DKAN Open Data Portal Terms and Conditions

1. SOFTWARE SERVICES

   a. Subject to the terms and conditions of these DKAN Open Data Portal Terms and Conditions (the "Agreement"), CivicActions will use commercially reasonable efforts to perform the software services (the "Software Services") identified in the applicable DKAN Support Service Level entered into by CivicActions and Customer ("Software Agreement").

   b. Customer understands that CivicActions' performance depends on Customer timely providing CivicActions with a copy of data in a electronic format supported by the requested version of DKAN. Any dates or time periods relevant to CivicActions' performance will be extended appropriately and equitably to reflect any delays caused by Customer's failure to timely deliver any such materials. CivicActions shall not be liable for any delays in performance under this Agreement resulting from Customer's failure to meet these obligations.

2. RESTRICTIONS AND RESPONSIBILITIES

   a. This is a contract for access to the Software Services. Customer agrees not to, directly or indirectly: reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, or algorithms of the Software Services, documentation or data related to the Software Services; modify, translate, or create derivative works based on the Software Services; or copy, rent, lease, distribute, assign, sell, or otherwise commercially exploit, transfer, or encumber rights to the Software Services; or remove any proprietary notices, except to the extent such a restriction is limited by applicable law or applicable license.

   b. Customer will use the Software Services only in compliance with all applicable laws and regulations (including, but not limited to, any export restrictions).

   c. Customer shall be responsible for obtaining and maintaining any equipment and other services needed to connect to, access or otherwise use the Software Services and Customer shall also be responsible for (a) ensuring that such equipment is compatible with the Software Services, (b) maintaining the security of such equipment, user accounts, passwords and files, and (c) for all uses of Customer user accounts with or without Customer's knowledge or consent.

3. OWNERSHIP.

   a. CivicActions retains all right, title, and interest in the Software Services and all intellectual property rights (including all past, present, and future rights associated with works of authorship, including exclusive exploitation rights, copyrights, and moral rights, trademark and trade name rights and similar rights, trade secret rights, patent rights, and any other proprietary rights in intellectual property of

every kind and nature) therein except to the extent those rights are otherwise subject to licenses from third-parties.

4. CONFIDENTIALITY.

   a. Each party (the "Receiving Party") agrees not to disclose (except as permitted herein) any Confidential Information of the other party (the "Disclosing Party") without the Disclosing Party's prior written consent. "Confidential Information" means all confidential business, technical, and financial information of the disclosing party that is marked as "Confidential" or an equivalent designation or that should reasonably be understood to be confidential given the nature of the information and/or the circumstances surrounding the disclosure (including the terms of the applicable Software Agreement). Notwithstanding the foregoing, Confidential Information does not include information that: (i) has become publicly known through no breach by the receiving party; (ii) was rightfully received by the receiving party from a third party without restriction on use or disclosure; or (iii) is independently developed by the Receiving Party without access to such Confidential Information. Notwithstanding the above, the Receiving Party may disclose Confidential Information to the extent required by law or court order, provided that prior written notice of such required disclosure and an opportunity to oppose or limit disclosure is given to the Disclosing Party.

   b. "Confidential Information" does not include "Public Data," which is data that the Customer has released to the general public or would be required to release according to applicable federal, state, or local public records laws.

   c. The Receiving Party agrees: (i) to use and disclose the Confidential Information only in connection with this Agreement; and (ii) to protect such Confidential Information using the measures that Receiving Party employs with respect to its own Confidential Information of a similar nature, but in no event with less than reasonable care.

5. DATA.

   a. The Customer grants CivicActions a non-exclusive, royalty-free licence to reproduce, adapt, translate, distribute, publish, publicly, perform, create derivatives from and display the Data on the Software Services; and make the Data available to end users in order for such end users to download make copies of and/or otherwise use such Data. "Data" means any text, graphics, audio, visual and/or audio-visual material, data, database content or other content, information and materials, including the metadata relating to any such content, provided by the Customer to CivicActions as part of the Customer's use of the Services, including any information derived from such information.

   b. The Customer shall not store, distribute or transmit any Data through the Software Services that is unlawful, harmful, threatening, defamatory, obscene, harassing or

racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; promotes unlawful violence, discrimination based on race, gender, age, disability, sexual orientation, religion and belief, gender reassignment, or any other illegal activities; infringes any third party's Intellectual Property Rights, other proprietary rights or rights of publicity or privacy; or violates any law, statute, ordinance or regulation.

c. To the extent that the Data contains any Personal Data, it is agreed the Customer is the Data Controller and CivicActions is the Data Processor having the meanings given to them in the General Data Protection Regulation Regulation (EU) 2016/679. The Customer warrants that it is entitled, and has obtained all requisite permissions, to require CivicActions to process such Personal Data as contemplated by this Agreement and appoints CivicActions as Data Processor to process Personal Data on its behalf for the purposes of providing the Services.

d. Both parties shall at all times, in relation to their activities under this Agreement, comply with the DPA and any other relevant data protection and privacy legislation in force from time to time as applicable.

e. In the event of any loss or damage to Data, the Customer's sole and exclusive remedy shall be for CivicActions to use reasonable commercial endeavours to restore the lost or damaged Data from the latest back-up of such Data maintained by CivicActions. CivicActions shall not be responsible for any loss, destruction, alteration or disclosure of Data caused by any third party.

