

SaaS Terms of Use

These SaaS Terms of Use ("SaaS Terms"), along with any applicable Additional Terms (as defined below) (collectively the "Terms") apply to Customer access to, and use of the Subscriptions provided by The Gordian Group, Inc. and its subsidiaries and affiliates (collectively, "Gordian", "we" or "us").

1. Definitions.

- 1.1 **"Access Credentials"** means any information necessary for a Customer to login to or otherwise access and use the Subscriptions, including, but not limited to, user name and password.
- 1.2 **"Additional Terms"** means terms in addition to the SaaS Terms applicable to specific products as set forth in Section 2 below.
- 1.3 **"Authorized User"** means employees, agents, consultants, or contractors that have agreed to the Terms and are authorized in writing in advance by Gordian to use the Subscriptions subject to the Terms and solely for the benefit of Customer.
- 1.4 **"Confidential Information"** includes, but is not limited to, the terms and conditions (but not the existence) of the Terms, all trade secrets, software, source code, object code, specifications, documentation, business plans, customer lists and customer-related information, financial information, proposals, budgets as well as results of testing and benchmarking of the Software, SaaS Subscription, Data Subscription, or other services, product roadmap, data, data analytics, and other information of Gordian and its licensors relating to or embodied in the Software, Data, or Documentation.
- 1.5 **"Content"** means all materials used and accessed by Customer through the Subscriptions, including, without limitation, text, images, software, audio and video clips, databases, dashboards, and Data.
- 1.6 **"Customer"** means those entities (including its Authorized Users) or individuals who have purchased Subscriptions in accordance with the Terms.
- 1.7 **"Customer Data"** means data that Customer (including its Authorized Users) provides, uploads, generates, transfers, or otherwise makes available to Gordian under the Terms.
- 1.8 **"Data"** means all data, including construction cost data, regardless of product purchased by Customer, available through the Subscriptions or otherwise provided by Gordian or its Partners to Customer.
- 1.9 **"Data Subscription"** means the provision of the Data, hosted by Gordian or its Partners and accessed by Customer via the internet as set forth in an applicable Order Document.
- 1.10 **"Devices"** means one or more sensors, Internet of Things (IoT) devices, or other data gathering equipment installed or located on Customer's premises.
- 1.11 **"Documentation"** means user manuals, technical manuals, and any other materials provided by Gordian, in printed, electronic, or other form, that describe the installation, operation, use, or technical specifications of the Software or Subscriptions.
- 1.12 **"Effective Date"** means the date for commencement of the Subscriptions as set forth in an applicable Order Document. If no commencement date is set forth in the Order Document or no Order Document exists, the commencement date shall be deemed to be the date Gordian provides the Customer with an account to access and use the Subscriptions.
- 1.13 **"Exported Copy"** means an exported copy of Customer Data provided to Customer by Gordian.

- 1.14 **"Federal Customer"** means any United States federal government branch or agency Customer of Gordian subject to the Terms, including agencies and departments from the Executive Branch, the Congress, or the military.
- 1.15 **"Initial Term"** means the period commencing on the Effective Date and continuing through the duration set forth in an applicable Order Document. In the event the Order Document does not specify a subscription duration or no Order Document exists, the duration shall be a one-year annual subscription from the Effective Date.
- 1.16 **"Intellectual Property"** includes, without limitation, Data, inventions, technology, patent rights (including patent applications and disclosures), copyrights, trade secrets, trademarks, service marks, trade dress, methodologies, procedures, processes, know-how, tools, utilities, techniques, various concepts, ideas, methods, models, templates, Software, source code, object code, algorithms, analytics, the generalized features of the structure, sequence and organization of Software, user interfaces and screen designs, dashboards, general purpose consulting and software tools, utilities and routines, logic, coherence and methods of operation of systems, and training methodology and materials.
- 1.17 **"Named User"** means a single individual designated by Customer and approved by Gordian as an Authorized User of the Subscriptions on a non-temporary basis.
- 1.18 **"Order Document"** means a document or set of documents executed by the parties which describes order-specific information. An Order Document may not be specifically called an Order Document; it can be referred to by another name, such as a purchase order or statement of work. Any Subscriptions provided via an Order Document are subject to the Terms.
- 1.19 **"Partner"** is a Third Party vendor under an agreement with Gordian to provide services in support of the Subscriptions, as well as any other obligations under the Terms.
- 1.20 **"Person"** means an individual, corporation, partnership, joint venture, limited liability company, governmental authority.
- 1.21 **"Public Sector Customer"** means any Federal Customer or other United States state or local government, or any entity, authority, agency or body exercising executive, legislative, judicial, regulatory or administrative functions of any such government, who purchases the Subscriptions from Gordian.
- 1.22 **"Renewal Term"** means the period commencing on the renewal date of the Subscriptions and continuing for the duration of the Subscriptions set forth in an applicable Order Document. In the event the Order Document does not specify a subscription duration or no Order Document exists, the subscription duration shall be a one-year annual subscription from the expiration of the Initial Term or prior Term.
- 1.23 **"Resultant Data"** means aggregated and anonymized data and information, including Customer Data and Usage Data, relating to Client's use of the Subscriptions.
- 1.24 **"SaaS Subscription"** means the provision of the Software, hosted by Gordian or its Partners and accessed by Customer via the internet, as a service and as set forth in an applicable Order Document.
- 1.25 **"Software"** means Gordian's proprietary software programs, including any Data incorporated therein.
- 1.26 **"Subscription Data"** means any construction cost data or other Data available through the Subscriptions or otherwise provided by Gordian to Customer.
- 1.27 **"Subscription Fees"** means the fees, including all taxes, paid or required to be paid by Customer for access to and use of the Subscriptions and the license granted under the Terms.
- 1.28 **"Subscriptions"** mean collectively the SaaS Subscription and the Data Subscription.
- 1.29 **"Term"** means collectively the Initial Term and Renewal Terms.

