Platform. If the applicable Order includes subscription access to the HQ Platform, then, subject to Customer’s compliance with the terms of the Agreement (including timely payment of associated fees), Customer and its Authorized User may access and use the HQ Platform under a subscription model during the Subscription Term (defined in Section 6.1 below) for Customer’s legitimate business purposes. If the Order does not include restrictions on the number or nature of Authorized Users or the capacity or scope of Customer’s use of the HQ Platform ("Scope Restrictions"), then Customer may presume that the HQ Platform may be accessed by an unlimited number of Authorized Users within its organization. If the cumulative usage of the HQ Platform by Customer exceeds standard, reasonable levels based on the Scope Restrictions (if applicable), Customer must reduce usage to standard, reasonable levels within ten (10) business days following receipt of written notice from Axios HQ (via email or through the HQ Platform interface). Failure to do so may result in suspension of Customer’s access to the HQ Platform until the parties negotiate an amendment to the Order to reflect the additional costs associated with Customer’s actual scope of use.

2. RESPONSIBILITIES OF THE PARTIES

2.1 Compliance. Axios HQ shall comply with all laws, rules, and regulations applicable to its provision of the HQ Platform and Professional Services. Customer and its Authorized Users shall comply with all laws, rules, and regulations applicable to their access and use of the HQ Platform and Professional Services. For Customer, the foregoing compliance requirement may include compliance with applicable marketing communications laws, such as the CAN-SPAM Act, Section 5(a) of the Federal Trade Commission (FTC) Act, and state-level unfair and deceptive acts and practices laws, as well as any industry self-regulatory standards to which it has committed itself.

2.2 Customer Data. Customer is solely responsible for (i) determining what Customer Data Customer, its Authorized Users, or its representatives enter into the HQ Platform or otherwise provide to Axios HQ by in connection with the Agreement, and (ii) ensuring the accuracy, quality, legality and appropriateness of all such Customer Data. Customer warrants that it has all rights, title, licenses, consents, and permissions necessary to provide the Customer Data to Axios HQ, and that use of the Customer Data by Axios HQ in accordance with the Agreement will not violate any applicable laws, including applicable data privacy and protection laws. Customer further warrants that Customer Data does not and will not contain any “Sensitive Data” as defined in Section 5.2 below.

2.3 Customer Content. Customer is solely responsible for (i) determining what Customer Content Customer, its Authorized Users, or its representatives enter into or create within the HQ Platform or otherwise provide to Axios HQ by in connection with the Agreement, and (ii) ensuring the accuracy, quality, legality and appropriateness of all such Customer Content. Except as expressly provided in the Agreement, Axios HQ disclaims any and all responsibility and liability for the Customer Content. Customer warrants that it has all rights, title, licenses, consents, and permissions necessary to provide the Customer Content to Axios HQ, and that use of the Customer Content by Axios HQ in accordance with the Agreement will not: (a) infringe upon any third party’s intellectual property, publicity, or privacy rights; (b) violate any applicable law, rule or regulation; or (c) violate any contractual obligation to which Customer is bound. Customer additionally warrants and covenants that the Customer Content shall not: (x) contain materials that are obscene, inappropriate, offensive, harmful, libelous or defamatory, or which encourage or incite violence, illegal activity, discrimination or hate; or (y) violate
2.4 Regulated Industries and Topics. If the Customer Content relates to any regulated industry or topic (such as medical, legal, tax, or financial advice, or the sale or distribution of regulated products and services), Customer warrants and covenants that it is, and will remain throughout the Term (defined in Section 6.1 below), in possession of all licenses, certifications, credentialing, expertise, and permits required to provide of such advice, products and/or services. Customer is solely responsible for ensuring its Newsletters include any appropriate disclaimers as may be required by applicable law, rule, regulation, or industry self-regulatory guidelines.

2.5 No Misrepresentation. Customer shall make it clear to Recipients that Customer is the source of its Newsletters and exclusively responsible for the Customer Content therein. Customer shall not use its Newsletters to misrepresent itself, to commit fraud, to impersonate Axios HQ or any third party, or to claim any false endorsement by or association with Axios HQ, its Affiliates or any third party.

3. INTELLECTUAL PROPERTY

3.1 Customer Content & Customer Data. Customer and its licensors retain all rights, title, and interest in and to the Customer Content and Customer Data. Customer Content and Customer Data are Customer’s Confidential Information (defined in Section 8 below). Customer grants Axios HQ a limited, non-exclusive, royalty-free right to use the Customer Content and Customer Data during the Term solely as necessary to provide, operate, maintain, develop, improve, and support the HQ Platform and Professional Services. All other rights in the Customer Content and the Customer Data are reserved by Customer.

3.2 Axios HQ Intellectual Property. Axios HQ and its licensors retain all rights, title, and interest in and to the HQ Platform, HQ Technology, HQ Content, HQ System Data, Professional Services, Documentation and all materials embodied in or incorporated in the foregoing (including images, text, scripts, graphics, photos, sounds, music, video files, interactive features, logos and trademarks, and other materials), as well as any derivatives, translations, reformulations or developments derived therefrom (collectively, "Axios HQ Intellectual Property"). Customer receives only the limited licenses to access and use Axios HQ Intellectual Property which are expressly provided in the Agreement. All other rights in the Axios HQ Intellectual Property are reserved by Axios HQ.

3.3 Newsletters and Analytics. Customer owns the Newsletters created during the Term using the HQ Platform or Professional Services as Customer Content; provided that Axios HQ and its licensors retain all rights in and to any Axios HQ Intellectual Property embodied therein (such as underlying code and images from the HQ Platform’s image library). Customer receives only a limited, non-exclusive, perpetual license to use any Axios HQ Intellectual Property embedded in the Newsletters, as provided and without modification of any kind, solely as a component of the Newsletters. Customer also owns any analytics data regarding Newsletter sends and Recipient engagement (such as opens, likes, and clicks) created through the HQ Platform, provided that Axios HQ may treat aggregated and anonymized newsletter analytics data as HQ System Data.

3.4 HQ System Data. "HQ System Data" means data that is automatically generated or collected through the HQ Platform, and which is deidentified, aggregated or anonymized in such a manner that it cannot reasonably be reassociated with Customer, its Authorized Users, or its Recipients. This may include usage data, statistical data, error logging data, performance data, and metadata. HQ System Data is used to support, maintain, and improve the HQ Platform. For example, the Axios HQ Platform may: (a) track the number of users of, and interactions with, the HQ Platform on an anonymized, aggregate basis to ensure we have adequate infrastructure; (b) analyze aggregated usage patterns for product development efforts; and (c) use aggregated data derived from Customer Content, in a form which may not reasonably identify either a particular individual or the Customer, to identify areas for product improvement or develop new tools and features. In each of the foregoing examples, the resulting data would be considered HQ System Data. The creation of HQ System Data is inextricably integrated into the HQ Platform and cannot be turned off. System Data is not considered Customer Content or a work product assignable to Customer. HQ System Data is owned solely by Axios HQ. Axios HQ may use HQ System Data during and after the Term to provide, operate, maintain, develop, improve, and support the HQ Platforms and for other purposes as Axios HQ sees fit, provided that the data cannot be re-associated to Customer, its Authorized Users, or its Recipients.
3.5 Third-Party Integrations. Customer acknowledges that the HQ Platform may contain integrations with third-party services or materials, such as third-party APIs, single sign-on or social login features, and browser extensions (collectively “Integrations”). Customer’s use of any Integration is at Customer’s discretion and at its own risk. All Integrations are made available on an “AS IS” and “AS AVAILABLE” basis without any warranties, indemnities, or support commitments of any kind. Customer hereby waives any and all claims that it may have against Axios HQ now or in the future arising in connection with Customer’s use of any Integrations. Axios HQ may suspend or remove any Integrations from the HQ Platform at any time and for any reason without prior notice to Customer, provided that such suspension or removal does not materially and adversely impact a core function of the HQ Platform. Customer shall comply with any applicable terms and conditions, use restrictions and other requirements imposed by the owner of such Integrations (“Third-Party Terms”).