6. PAYMENT OF FEES.

a. The fees for the Software Services ("Fees") are set forth in the applicable Software Agreement. Customer shall pay all Fees within thirty (30) days after the date of CivicActions' invoice, which shall be billed as of the Effective Date. Taxes. All Fees under this Agreement are exclusive of any applicable sales, value-added, use or other taxes ("Sales Taxes"). Customer is solely responsible for any and all Sales Taxes, not including taxes based solely on CivicActions' net income. If any Sales Taxes related to the Fees under this Agreement are found at any time to be payable, the amount may be billed by CivicActions to, and shall be paid by, Customer. If Customer fails to pay any Sales Taxes, then Customer will be liable for any related penalties or interest, and will indemnify CivicActions for any liability or expense incurred in connection with such Sales Taxes.

7. TERM & TERMINATION

a. Subject to compliance with all terms and conditions, the term of this Agreement shall be from the Effective Date and shall continue until the End Date specified on in the Software Agreement. The Customer will be billed according to the Billing Frequency as specified above. Unless either party declines to renew in writing no less than thirty (30) days before the End Date, this Agreement shall renew for two

(2) additional (1) year periods. The Customer will be billed on an annual basis for each twelve (12) month term. If either party materially breaches any term of this Agreement and fails to cure such breach within thirty (30) days after notice by the non-breaching party (ten (10) days in the case of non-payment), the non-breaching party may terminate this Agreement immediately upon notice.

b. Upon termination, Customer will pay in full for all Software Services performed up to and including the effective date of termination. Upon any termination of this Agreement: (a) all Software Services provided to Customer hereunder shall immediately terminate; and (b) each party shall return to the other party or, at the other party's option, destroy all Confidential Information of the other party in its possession.

c. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

8. WARRANTY AND DISCLAIMER

a. CivicActions represents and warrants that: (i) it has all right and authority necessary to enter into and perform this Agreement; and (ii) the Software Services shall be performed in a professional and workmanlike manner in accordance with generally prevailing industry standards.

b. Customer represents and warrants that (i) it has all right and authority necessary to enter into and perform this Agreement; (ii) it owns all right, title, and interest in and to all data provided to CivicActions for use in and in connection with this Agreement, or possesses the necessary authorization thereto; (iii) CivicActions' use of such materials in connection with the Software Services will not violate the rights of any third party and (iv) it will not transfer any Personally Identifiable Information ("PII") to the Software Services platform.

c. CIVICACTIONS DOES NOT WARRANT THAT THE SOFTWARE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SOFTWARE SERVICES. EXCEPT AS SET FORTH IN THIS SECTION 8, THE SOFTWARE SERVICES ARE PROVIDED "AS IS" AND CIVICACTIONS DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

d. LIMITATION OF LIABILITY. NEITHER PARTY, NOR ITS SUPPLIERS, OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES, SHALL BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR RELATED TERMS

AND CONDITIONS UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES; OR (C) FOR ANY MATTER BEYOND SUCH PARTY'S REASONABLE CONTROL, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. IN NO EVENT SHALL EITHER PARTY'S AGGREGATE, CUMULATIVE LIABILITY FOR ANY CLAIMS ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT EXCEED THE FEES PAID BY CUSTOMER TO CIVICACTIONS (OR, IN THE CASE OF CUSTOMER, PAYABLE) FOR THE SOFTWARE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY.

9. ACCESS

   a. The Customer shall be solely responsible for its, and each Authorised User's, use of the Software Services and its, and each Authorised User's, compliance with the terms and conditions of this Agreement and the terms of use, privacy policy and any other legal notices which are in place on the Software Services from time to time.

   b. The Customer is responsible for maintaining the confidentiality of its Software Services account and all associated usernames and passwords. The Customer shall use and shall procure that each Authorised User shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Software Services and shall notify CivicActions of any such unauthorised access or use.

   c. Without prejudice to CivicActions' other rights and remedies, CivicActions reserves the right to: suspend or terminate access to the Software Services if at any time any (actual or suspected) unauthorised use is made of the Software Services and such use is attributable to the act or default of, or through, the Customer (or any Authorised User); and/or require the Customer to change any or all of the usernames and/or passwords used by the Customer (and/or any Authorised User) in connection with its access to the Software Services.

   d. From time to time CivicActions may limit the Customer's access to the Software Services limiting: the number of network calls that are made via the API (if applicable); and/or the maximum file sizes for Data uploaded to the Software Services.

   e. CivicActions reserves the right to impose additional Fees in respect of increased bandwidth and storage costs required to accommodate the Customer's increased

use of the Software Services resulting from exceeding any limit(s) imposed by CivicActions pursuant to this section.

f. CivicActions reserves the right to: modify its systems, network, system configurations and/or routing configuration; and/or modify or replace any hardware or software in its network or in equipment used to deliver any Service over its network, provided that this has no adverse effect on CivicActions' obligations.