1.30 **“Third Party”** means any Person other than Customer or Gordian.

1.31 **“Usage Data”** means data regarding Customer’s use of the Subscriptions.

2. GENERAL.

2.1 **Additional Terms.** Subscriptions for specific products shall be subject to the applicable Additional Terms listed below. The Additional Terms supplement the SaaS Terms. The Additional Terms shall control in the event of a conflict with the SaaS Terms.

(A) Addendum 1 –Additional Terms for Estimating Software

(B) Addendum 2 –Additional Terms for Procurement Software

(C) Addendum 3 –Additional Terms for Planning Software

(D) Addendum 4 – Additional Terms for Business Intelligence

2.2 **Order of Precedence.** The only terms from any Order Document applicable to the Terms are: (i) quantity; (ii) price; (iii) use limitations; (iv) renewal terms; and (v) payment terms. Any other terms contained in any Order Document are not applicable and the Terms shall control without regard to any order of precedence language in any Order Document. In the event of a conflict between the Terms and any other written agreement other than an Order Document, the Terms shall prevail unless such other agreement explicitly states that it supersedes the Terms and is executed by both parties in writing.

2.3 **Updates to Terms.** Gordian reserves the right, in its sole discretion, to change or modify these SaaS Terms and any Additional Terms at any time. All changes are effective immediately when posted and apply to all access and use of the Subscriptions thereafter. We encourage Customer to frequently review the Terms to ensure that its use of the Subscriptions complies with the Terms. If Customer does not agree to any modified, changed, or amended Terms, it must stop using the Subscriptions immediately.

3. ELIGIBILITY, REGISTRATION AND ACCOUNT.

3.1 **Eligibility.** By using the Subscriptions, Customer represents and warrants that he or she is (a) 18 years of age or older; (b) has not been previously suspended or removed from the Subscriptions; and (c) has full power and authority to enter into the Terms and that, in doing so, Customer will not violate any other agreement to which it is a party. If Customer is using the Subscriptions on behalf of any entity, Customer represents and warrants that Customer is authorized to accept the Terms on such entity's behalf and that such entity agrees to be responsible to Gordian if Customer violates the Terms. Customer represents, warrants and covenants to Gordian that Customer and its Authorized Users who access and use the Subscriptions are not employees or independent contractors of competitors of Gordian or of any company that delivers similar type data.

3.2 **Account Registration.** To access and use certain areas or features of the Subscriptions, Customer may be required to register for an online account. Customer agrees to provide accurate, current, and complete account information and maintain and promptly update Customer account information. Customer also represents, warrants, and covenants that it has entered the Terms under its true name and is not, directly or indirectly, impersonating any real or fictitious person or entity or otherwise acting to withhold Customer’s actual identity. When registering for an account, Customer cannot create an account name that incorporates a trademark without authorization from the trademark owner. Gordian reserves the right to reclaim account names, or to take other reasonable action as necessary, on behalf of any business or individual that holds legal claim, including trademark rights, in a name.