3.6 Feedback. Customer, its Authorized Users, and its Recipients may volunteer or be asked to offer comments, input or other feedback regarding the HQ Platform or Professional Services (“Feedback”). Provision of Feedback is entirely voluntary. If any Feedback is provided, Axios HQ is granted a worldwide, perpetual, irrevocable, royalty-free right and license to use such Feedback for the improvement of the HQ Platform or Professional Services or the development of new products and services, without any obligation to Customer, Authorized Users, or Recipients of any kind (including acknowledgment or payment of compensation). Axios HQ acknowledges that Feedback is provided on an as-is basis with no warranties of any kind.

4. HQ PLATFORM- SPECIFIC TERMS

4.1 SaaS Service. Customer understands that the HQ Platform is a web-based SaaS platform hosted by Axios HQ or its service providers and that Customer will not receive any copies of the software or other HQ Technology underlying the HQ Platform, whether in physical or electronic format. Customer agrees that Axios HQ’s delivery obligations are complete when Customer is given access to the HQ Platform and it is available to Customer in accordance with the terms of the Agreement.

4.2 Account Creation. In order to access the HQ Platform, Customer must register and create accounts for its Authorized Users (“Accounts”). Customer represents and warrants that all information provided in connection with its Accounts will be accurate, complete, and current in all material respects. Customer represents and warrants that all information provided in connection with its Accounts will be accurate, complete, and current in all material respects. Customer and Authorized Users may only access and use the HQ Platform in accordance with the Agreement. Customer is responsible and liable for the activity of Authorized Users within its Accounts, for using reasonable efforts to keep any Account login information and passwords in its possession secure, and for promptly notifying Axios HQ of any suspected unauthorized access or use of its Accounts.

4.3 Restrictions. Customer and Authorized Users’ use of the HQ Platform shall at all times be in its original form, without alteration or combination with other products or services, except as expressly authorized by Axios HQ in writing or any applicable Documentation. Customer and Authorized Users shall not (and shall not allow any third party to): (a) download or otherwise obtain a copy of the HQ Platform or any component thereof in any form; (b) reverse engineer, reverse compile, disassemble, or otherwise derive the source code of, the HQ Platform; (c) circumvent, disable or interfere with security-related features of the HQ Platform, or features that enforce limitations on use of the HQ Platform, or otherwise attempt to gain unauthorized access to the HQ Platform or its systems or networks; (d) sell, lease, license, sublicense (to anyone other than an authorized Affiliate), or distribute the HQ Platform, use the HQ Platform as a service bureau, or otherwise transfer or provide access to the HQ Platform, in whole or in part; (e) use the HQ Platform to post, send, process or store material that is infringing, obscene, threatening, libelous, or otherwise unlawful or tortious, or material known or reasonably suspected to contain viruses, worms, Trojan horses or other harmful or malicious computer code, files, scripts, agents or programs; (f) remove, alter or obscure any titles, product logo or brand name, trademarks, copyright notices, proprietary notices or other indications of intellectual property rights that may be found within or affixed to the HQ Platform or any content therein; (g) use any of the information or learnings obtained through or in connection with the HQ Platform to create any service, product, documentation or data that is materially similar to the HQ Platform or which otherwise competes with Axios HQ; or (h) interfere with or disrupt the integrity or performance of the HQ Platform or third-party data contained therein. Any violation of this Section 4.3 is a “Material Breach” under Section 6.3.

4.4 Internal vs. External Communications. Unless otherwise expressly stated in the Order, the HQ Platform is intended for internal business communications only (i.e., communications to the employees, contractors, agents and shareholders of Customer and its Affiliates) (“Internal Comms”). Use of the HQ Platform for external communications (i.e., communications with current, past or potential customers, volunteers, donors, members or other individuals not directly affiliated with the operations of Customer and its Affiliates) (“External Comms”) is permitted only where expressly
authorized by Axios HQ in writing (such as in the Order) and is subject to certain additional requirements as provided herein.

4.5 **Special Requirements for External Comms.** If Customer and its Authorized Users are permitted to use the HQ Platform for External Comms, Customer is solely responsible for taking all reasonable and appropriate steps to confirm that intended Recipients’ email addresses are valid and not part of any opt-out or suppression list. Customer is also responsible for ensuring that (i) its Newsletters contain any legally mandated “opt-out” language as required by applicable law and (ii) Recipients who have opted-out of a Newsletter are not included in future sends. Customers using the HQ Platform for External Comms must keep their sending metrics within the following thresholds: (a) Bounces: ≤ 5% (b) Unsubscribes: ≤ 1.4% (c) Spam Complaints: ≤ 0.08% (“Send Thresholds”). If Customer exceeds the Send Thresholds, this may trigger an automatic suspension of the Newsletter send functionality without notice to Customer. Restoration of the send functionality will require manual reactivation. If Customer believes that send functionality has been suspended, Customer should promptly contact an Axios HQ representative. Customer’s violation of the Send Thresholds two times or more during any twelve-month period, or more than three times during the entire Subscription Term, is a Material Breach under Section 6.3.

4.6 **High-Risk Use Cases.** THE HQ PLATFORM IS NOT INTENDED FOR USE IN HIGH-RISK USE CASES, AND ANY USE OF THE HQ PLATFORM BY CUSTOMER OR AN AUTHORIZED USER IN ANY HIGH-RISK USE CASE IS DONE AT CUSTOMER’S OWN RISK. As used herein, a “High-Risk Use Case” is any use case where the failure of the HQ Platform could cause serious risk of harm to persons or property, such as use of the HQ Platform for communications related to medical emergencies, national emergencies, weather alerts, and military applications. AXIOS HQ DISCLAIMS ALL LIABILITY FOR ANY USE OF THE HQ PLATFORM IN CONNECTION WITH HIGH-RISK USE CASES.

4.7 **Monitoring and Response.** Axios HQ has the right, but not the obligation, to monitor Customer and Authorized Users’ use of the HQ Platform (including the Customer Content therein) in order to: (i) ensure proper functioning of the HQ Platform; (ii) improve the HQ Platform’s functionality (i) detect abuse; and (iii) enforce its rights under the Agreement.

4.8 **Availability and Limitations.** During the Subscription Term, Axios HQ will use commercially reasonable efforts to ensure that the HQ Platform maintains an uptime availability of 99.5% or greater. Uptimes are tracked at [http://status.axioshq.com/uptime](http://status.axioshq.com/uptime). Axios HQ will use commercially reasonable efforts to ensure all scheduled maintenance occurs during non-peak usage hours (such as on weekends between the hours of 9 p.m. and 12 a.m. PST) and to provide reasonably advanced notice of such scheduled maintenance via standard communications channels (such as email or a notification posted in the HQ Platform interface). Customer understands and agrees that the HQ Platform may be temporarily unavailable due to emergency maintenance. Axios HQ may also suspend the HQ Platform to some or all customers and authorized users to the extent it reasonably deems necessary: (a) following a suspected or confirmed security breach or cyber-attack; (b) in order to protect its systems; or (c) if required by a governmental entity or law enforcement agency. Axios HQ will use commercially reasonable efforts to notify all customers affected by such a suspension as soon as practicable.

4.9 **Updates: Premium Features.** Axios HQ regularly releases improvements and updates to the HQ Platforms to enhance its usability and functionality (“Updates”). Axios HQ will make standard Updates available to Customer at the same time as they are released to other customers and at no additional cost. Axios HQ may also introduce new, optional “premium” paid features within the HQ Platform at any time (“Premium Features”). Premium Features are not considered Updates for the purposes of this provision. Customer will not be automatically “opted in” to any Premium Feature that would increase the fees or costs of the Order or otherwise modify the terms of this Agreement. Rather, access to such Premium Features will require Customer’s acceptance of any associated terms and additional fees, to be captured in an amendment or change order to this Agreement or via Customer’s affirmative consent to online “click-to-accept terms.” Customer acknowledges and agrees that its purchase of an HQ Platform subscription is not contingent on the delivery of any future Updates, Premium Features, or other functionality, or on any oral or written public comments made by Axios HQ regarding future Updates, Premium Features, or other functionality.