10. MAINTENANCE AND AVAILABILITY

a. In relation to all use of, or connection to, the Software Services by the Customer, the Customer shall comply with such requirements of CivicActions as CivicActions may specify from time to time, including but not limited to compliance with the Connectivity Requirements.

b. The Customer is responsible for configuring its information technology, computer programmes, network connections (including (if applicable) the API) and servers in order to access the Software Services and and secure internet connection of suitable bandwidth to enable access to the Software Services in order to upload and make the Data available via the same.

c. The Customer acknowledges that: complex software is never wholly free from defects, errors and bugs, and CivicActions gives no warranty or representation that the Software Services will be wholly free from such defects, errors and/or bugs; CivicActions does not warrant or represent that the Software Services will always be available, accessible, error-free, uninterrupted or that the contents will always be accurate; the transmission of information via the Internet is not completely secure and as such CivicActions cannot guarantee the security of any Data transmitted to the Software Services. Any transmission is at the Customer's own risk; and it shall be solely responsible for all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

d. CivicActions assumes no responsibility and shall not be liable for any loss or damage caused by a virus, or other technologically harmful material that may infect the Customer's computer systems or other equipment or other property on account of its access to, use of, or browsing of, the Software Services, and website linked to it.

e. CivicActions shall use commercially reasonable endeavours to make the Software Services available 99.5% of the time on a twenty-four hours a day, seven days a week basis evaluated on a Calendar-month period, except for: planned maintenance carried out during the CivicActions established maintenance window; and unscheduled maintenance performed outside Business Hours,

provided that CivicActions has used reasonable endeavours to give the Customer as much advance notice as is reasonably practicable and which CivicActions shall use reasonable endeavours to ensure is performed during the above maintenance window except where urgent unscheduled maintenance is necessary.

f.   CivicActions will, as part of the Maintenance and at no additional cost to the Customer, provide the Customer with CivicActions' standard customer services during Business Hours in accordance with customer Service Level in effect at the time the Services are provided.

11. MISCELLANEOUS.

a.   Capitalized terms not otherwise defined in these Terms and Conditions have the meaning set forth in the applicable Software Agreement.

b.   Neither party shall be held responsible or liable for any losses arising out of any delay or failure in performance of any part of this Agreement, other than payment obligations, due to any act of god, act of governmental authority, or due to war, riot, labor difficulty, failure of performance by any third party service, utilities, or equipment provider, or any other cause beyond the reasonable control of the party delayed or prevented from performing.

c.   CivicActions shall have the right to use and display Customer's logos and trade names for marketing and promotional purposes in connection with CivicActions' website and marketing materials, subject to Customer's trademark usage guidelines (as provided to CivicActions).

d.   If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.

e.   This Agreement is not assignable or transferable by either party without the other party's prior written consent, provided however that either party may assign this Agreement to a successor to all or substantially all of its business or assets.

f.   This Agreement (including the Software Agreement) is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications, and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties.

g.   No agency, partnership, joint venture, or employment is created as a result of this Agreement and neither party has any authority of any kind to bind the other party in any respect.

h.   In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees.

i.   All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is

electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

    j.   This Agreement shall be governed by the laws of the State of California without regard to its conflict of laws provisions.

12. CivicActions Support Services

    a.   Support. Customer support is available via email 8 hours per day during CivicActions Business Day. "Business Day" means Monday through Friday, excluding CivicActions' corporate designated holidays. See below for a list of holidays observed by CivicActions. Problems may be reported any time, however, CivicActions will not be obligated to assign work after Business Hours (9:00 AM to 5:00 PM Eastern Time).

    b.   Liaisons. On or before the activation date, Customer and CivicActions shall each designate a liaison as a respective point of contact for technical issues. Each party may change such liaison upon written notice from time to time at reasonable intervals. CivicActions will not be obligated to provide support to any person other than the Customer's designated liaison.

    c.   Holidays. CivicActions observes the following holidays as observed by the U.S. Government: New Year's Day, Birthday of Martin Luther King, Jr., Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day; and excluding the Friday following Thanksgiving.