- 3.3 **Communication Authorization.** By using the Subscriptions, you authorize Gordian to contact you by mail, email, landline and mobile phone. These communications may include information about services and features of the Subscriptions, notices about applicable fees and charges, transactional information and other information concerning or related to the Subscriptions.
- 3.4 **Password Security.** Customer is also responsible for maintaining the security of Customer's password and accepts all risks of unauthorized access to Customer's account and the information Customer provides to Gordian.
- 3.5 **Compliance.** Upon request by Gordian, Customer will conduct a review of its Authorized Users access and use of the Subscriptions and certify to Gordian in a written instrument signed by an officer of Customer that it is in full compliance with the Terms or, if Customer discovers any noncompliance:
- (A) Customer must immediately remedy such noncompliance and provide Gordian with written notice thereof. Customer must provide Gordian with all access and assistance as Gordian requests to further evaluate and remedy such noncompliance.
 - (B) If Customer's use of the Subscriptions exceeds the number of Authorized Users permitted under the Terms, Gordian will have the remedies set forth Sections 3.7 and 3.8.
- 3.6 **Audit.** During the Term, Gordian may, in Gordian's sole discretion, audit Customer's use of the Subscriptions to ensure Customer's compliance with the Terms.
- 3.7 **Remedies.** If the audit or any of the measures taken or implemented under this Section determines that the Customer's access to or use of the Subscriptions violate the Terms then:
- (A) Customer will, within seven days following the date of Gordian's written notification thereof, pay to Gordian any retroactive fees for such non-permitted access or use. Unless Gordian terminates the Terms, Customer shall also obtain and pay for valid Subscriptions to bring Customer's use into compliance with the Terms.
 - (B) If Customer's access to or use of the Subscriptions violates the Terms, Customer shall also pay to Gordian, within seven days following the date of Gordian's written request, Gordian's reasonable costs incurred in conducting any audits pursuant to this Section.
- 3.8 **Cumulative Remedies.** Gordian's remedies set forth in this Section are cumulative and are in addition to, and not instead of, all other remedies Gordian may have at law or in equity.

4. USAGE RIGHTS AND RESTRICTIONS.

- 4.1 **Subscriptions Limits.** Customer's usage of the Subscriptions shall not exceed any limitations on the number of Named Users or any other usage limitation metrics (e.g., square footage, number of locations, or number of reports) specified in an Order Document or other written agreement. If an Order Document or other written agreement specifies limitations on the number of users, subscribers, licensees, or licenses, such limitation shall be interpreted to mean the number Named Users unless concurrent use is explicitly allowed in writing.
- 4.2 **Usage Rights.** Gordian grants Customer, during the Term, a limited non-exclusive, non-assignable, non-transferable, non-sublicensable, royalty free and revokable, in the country where Customer is located, right to access and use (and permit Authorized Users to access and use) the applicable SaaS Subscription and/or Data Subscription solely for Customer's internal business purposes subject to the restrictions set forth in this Section, unless otherwise explicitly authorized by Additional Terms or by written authorization from Gordian.

4.3 **Restrictions.** Customer shall not, and shall not permit any other Person to, access or use the Subscriptions except as expressly permitted by the Terms. For purposes of clarity and without limiting the generality of the foregoing, Customer shall not, except as the Terms expressly permit:

- (A) copy, modify, translate, adapt or otherwise create derivative works or improvements of the Subscriptions or any form of any Data;
- (B) combine the Subscriptions or any part thereof with, or incorporate the Subscriptions or any part thereof in, any other programs;
- (C) merge the Data with any other software or SaaS program or extract such Data other than expressly allowed by the Terms.
- (D) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Subscriptions or any Data, dashboards, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud, or other technology or service
- (E) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source code of the Subscriptions, in whole or in part;
- (F) bypass or breach any security device or protection used by the Subscriptions or access or use the Subscriptions, other than by an Authorized User using his or her own then valid Access Credentials.
- (G) damage, destroy, disrupt, disable, impair, circumvent, interfere with, or otherwise impede or harm in any manner the Subscriptions, any systems used to provide the Subscriptions, or Gordian's provision of Subscriptions to any Third Party, in whole or in part;
- (H) remove, delete, alter, or obscure any trademarks, specifications, Documentation, warranties, or disclaimers, or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from any Subscriptions, including any copy thereof;
- (I) access or use the Subscriptions in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property right or other right of any Third Party (including by any unauthorized access to, misappropriation, use, alteration, destruction, or disclosure of the data of any other customer), or that violates any applicable Law;
- (J) access or use the Subscriptions or any Data or dashboards for purposes of competitive analysis of the Subscriptions or any Data, the development, provision, or use of a competing software service or product or any other purpose that is to Gordian's detriment or commercial disadvantage.

5. **THIRD PARTY MATERIALS.** The Subscriptions may contain links and pointers to other sites on the internet which may be maintained by Third Parties. Such links do not include an endorsement by Gordian of any Third Party site or any material contained therein. Gordian does not control, and is not responsible for, the availability, accuracy, privacy policy, or currency of such Third Party sites or any information, content, products or services accessible from such Third Party sites.

6. **SUPPORT SERVICES.** The Subscriptions granted under the Terms entitles Customer to the support services set forth in the [Gordian Support Policy](#).