4.10 **Modifications.** Axios HQ reserves the right to modify or discontinue any feature, functionality, service, or product associated with the HQ Platform (a “Modification”) at any time, with or without notice to Customer, provided that Axios HQ must give reasonable advanced written notice of any Modification that could: (i) have a materially adverse effect on the function, use or performance of the Services; (ii) increase Customer’s charges or other costs under this Agreement, or (iii) reasonably be expected to cause Customer or Customer’s use of the Platform to not be in compliance with applicable law. Customer shall have thirty (30) days following the release of any Modification to assess its impact, and if Customer
reasonably determines that a Modification materially and adversely impacts Customer’s use of the HQ Platform, Customer may (as Customer’s sole remedy) terminate its HQ Platform subscription and receive a refund of associated fees prorated for the remainder of the Subscription Term. For the avoidance of doubt, the foregoing does not constitute a waiver by either party of any claim that it may have accrued prior to the termination. Customer’s continued use of the HQ Platform beyond such thirty (30) day period will indicate Customer’s acceptance of the Modification.

4.11 **Public Newsletter Sign-Up Pages.** THE SIGN-UP PAGE SERVICE IS ENTIRELY OPTIONAL. IF CUSTOMER DOES NOT ELECT TO USE THE SIGN-UP PAGE SERVICE, THIS SECTION 4.11 SHALL NOT APPLY. Where specified in the Order or requested in writing by Customer, Axios HQ will create and host a public webpage where individuals can subscribe to become Recipients of Customer Newsletters (the “Sign-Up Page Service”). If customer elects to use the Sign-Up Page Service, Customer acknowledges and accepts that the Sign-Up Page Service is provided by Axios HQ on an “AS IS,” and “AS AVAILABLE” basis and without any warranties, indemnities, or support commitments of any kind. Any materials which Customer provides in connection with the Sign-Up Page Service (such as logos or images) are considered Customer Content under the Agreement. Customer is solely responsible for providing legally compliant opt-in consent language to be used on the sign-up page, which must include a link to the Customer’s privacy policy, and for ensuring that Customer’s privacy policy is accurate, up-to-date and legally compliant. Customer is also responsible for managing all Newsletter subscriber lists generated through the Sign-Up Page Service in the same manner as it manages the Recipient lists for general External Comms (see Section 4.5 above).

4.12 **AI Tools.** The HQ Platform may offer (directly or through an Integration) tools, features or functionality that utilize generative artificial intelligence or other data models trained by machine learning (“AI Tools”). AI Tools are indicated by the “magic wand” icon, and the use of the AI Tools is entirely voluntary. The AI Tools use pre-engineered prompts to extract information from Customer Content and generate images, editing suggestions, and writing guidance in response. All of the materials that Customer or its Authorized Users input into the HQ Platform to be processed by the AI Tools (“Input”) and all of the output returned by the AI Tool (“Output”) belong to Customer as Customer Content. Any third-party which supplies an AI Integration and processes Customer Input and Output is contractually required to (a) exclude such Customer Content from their training data; (b) treat such Customer Content as confidential information in accordance with the terms of this Agreement; (c) delete the Inputs and Outputs generated within the HQ Platform at reasonable and regular intervals (such as every 30 days); and (d) comply with all applicable laws, rules and regulations, including data privacy and protection laws and regulations. Customer is responsible for its development and use of Input and Output in the same way as all other Customer Content. Customer acknowledges and accepts that, due to the nature of the technology powering the AI Tools, the Output may not be accurate or complete, and the same or similar Output may be generated by the other Axios HQ customers. AXIOS HQ MAKES NO WARRANTIES WHATSOEVER AS TO THE OUTPUT CREATED FROM THE USE OF THE AI TOOLS, INCLUDING WARRANTIES OF ACCURACY OR NON-INFRINGEMENT. CUSTOMER UNDERSTANDS AND AGREES THAT THE USE OF THE OUTPUT IS AT CUSTOMER’S OWN RISK.

4.13 **Beta Products.** Axios HQ may occasionally make new HQ Platform functions, features or tools available to Customer for evaluation and testing (each, a “Beta Product”). Beta Products will always be identified in writing via email or within the HQ Platforms using phrases such as “beta”, “pre-release”, or “early-release.” Whether Customer chooses to use the Beta Products is completely within its control. If Customer chooses to use a Beta Product, it understands and agrees that Beta Products are made available on an “AS IS,” and “AS AVAILABLE” basis and without any warranties, indemnities, or support commitments of any kind.

4.14 **Export Control.** The HQ Platform is subject to United States government export control laws and regulations, and neither Axios HQ nor Customer (and its Authorized Users) shall directly or indirectly use, export, re-export, or transfer the HQ Platform or underlying HQ Technology in violation of such U.S. export laws and regulations.

5. **DATA PROCESSING AND SECURITY**

5.1 **Data Processing.** To the extent Customer Data includes any Personal Data for which Customer is the “controller” or “business,” as defined under applicable data privacy and protection law (“Customer Personal Data”), the terms of this Section 5.1 shall apply. Customer (as the business/controller) is solely responsible for ensuring that there is an adequate legal basis for the collection and processing of Customer Personal Data. Axios HQ shall process the Customer Personal Data on behalf of the Customer in the capacity of a “processor” or “service provider” of Customer. Axios HQ processes Customer Personal Data solely (a) to perform its obligations under the Agreement (i.e., to provide, operate, maintain, develop, improve, and support the HQ Platform and Professional Services); (b) to prevent or address security, support or
technical issues related to the HQ Platform and Professional Services; (c) as required by law; and (d) as expressly permitted in writing by Customer (the “Permitted Purposes”). All such processing will take place in the United States of America. Processing will be conducted in accordance with the Agreement, Customer’s lawful, written instructions, and any applicable data privacy and protection laws. Axios HQ shall treat such Customer Personal Data as Customer’s Confidential Information and use it only for the Permitted Purposes. Axios HQ shall not sell Customer Personal Data, nor combine it with Personal Data belonging to Axios HQ or any other customer of Axios HQ. Axios HQ shall not share Customer Personal Data with any third party, except that Axios may utilize subprocessors in connection with the HQ Platform, and Customer generally authorizes Axios HQ to engage with and to share Customer Personal Data with such subprocessors for the Permitted Purposes, provided that Axios HQ (i) imposes legally binding contract terms on each subprocessor that are at least as restrictive as those contained in the Agreement, and (ii) remains responsible and liable for a breach of the Agreement by its subprocessors as it would for its own breach thereof. A list of Axios HQ’s current subprocessors, as updated from time-to-time, is available at https://trust.axioshq.com. Axios HQ shall provide reasonable assistance and cooperation to Customer in Customer’s efforts to comply with its obligations under applicable data privacy and protection laws. If any Customer Personal Data is subject to a request by any individual seeking to access, correct, or delete such individual’s Personal Data, Axios HQ will promptly notify Customer and will assist Customer as reasonably requested in fulfilling such request. Customer may take reasonable steps to ensure Axios HQ’s compliance with this Section 5.1, including conducting audits or inspections at its own expense no more than once a year (unless otherwise required by applicable law or in response to a security incident). Upon Customer’s request, Axios HQ shall promptly return or destroy any Customer Personal Data in Axios HQ’s possession. For the avoidance of doubt, if return or destruction of the Customer Personal Data renders Axios HQ’s performance under the Agreement impossible, this will not relieve Customer of its payment obligations in connection with the Agreement. Unless otherwise instructed by Customer, all Customer Personal Data will be destroyed or permanently deleted within 60 days of the termination of the Agreement. For the purposes of this provision, the terms “process” “personal data”, “personal information”, “processor”, “subprocessor” and “service provider” shall have the meanings set forth in applicable data privacy and protection laws.

5.2 No Sensitive Data. Customer agrees that it shall not provide any information to Axios HQ that is considered “Sensitive Data.” Sensitive Data includes: (i) “personal health information,” as defined under the Health Insurance Portability and Accountability Act, (ii) government issued identification numbers, including Social Security numbers, drivers’ license numbers or other state-issued identification numbers, (iii) financial account information, including bank account numbers, (iv) payment card data, including credit card or debit card numbers, and (v) “sensitive” personal data, as defined under the European Union’s General Data Protection Regulation or any other applicable data privacy law (including political opinions, religious beliefs, trade union membership, physical or mental health or condition, sexual life or the commission or alleged commission any crime or offense, but excluding racial and ethnic origin information which may be inferred by uploaded images or text content). CUSTOMER’S VIOLATION OF THE FOREGOING IS CONSIDERED A “HIGH-RISK” BREACH UNDER SECTION 6.3.

5.3 Information Security. Axios HQ warrants that it has implemented technical and organizational security measures reasonably designed to protect Customer Confidential Information (including Customer Data and associated Personal Data) from unauthorized access, use and processing (“Security Controls”), and that it will maintain its Security Controls throughout the Term and for so long as Axios HQ retains possession of the Customer Confidential Information. Axios HQ’s Security Controls shall be consistent with industry standard practices in light of the scope and nature of the data and information processed. These Security Controls shall include, at minimum, (a) encryption of data in transit and at rest (b) commercially reasonable efforts to verify that the HQ Platform does not contain unauthorized or malicious code; and (c) all reasonable efforts to promptly remove, and remediate damage from, any malicious code or other security threats which Axios HQ discovers or is alerted to. Notwithstanding the foregoing, Customer acknowledges and accepts that transmission of data over the Internet is never completely secure from interception or interference, and Axios HQ cannot fully guarantee the security of data transmitted to or from the HQ Platform or Axios HQ. Axios HQ shall timely notify Customer of any security incident which it has confirmed (with reasonable certainty) to have compromised the security or integrity of Customer’s User’s Accounts, Customer Content, Customer Data or other Customer Confidential Information. Additional information about Axios HQ’s Security Controls is available at https://trust.axioshq.com. Information security related concerns or questions may be sent to security@axioshq.com.

6. TERM AND TERMINATION

6.1 Term of Agreement. The initial term of Customer’s subscription to the HQ Platform (the “Initial Subscription Term”) will be for one (1) year unless otherwise stated in the Order. Thereafter, Customer’s subscription will automatically renew for successive one-year periods (each, a “Renewal Subscription Term”) unless either party

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provides written notice to the other of its intent not to renew the HQ Platform subscription at least thirty (30) days prior to the start of the next renewal date. The Initial Subscription Term and any Renewal Subscription Terms may collectively be called the “Subscription Term.” Any Professional Services provided under this agreement will be performed in accordance with the dates set forth in the Order and Exhibit A hereto (the “Professional Service Term”). Collectively, the Subscription Term and Professional Service Term may be referred to as the “Term” of the Agreement.

6.2 Termination for Cause. Either party may terminate the Agreement: (a) for cause if the other party has breached the Agreement and has not cured the breach within thirty (30) days of receiving written notice thereof from the non-breaching party; or (b) immediately upon written notice in the event of the filing of a petition for bankruptcy or reorganization by or against the other party or the dissolution or liquidation of the other party. Axios HQ may also terminate the Agreement immediately upon written notice for a “Material Breach” of key provisions as outlined in Section 6.3 below. If the Agreement is terminated by Customer for cause based on an uncured breach by Axios HQ, Customer shall be entitled to a pro-rated refund for services undelivered. If the Agreement is terminated by Axios HQ for cause based on an uncured breach or Material Breach by Customer, Customer shall remain responsible for all unpaid fees associated with the Agreement.

6.3 Suspensions; Material Breaches. Axios HQ reserves the right to immediately suspend its performance under this Agreement (including suspension of some or all Customer Accounts) if Axios HQ reasonably believes that Customer or any of its Authorized Users have (a) materially violated any provision of Sections 2.5, 4.3, 4.5, 4.6, 4.14 or 5.2, or (b) undertaken any act or omission in connection with the Agreement which exposes Axios HQ or any third party to a significant risk of material harm (each a “Material Breach”). Axios HQ will notify Customer as soon as practicable of any suspension made in response to a suspected Material Breach and will promptly begin investigations on the matter. If Axios HQ determines that no Material Breach has occurred, Axios HQ will immediately resume performance under this Agreement and the term of performance will be extended by the length of the suspension period. If Axios HQ confirms that a Material Breach has occurred, Axios HQ may terminate the Agreement for cause effective immediately upon written notice to Customer.

6.4 Effect of Termination. Upon expiration or termination of the Agreement for any reason, all corresponding rights, obligations, and licenses of the parties shall cease, except that any outstanding payment obligations of Customer and any provisions of the Agreement which by their nature are intended to survive termination, including Sections 3, 6.4 and 8 through 11, shall survive. At any time within the thirty (30) day period following termination or expiration of the Agreement, Customer may request a copy of all Customer Content and Customer Data in Axios HQ’s possession (including Newsletters and Newsletter Analytics), and Axios HQ will promptly provide such requested Customer Content and Customer Data. Axios HQ is not required to maintain the Customer Content or Customer Data beyond thirty (30) days following the end of the Subscription Term (or such other period of retention as may be agreed by the Customer and Axios).

7. FEES & PAYMENT TERMS

7.1 Fees. Customer shall pay Axios HQ the HQ Platform subscription fees and Professional Services fees in accordance with the applicable Order. If no payment schedule is specified in the Order, then all fees will be invoiced in full upon Customer’s execution of the Order. All invoices will be in United States dollars. Axios HQ reserves the right to increase the HQ Platform subscription fees at each Renewal Subscription Term, provided that Axios HQ shall give Customer at least thirty (30) days’ advance written notice of such fee increase (email accepted).

7.2 Payment Terms. Unless otherwise stated in the Order, all invoiced amounts not disputed in good faith are due and payable by Customer within thirty (30) days of invoice receipt. Customer must notify Axios HQ in writing of any disputed amounts within thirty (30) days of its receipt of the invoice, such notice to specify the reason for dispute, or the invoice will be deemed correct. Late payments on undisputed amounts will be subject to a service charge equal to the lesser of 1.5% per month or the maximum amount allowed by law. If any undisputed amount owed by Customer under the Agreement is more than fifteen (15) days overdue, Axios HQ may, upon written notice (email accepted), suspend Customer’s access to the HQ Platform or Professional Services until payment is made in full. Failure to pay an outstanding invoice more than thirty (30) days after receipt of a past-due notice from Axios HQ is a material breach by Customer and grounds for immediate termination of the Agreement upon written notice. If Customer remains in default of its payment obligations more than thirty (30) days after initial written notice, Axios HQ may (without limiting its other rights or remedies) initiate collection proceedings against Customer (directly or through a collections agency). Upon request by Customer, Axios HQ
shall provide any information and/or documentation reasonably required by Customer’s finance and operations teams to create a vendor profile in Customer’s procurement system and shall submit its invoices through such system.

7.3 **Taxes.** Fees are exclusive of taxes (including withholding taxes, sales taxes, and value added taxes), fees, duties, or governmental charges imposed by any taxing jurisdiction (“Taxes”). All Taxes, other than taxes on Axios HQ’s net income and property, are the sole responsibility of Customer. If any Taxes must be deducted from any amounts payable or paid by Customer, Customer shall pay such additional amounts necessary to ensure that Axios HQ receives a net amount equal to the full fee(s) specified in the Order.

8. **CONFIDENTIALITY**

8.1 **Confidential Information.** By virtue of the Agreement, each party may receive, orally or in writing, certain proprietary or non-public information regarding the other party or its business which derives value from not being generally known and which the receiving party knows (or reasonably should know based on the contents and circumstances of the disclosure) was disclosed under an expectation of confidentiality (“Confidential Information”). Confidential Information of Customer includes Customer Content, Customer Data, and Customer Personal Data. Confidential Information of Axios HQ includes the HQ Technology. The terms of the Agreement, including fees in the Order, will be considered Confidential Information of both parties. Confidential Information does not include any information that: (i) was in the receiving party’s possession on a non-confidential basis prior to disclosure by the disclosing party; (ii) was or became publicly known without breach of the Agreement by the receiving party; (iii) was disclosed to the receiving party from a third party without an obligation of confidentiality to the Disclosing Party; or (iv) was independently developed by the receiving party without the use of the Confidential Information. For the avoidance of doubt, the foregoing exclusions do not limit Axios HQ’s obligations as a processor of Customer Personal Data where applicable.

8.2 **Confidentiality Obligations.** Each party shall: (1) protect the Confidential Information of the other party using the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind, provided that in no event will it use less than a reasonable standard of care, and further provided that Customer Personal Data will be subject to the standards of care set forth in Section 5 above; (2) use the other party’s Confidential Information solely to perform its obligations under the Agreement; (3) not disclose the other party’s Confidential Information to any third party except as provided in the Agreement; and (4) promptly notify the other party upon becoming aware of any unauthorized disclosure, access or use of the other party’s Confidential Information. A party may disclose the other party’s Confidential Information: (a) if the other party has given its express written consent; (b) to its and its authorized Affiliates’ respective directors, officers, employees, agents, subcontractors, third-party providers, subprocessors, and personnel to the extent necessary to perform its obligations or exercise its rights under the Agreement, provided that they are bound by obligations of confidentiality and non-use not less restrictive than those found in this Section 8; and (c) to its professional advisors, attorneys, auditors, accountants and other agents who are bound by a duty of confidentiality and non-use not less restrictive than those of this Section 8. The receiving party may also disclose the disclosing party’s Confidential information if required by law, a regulatory authority, or a court of competent jurisdiction (a “Compelled Disclosure”); provided that the receiving party (i) promptly notifies the disclosing party of the Compelled Disclosure request (where permitted by law) so that the disclosing party can seek a protective order or other protections (ii) discloses only such Confidential Information as its attorneys advise is required by the Compelled Disclosure and (iii) undertakes reasonable efforts to obtain confidential treatment for any Confidential Information so disclosed.

8.3 **Effect of Termination.** Upon termination of the Agreement for any reason, each party shall, upon the other party’s written request (email accepted), promptly destroy or return to the other party all of the other party’s Confidential Information; provided that the foregoing shall not require the receiving party to delete any Confidential Information which it is required to maintain under applicable law, nor to manually delete automatically generated archival backups which are not generally available to its employees and which will otherwise be deleted in accordance with its standard data retention practices. For any Confidential Information so retained, all obligations of this Section 8 will continue to apply.

8.4 **Superseding Terms.** The provisions of this Section 8 will supersede any non-disclosure agreement by and between the parties (whether entered into before, on or after the Effective Date) that would purport to address the confidentiality and security of Customer Content and Customer Data, and such agreement will have no further force or effect with respect to Customer Content or Customer Data. Such a non-disclosure agreement, if applicable, will continue to control with regards to any information exchanged between the parties outside the scope of this Agreement.

9. **WARRANTIES & DISCLAIMERS**
9.1 **Axios HQ General Warranties.** Axios HQ warrants that: (a) it is duly organized and in good standing; (b) that it has all rights and licenses necessary to perform its obligations under the Agreement; (c) it will comply with all applicable laws, rules and regulations in connection with its performance under the Agreement; and (d) the HQ Platform will not contain software or code designed by Axios HQ or its licensors to cause harm to any Customer systems or materials, including any malicious code intended to: (i) make unauthorized changes to or cause damage to Customer systems or the electronic systems, computers, servers, or networks of any third parties; (ii) copy, provide unauthorized access to, or prevent authorized access to Customer Confidential Information or Customer Personal Data; or (iii) prevent detection of any unauthorized invasion of Customer systems.

9.2 **Professional Services Warranties.** The warranties for Professional Services, if applicable, are located in Exhibit A.

9.3 **HQ Platform Quality Warranties.** Axios HQ warrants that, during the Subscription Term: (a) the HQ Platform will operate in substantial conformity with the Documentation, and (b) Axios HQ will not materially diminish the core features and functionality of the HQ Platform. Axios HQ’s sole liability, and Customer’s exclusive remedy, for any breach of the foregoing warranties shall be for Axios HQ, in Axios HQ’s sole discretion, to: (i) use commercially reasonable efforts to provide an error-correction or work-around for the reported functionality concern; or (ii) terminate the Agreement and provide Customer a refund of any prepaid HQ Platform fees pro-rated for the remainder of the Subscription Term. Axios HQ shall have no obligation with respect to a warranty claim under this Section 9.3 unless notified of such claim promptly and within the Subscription Term. The foregoing warranty will not apply if the non-conformity or functionality issue results from factors beyond Axios HQ’s reasonable control, including failures of, or incompatibility with, Customer systems.

9.4 **Disclaimers.** EXCEPT AS EXPRESSLY PROVIDED IN THE AGREEMENT, THE HQ PLATFORM AND PROFESSIONAL SERVICES ARE PROVIDED “AS IS” AND “AS AVAILABLE” WITH ALL FAULTS, WHETHER OR NOT IMMEDIATELY APPARENT. TO THE FULLEST EXTENT PERMITTED BY LAW, AND EXCEPT AS EXPRESSLY PROVIDED IN THE AGREEMENT, AXIOS HQ HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, RELATING TO THE HQ PLATFORM AND THE PROFESSIONAL SERVICES, INCLUDING WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, AND WARRANTIES IMPLIED BY USAGE OF TRADE OR CUSTOM OF DEALING. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, AXIOS HQ DOES NOT WARRANT THAT: (i) THE USE OF THE HQ PLATFORM WILL BE SECURE, TIMELY, UNINTERRUPTED, ERROR-FREE OR VIRUS FREE; (ii) THE HQ PLATFORM WILL OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE SYSTEM OR DATA EXCEPT AS SPECIFIED IN THE DOCUMENTATION; (iii) DATA OBTAINED BY CUSTOMER THROUGH THE HQ PLATFORM WILL BE ACCURATE AND COMPLETE; (iv) ALL REPORTED DEFECTS WILL BE CORRECTED; OR (v) THE HQ PLATFORM OR PROFESSIONAL SERVICES WILL MEET CUSTOMER’S REQUIREMENTS OR EXPECTATIONS BEYOND WHAT IS SPECIFIED IN THE DOCUMENTATION. BECAUSE ACTUAL RESULTS ARE BASED UPON NUMEROUS FACTORS NOT WITHIN THE CONTROL OF AXIOS HQ, AXIOS HQ DOES NOT GUARANTEE THAT USE OF THE PROFESSIONAL SERVICES OR HQ PLATFORM WILL DELIVER ANY SPECIFIC RESULTS, INCLUDING IMPROVED NEWSLETTER ENGAGEMENT, IMPROVED SUBSCRIBER RETENTION, OR INCREASED PROFITS.

10. **INDEMNIFICATION & LIMITATION OF LIABILITY**

10.1 **Indemnification By Axios HQ.** Axios HQ shall: (I) defend and hold harmless Customer and its Affiliates, officers, employees, agents, and partners (Customer’s “Indemnified Parties”) from and against any third-party claim, demand, suit, or action (“Claim”) alleging that the HQ Platform or Professional Services infringe on a third party’s United States patent, copyright, trademark, or trade secret; and (II) indemnify Customer Indemnified Parties against resulting liabilities, judgments, damages, losses, fees, fines, and costs (including court costs and reasonable attorneys’ fees) (“Losses”) fully and finally awarded by a court of competent jurisdiction or arising from a court-approved settlement or binding mediation or arbitration. The foregoing obligations will not apply to the extent the alleged infringement arises from Customer’s: (a) alteration or modification of the HQ Platform, Professional Services or associated Axios HQ Intellectual Property (except as expressly authorized by Axios HQ in writing); (b) use of the HQ Platform or Professional Services or associated Axios HQ Intellectual Property in combination with other non-Axis HQ materials, products, services, hardware, software or processes (except as permitted in the Documentation or expressly authorized by Axios HQ in writing); or (c) use of the HQ Platform or Professional Services or associated Axios HQ Intellectual Property in violation of the Agreement.

10.2 **IP Infringement Remedies.** If Customer’s use of the HQ Platform, Professional Services, or associated Axios HQ Intellectual Property is, or in Axios HQ’s opinion is likely to become, the subject of an infringement Claim, or if Axios HQ otherwise determines it to be commercially advisable, Axios HQ may, in its sole discretion: (a) substitute the allegedly
infringing element with a functionally similar component, feature, material or element; (b) procure for Customer the right to continue using the HQ Platform, Professional Services, or associated Axios HQ Intellectual Property; or (c) terminate the Agreement and provide Customer a pro-rata refund of any applicable prepaid fees. The foregoing remedies will not relieve Axios HQ of its defense and indemnification obligations under Section 10.1 to the extent the Claim accrued prior to the implementation of such remedies.

10.3 Indemnification By Customer. Customer shall: (I) defend and hold harmless Axios HQ and all Axios HQ Indemnified Parties from and against any and all Claims arising in connection with (a) the Customer Content or Customer Data, (b) Customer’s violation of applicable law in connection with the Agreement, or (c) Customer’s use of the HQ Platform or Professional Services in violation of the Agreement; and (II) indemnify Axios Indemnified Parties against any resulting Losses. The foregoing obligations will not apply to the extent the Claim results from Axios HQ’s gross negligence, willful misconduct, or material breach of its obligations under the Agreement. THE FOREGOING CUSTOMER INDEMNITY OBLIGATIONS SHALL NOT APPLY TO THE EXTENT SUCH INDEMNITY IS PROHIBITED UNDER APPLICABLE STATE OR LOCAL LAW OR THE CUSTOMER’S STATE CONSTITUTION.

10.4 Indemnification Process. An Indemnified Party must provide the party from whom indemnification is sought (the “Indemnifying Party”) with: (a) prompt notice of any Claim (provided that a delay in giving notice shall not relieve the Indemnifying Party of its obligations under this Section 10 except to the extent materially prejudiced by such delay); (b) control over the defense of the Claim, provided that the Indemnified Party reserves the right to participate in the defense with counsel of its choosing at its own expense; and (c) reasonable assistance and cooperation in the defense of the claim (at the Indemnifying Party’s expense). The Indemnifying Party shall have exclusive control of the settlement of the Claim, provided that the Indemnifying Party may not settle a Claim without the prior written consent of the Indemnified Party (not to be unreasonably withheld or delayed) unless such settlement: (i) involves only the payment of monetary damages by the Indemnifying Party; and (ii) includes a full release of responsibility and liability for the Indemnified Party.

10.5 Limitations of Liability. EXCEPT WITH REGARDS TO (I) CLAIMS FOR INDEMNIFICATION, (II) EITHER PARTY’S INFRINGEMENT OF THE OTHER PARTY’S INTELLECTUAL PROPERTY OR MISUSE OF THE OTHER PARTY’S CONFIDENTIAL INFORMATION, (III) A PARTY’S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT IN CONNECTION WITH THE AGREEMENT, AND (IV) LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED BY APPLICABLE LAWS, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY, BASED ON ANY THEORY OF LAW, EQUITY, TORT, CONTRACT OR OTHERWISE, FOR: (A) SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF USE, LOSS OF DATA, SERVICE ERROR OR INTERRUPTION, INACCURACY OR CORRUPTION OF DATA, OR COSTS OF COVER, IN CONNECTION WITH THE AGREEMENT, EVEN IF SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGE; OR (B) DAMAGES EXCEEDING THE TOTAL AMOUNT OF THE FEES PAYABLE TO AXIOS HQ IN THE PREVIOUS 12 MONTHS UNDER THE ORDER GIVING RISE TO THE CLAIM (THE “GENERAL CAP”). AXIOS HQ’S MAXIMUM AGGREGATE LIABILITY FOR INDEMNIFICATION CLAIMS SHALL NOT EXCEED THREE (3) TIMES THE FEES PAYABLE UNDER THE ORDER GIVING RISE TO THE CLAIM (THE “SUPERCAP”). EXCEPT WITH REGARDS TO CLAIMS RELATED TO INDEMNIFICATION, INTELLECTUAL PROPERTY INFRINGEMENT, OR BREACH OF CONFIDENTIALITY OBLIGATIONS, ALL CLAIMS UNDER THIS AGREEMENT MUST BE BROUGHT WITHIN TWELVE (12) MONTHS OF THE OCCURRENCE OR REASONABLE DISCOVERY OF THE EVENTS GIVING RISE TO THE CLAIM.

11. GENERAL TERMS

11.1 Interpretation. As used herein: (a) the terms “including” and “includes” mean “[including][includes] without limitation”; (b) the phrases “such as” and “for example” are followed by non-inclusive lists and shall be read as “such as [(or for example)], but not limited to”;

(c) the term “herein” refers to the Agreement as a whole and not a specific section or provision; and (d) terms appearing in the singular include the plural, and terms appearing in the plural include the singular. The section headings and subheadings used herein are intended solely for convenience of reference and are not to be used in the interpretation of any provision.

11.2 Notices. All notices to Customer shall be addressed to Customer’s point of contact as set forth in the Order and may be sent by email. Notices to Axios HQ must be sent to Axios HQ Inc., Attn: Legal Department, 3100 Clarendon Blvd. Suite #1300, Arlington, VA 22201 with a copy to legal@axioshq.com. The parties may designate other addresses for notice from time to time by written notice to the other. All notices under the Agreement shall be in writing and will be deemed duly given: (i) when received, if personally delivered; (ii) the day after being sent, if sent for next day delivery by
recognized overnight delivery service; (iii) upon delivery, if sent by email; or (iv) three (3) days after being sent by certified or registered mail, return receipt requested.

11.3 **Assignment.** Neither party may assign the Agreement without the written consent of the other party (not to be unreasonably withheld or delayed), except that either party may assign this Agreement to an Affiliate or in connection with a merger, acquisition, spin off or sale of substantially all of the assets to which the Agreement pertains (assignment to a “Successor”) upon notice and without consent; provided that if the Successor is a competitor of the non-assigning party, written consent of the non-assigning party is required. Subject to the previous sentence, the rights and liabilities of the parties hereto will bind and inure to the benefit of their respective successors and assigns.

11.4 **Publicity.** Axios HQ may reference Customer in lists of Axios HQ customers published on the Axios HQ website and in Axios HQ promotional materials. Customer consents to its inclusion in such lists and grants Axios HQ a limited license to use Customer’s tradename, trademark and logo for such purposes.

11.5 **Force Majeure.** Neither party will be liable for any failure or delay in its performance under the Agreement resulting from causes beyond its reasonable control, including fire, epidemic, pandemic, flood, earthquake, riot, war, terrorism, labor issues, infrastructure failure, sabotage, acts of God, governmental, civil or military action, Internet service provider failure or delay, denial of service attack, or failures in any telecommunications, network or other service or equipment outside a party’s direct control (a “**Force Majeure Event**”). In the event of a Force Majeure Event, the affected party's performance shall be extended for the duration of the delay or failure, provided that the affected party must: (i) give the other party prompt written notice of the Force Majeure Event; and (ii) use reasonable efforts to mitigate or correct its failure or delay in performance. If a Force Majeure Event prevents Axios HQ’s performance under the Agreement for more than thirty (30) days, Customer may terminate the Agreement and receive a prorated refund of fees paid in advance for services not provided. For the avoidance of doubt, a Force Majeure Event affecting Customer will not relieve Customer of its payment obligations for Professional Services already provided, nor for subscription fees payable for the HQ Platform so long as the HQ Platform remains generally available and accessible to all Axios HQ customers.

11.6 **Federal Government End Use Provisions.** This Section 11.6 applies only if the Customer is the United States federal government or one of its agencies. Axios HQ provides the HQ Platform, including related software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the HQ Platform include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not granted under these terms, it must negotiate with Axios HQ to determine if there are acceptable terms for granting those rights, and a mutually acceptable written addendum specifically granting those rights must be included in any applicable agreement.

11.7 **Independent Contractors.** The parties to the Agreement are independent contractors, and nothing contained in the Agreement will be construed as creating a partnership, joint venture, co-ownership, or other joint undertaking.

11.8 **No Third-Party Beneficiaries.** There are no third-party beneficiaries under the Agreement except where expressly stated in the Order.

11.9 **Subcontractors.** Axios HQ may use the services of subcontractors and permit them to exercise the rights granted to Axios HQ in order to provide the services under the Agreement, provided that Axios HQ remains responsible for the overall performance of the Agreement and for the compliance of any such subcontractor with the terms of the Agreement.

11.10 **Governing Law and Jurisdiction.** The Agreement shall be governed by the laws of the State of Virginia without regard to conflict of law principles. Any dispute arising out of the Agreement shall be brought before the federal or state courts of competent jurisdiction located in Alexandria, Virginia, and each party expressly consents to the personal jurisdiction of such courts and waives any objection to venue. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to the Agreement.

11.11 **Dispute Resolution.** The parties agree to negotiate any dispute arising under the Agreement in good faith for at least thirty (30) days prior to filing a claim in court. Each party agrees to use commercially reasonable efforts to minimize
any damages that may be incurred as a result of the other party’s actual or alleged breach of the Agreement. To the fullest extent permitted by applicable law, each party hereby irrevocably waives any and all right to a trial by jury in any legal proceeding arising in connection with the Agreement. The prevailing party in any action to enforce the Agreement will be entitled to recover its attorneys’ fees and court costs in addition to any damages awarded. Except as otherwise expressly provided in the Agreement, each right and remedy in the Agreement is in addition to any other right or remedy, at law or in equity.

11.12 **Equitable Remedies.** Notwithstanding anything to the contrary in Section 11.10 above, either party may seek equitable relief from any court of competent jurisdiction (without the necessity of notice, negotiation, or posting of any bond) to restrain or prevent: (a) a breach or threatened breach of confidentiality, (b) an infringement of their intellectual property rights by the other party; or (c) a serious threat of harm to itself or a third party.

11.13 **Waiver.** The failure of either party to enforce its rights under the Agreement at any time or for any period will not be construed as a waiver of such rights, and the exercise of one right or remedy will not be deemed a waiver of any other right or remedy. Any waivers must be made in writing and signed by the party whose rights are being waived.

11.14 **Severability.** If any provision of the Agreement is held by a court of competent jurisdiction to be unenforceable, the unenforceable provision shall be modified to reflect its original intent and economic effect. If such modification is not possible, the provision will be struck. In either instance, the remainder of the Agreement shall remain unmodified and in full force and effect.

11.15 **Entire Agreement.** The Agreement, including the Order(s) and any Exhibits, constitutes the entire understanding between the parties, and supersedes all prior discussions, representations, understandings, and agreements between the parties with respect to the subject matter herein. In the event of a conflict between the terms of the Agreement and the terms of an Order, the terms of the Agreement shall prevail unless the Order specifically references the provision of the Agreement to be superseded, in which case the provision in the Order will be binding and the conflicting provision in the Agreement will be deemed modified solely to the extent necessary to eliminate the conflict. ANY ADDITIONAL OR INCONSISTENT TERMS INCLUDED IN ANY RELATED PURCHASE ORDER, CONFIRMATION FORM, STATEMENT OF WORK, OR SIMILAR CUSTOMER-SUPPLIED DOCUMENT SHALL HAVE NO EFFECT UNDER THE AGREEMENT. Axios HQ reserves the right to change the terms of this Agreement from time to time by updating the T&Cs and posting the revised terms online and/or in the HQ Platform’s interface and providing written notice to Customer via email or an alert within the HQ Platform interface. Any such change will become effective when so posted. If Customer objects to any such change, Customer’s sole recourse will be to terminate the Agreement within thirty (30) days of the change’s effective date and receive a pro-rata refund of fees paid in advance. Continued use of the HQ Platform and Professional Services beyond thirty (30) days of a change becoming effective indicates Customer’s acknowledgement of and agreement to be bound by such change. Except with regards to the foregoing, no modification, amendment, or waiver of any provision of the Agreement shall be effective unless in writing and signed by the parties.
EXHIBIT A

PROFESSIONAL SERVICES TERMS

If the applicable Order includes Professional Services, the terms of this Exhibit shall apply. These terms are in addition to (and not in lieu of) the terms in the body of the T&Cs, provided that those provisions of the Agreement specific to the HQ Platform will not apply unless Customer receives access to the HQ Platform under the Order. Capitalized terms used and not defined in this Exhibit will have the meaning set forth in the body of the T&Cs. 

1. ASSIGNMENT OF AXIOS HQ PERSONNEL. Axios HQ will assign one or more qualified individuals to provide the Professional Services (the “Axios HQ Personnel”) as specified in the Order. Axios HQ reserves the right, in its discretion, to substitute any Axios HQ Personnel with another, similarly qualified member of Axios HQ’s staff without prior notice to, or consent from, Customer. If Customer, acting reasonably and in good faith, becomes dissatisfied with any assigned Axios HQ Personnel, Customer must notify Axios HQ of its complaint in writing (email accepted). Axios HQ and Customer shall work together in good faith to resolve the complaint within thirty (30) days of such notice, which resolution may include replacement of the Axios HQ Personnel.

2. CUSTOMER COOPERATION. Customer must cooperate with Axios HQ in its performance of the Professional Services. Such cooperation shall include: (a) providing Axios HQ such access to Customer’s premises, employees, contractors, and equipment as reasonably required to provide the Professional Services; and (b) responding promptly to any reasonable requests from Axios HQ for instructions, information, materials, or approvals in connection with its provision of the Professional Services. Axios HQ is not responsible for any delay in performance of the Professional Services resulting from Customer’s failure to reasonably cooperate with Axios HQ.

3. QUALITY WARRANTY. Axios HQ warrants that the Professional Services will be performed by reasonably qualified personnel and in a professional and workmanlike manner. Axios HQ’s sole liability, and Customer’s sole and exclusive remedy, for any breach of the foregoing warranty shall be reperformance of the Professional Services and, failing that, termination of the Agreement and a refund of the associated fees for Professional Services not delivered in accordance with industry standards.

4. NON-SOLICITATION. Axios HQ undertakes significant effort and expense to train its Axios HQ Personnel in the effective use of Smart Brevity®. In acknowledgement of this investment, it is agreed that during the Term and for one (1) year thereafter, Customer shall not directly or indirectly employ, engage for services, or solicit for employment any Axios HQ Personnel. For the avoidance of doubt: (a) the term “solicit” does not include general job postings not targeted at Axios HQ Personnel; and (b) the term “Axios HQ Personnel” as used in this provision does not include Axios HQ employees or contractors not directly involved in the sale or delivery of Professional Services (i.e., Axios HQ software engineers and administrative and operational support staff do not qualify as Axios HQ Personnel). In the event of a breach of this non-solicitation provision, Customer agrees to pay Axios HQ liquidated damages equal to the applicable Axios HQ Personnel’s annual salary.

5. PROFESSIONAL SERVICES - SMART BREVITY TRAINING.

5.1. Training. Where specified in the Order, Axios HQ will provide training to Customer on how to apply Smart Brevity® principles (“Training”). Examples of Axios HQ Trainings include: (a) Smart Brevity Fundamentals Seminars that train participants on the general concepts and application of Smart Brevity principles (typically lasting 1 hour each and available for up to 100 participants); (b) Smart Brevity Bootcamps (available only to Customers that also purchase the HQ Platform) that train participants on the general principles of Smart Brevity and how to use the Axios HQ Platform (typically lasting 1 hour each and available for up to 100 participants); (c) customized Smart Brevity Workshops that train participants on the application of Smart Brevity to their specific projects (typically lasting 2.5 hours each and available for no more than 14 participants); and (d) virtual Expert Voices Sessions that focus on the organizational benefits of Smart Brevity from an executive perspective. Other specialized or custom Training options may be available upon written agreement of the parties.

5.2. Location of Training. Unless otherwise specified in the Order, all Trainings are conducted virtually. Where requested by Customer and agreed to by Axios HQ, Trainings may be provided on-site at Customer’s facilities, rather than virtually. If Axios HQ provides any in-person Trainings at Customer facilities, Customer shall reimburse Axios HQ for all actual and reasonable travel expenses incurred in addition to the Professional Services fees set forth in the Order. Each Axios HQ Personnel involved in in-person Trainings will comply with all reasonable instructions and
guidelines of Customer based on Customer's visitor policies. Customer shall undertake all reasonable efforts to protect the health and safety of Axios HQ Personnel while performing any in-person Training at Customer facilities, and Customer agrees to defend, indemnify, and hold Axios HQ harmless from and against any claims for personal property damage, personal injury or death brought against Axios HQ by any third party or by Axios HQ Personnel to the extent caused by Customer's breach of the foregoing covenant, or Customer's negligence or willful misconduct.

5.3. Scheduling, Rescheduling and Performance Period. Where the performance dates for Trainings are not included in the Order, the parties will mutually agree to the Training dates in writing (email accepted) as soon as possible. Unless otherwise specified in the Order, all Trainings must be scheduled within three (3) months of the Effective Date (the “Scheduling Date”) and delivered within twelve (12) months of the Effective Date (the “Performance Period”). Either party may reschedule a scheduled Training at any time until 21 calendar days before the agreed upon Training date (the “Permitted Rescheduling Window”). A party seeking voluntary rescheduling during the Permitted Rescheduling Window must make a written request to the other party for rescheduling (email accepted). Upon receipt of such request, the parties shall cooperate to identify a new, mutually acceptable Training date within the Performance Period. The party requesting voluntary rescheduling will be responsible for reimbursing any non-refundable expenses actually incurred by the other party because of the rescheduling. After the Permitted Rescheduling Window closes (i.e., during, the 20 calendar days before the scheduled Training date), a Training may not be rescheduled except for in response to a Force Majeure Event or by mutual consent of both parties, to be granted at their discretion. Except for rescheduling required due to a Force Majeure Event, each party is only entitled to reschedule a Training one time. Subsequent rescheduling of a previously rescheduled event requires mutual consent of both parties, to be granted at their discretion.

5.4. Forfeiture and Cancellation. All Trainings are non-cancellable by Customer. If Customer notifies Axios HQ in writing that it no longer wishes to hold a purchased Training, the Training will be deemed forfeited. A Training may also be considered forfeited by Customer if the Customer (i) fails to schedule the Training by the Scheduling Date; (ii) requests a rescheduling during the Permitted Rescheduling Window closes (unless Axios HQ elects, in its sole discretion, to allow such rescheduling); (iii) requests a rescheduling of the same event more than once without a Force Majeure Event (unless Axios HQ elects, in its sole discretion, to allow a second rescheduling); or (iv) fails to hold the Training during the Performance Period (unless such failure is solely attributable to Axios HQ’s acts or omissions or is the result of a Force Majeure Event). Fees paid in advance for a forfeited Training are non-refundable. Unpaid amounts due in association with a forfeited Training will promptly be invoiced to Customer and will be due and payable in full in accordance with the Agreement. Axios HQ reserves the right to cancel a training in its discretion and to provide Customer, as its sole remedy for such cancellation, a refund of the fees associated with the Training and reimbursement for any non-refundable expenses actually incurred by Customer because of the cancellation. The foregoing does not constitute a waiver by either party of any claim that it may have accrued prior to the cancellation.

5.5. Training Materials. If Axios HQ provides Customer with guidance documents, instructions, slide decks or other training materials in connection with the Training (“Training Materials”), such Training Materials may only be used by the Training’s participants unless otherwise agreed to in the Order. Except as expressly provided in the Order, Customer may not make the Training Materials available to any business units, internal groups, teams or employees which were not participants of the original Training without Axios HQ’s express written consent. Under no circumstances shall Customer or any representative of Customer make the Training Materials available to third parties.

5.6. Recordings. Axios HQ does not allow Trainings to be recorded. If Axios HQ consents in writing to allow a Training to be recorded, such recording will be considered part of the Training Materials and may not be shared with non-participants except if permitted by Axios HQ in writing.

5.7. Rights and Licenses. The Training, Training Materials, and all materials, knowledge, know-how, methods, and information contained or embodied therein (excluding Customer Content and other Customer Confidential Information) are considered Axios HQ Intellectual Property. Customer receives only a limited, non-transferable license to use the contents of the Training and the Training Materials during and after the Professional Services Term solely in accordance with the Agreement.

6. PROFESSIONAL SERVICE- EDITORIAL CONSULTING.
6.1. **Editorial Consulting.** Where specified in the Order, Axios HQ will provide editorial support services to Customer’s editorial writers to assist Customer in the application of Smart Brevity® to its Newsletters (“**Editorial Consulting**”). Except as otherwise specified in the Order, Editorial Consulting services consist of Newsletter planning strategy, Smart Brevity style guidance, content mix advice, advice on voice, tone and visuals, and audience engagement analysis is and optimizing.

6.2. **Scope of Support.** Editorial Consulting is purchased in packages of four or more weeks of support for one or more Newsletters. Pricing is based on the number of Newsletters to be supported and the frequency of Newsletter sends, as specified in the Order. Editorial Consulting services will be performed only on weekdays, excluding Axios HQ company holidays, and Customer is responsible for providing its initial draft Newsletters and subsequent feedback and approvals in accordance with the schedules mutually agreed to by the parties.

6.3. **HQ Platform Access.** Editorial Consulting often includes access to the HQ Platform for faster and more efficient collaboration, with the option to send resulting Newsletters through the HQ Platform or to export them for distribution through Customer’s preferred systems. Access and use of the HQ Platform by Customer and its Authorized Users shall remain subject to all terms of the Agreement applicable to the HQ Platform.

6.4. **Ownership and Responsibility for Content.** Editorial Consulting services may include suggestions on structure and tone to improve adherence to Smart Brevity® best practices, but all Newsletter content will be authored by Customer’s own editorial writers and is considered Customer Content. Axios HQ does not become responsible or liable for any Customer Content by virtue of providing Editorial Consulting services.

7. **PROFESSIONAL SERVICES- OTHER.**

7.1. **Other Services.** Axios HQ may from time to time agree to provide additional services if and as specified in the applicable Order (“**Other Services**”). Axios HQ reserves the right to impose additional terms and conditions on such Other Services. Such terms shall be incorporated into the applicable Order or added to the Agreement via an amendment executed by the parties.