7. **INTELLECTUAL PROPERTY RIGHTS.**

7.1 **Ownership.** Except for rights expressly granted under the Terms, nothing in the Terms shall transfer any of either party's Intellectual Property rights to the other, and each party will retain an exclusive interest in and ownership of its Intellectual Property. Customer does not acquire any ownership interest in Gordian's Intellectual Property. Gordian's Intellectual Property includes, but is not limited to, any work that Gordian creates, acquires, or otherwise has rights in, including any works created pursuant to the

Terms, except for any portion of such works that consist of Customer's Intellectual Property. Customer Data will be considered Customer's Intellectual Property. Gordian may, in connection with the provision of the Subscriptions hereunder, create, employ, provide, modify, acquire, or otherwise obtain rights in, and any and all Intellectual Property rights created in connection with the provision of the Subscriptions hereunder, recognized in any country or jurisdiction in the world, now or hereafter existing, whether or not perfected, filed, or recorded.

- 7.2 **Subscriptions and Content.** The Subscriptions and Content therein are owned or controlled by Gordian, which retains all right, title, and interest in and to such Subscriptions and Content. The Subscriptions and Content therein contain valuable and proprietary information of Gordian and others and are protected by the copyright and trademark laws of the United States and other countries, international conventions, and other applicable laws. Gordian reserves the right to make changes to the functionality of the SaaS Services at any time.
- 7.3 **Safeguards.** Customer must use commercially reasonable efforts to safeguard all Intellectual Property (including copies thereof) of Gordian from infringement, misappropriation, theft, misuse, or unauthorized access. Customer will promptly notify Gordian if Customer becomes aware of any infringement of Gordian's Intellectual Property rights in the Intellectual Property and fully cooperate with Gordian, at Gordian's sole expense, in any legal action taken by Gordian to enforce its Intellectual Property rights.
- 7.4 **Trademarks.** Customer agrees not to use any trademarks, service marks, names, logos, or other identifiers of Gordian, or their employees, licensors, independent contractors, and affiliates without prior written permission from Gordian. In addition, Customer may not use trademarks, service marks, names, logos, or other identifiers: (i) in, as, or as part of, Customer's trademarks or those of any Third Parties; (ii) to identify products or services that are not those of Gordian; (iii) in a manner likely to cause confusion; or (iv) in a manner that implies that Gordian sponsors or endorses or is otherwise connected with Customer's own activities, products and services or those of Third Parties.

8. **PAYMENT AND TAXES.** Unless otherwise agreed upon in writing, Customer shall pay all invoices within thirty (30) days of date of invoice, without any deduction or set-off, and payment will be sent as specified by Gordian. Subscription Fees shall be specified in the applicable Order Document and, unless stated otherwise, are denominated and payable in United States Dollars (USD). Gordian is not responsible for any payment conditions that are not expressly stated in the Terms or any applicable Order Document. Any undisputed amounts arising in relation to the Terms not paid when due will be subject to a late charge of (1.5%) per month on the unpaid balance or the maximum rate allowed by law, whichever is less. Without prejudice to Customer's rights set out elsewhere in the Terms, all Subscription Fees are non-refundable and payable in advance. In the event any Subscription Fees due and owing are 30 or more days overdue, Gordian may, after providing notice to Customer, and without limiting any of its other rights and remedies, suspend, terminate, or otherwise deny Customer access to or use of, all or any part of the Subscriptions, or condition future purchases on shorter payment terms. Customer acknowledges that, if it fails to provide a purchase order number when required for payment, or it delays payment by requesting payment conditions not set forth in the Terms or applicable Order Document, Gordian's right to pursue overdue charges will not be waived. Unless expressly provided otherwise in the Terms or any applicable Order Document, the Subscription Fees and charges covered by the Terms do not include applicable taxes. Customer agrees to pay any applicable taxes arising out of the Terms, in its tax jurisdiction, other than those based on Gordian's net income. If Customer is tax-exempt, Customer agrees to provide Gordian a copy of its tax-exempt certificate prior to execution of an Order Document. Customer shall be responsible for any liability or expense incurred by Gordian because of Customer's failure or delay in paying taxes due.

9. TERM AND TERMINATION.

- 9.1 **Term.** Subscriptions commence on the Effective Date and will continue for the Initial Term. Unless otherwise set forth in the Order Document, following the end of the Initial Term or any applicable Renewal Term, Subscriptions shall automatically renew for a Renewal Term.
- 9.2 **Duties Upon Termination.** Upon termination or expiration of any Data Subscription, unless otherwise agreed in writing by Gordian, Customer shall cease use of and delete all Subscription Data in any form. Gordian reserves the right to require Customer to certify in a writing signed by an authorized officer of Customer that all Subscription Data has been destroyed and Customer has ceased use of all Subscription Data.
- 9.3 **Breach.** Gordian reserves the right to restrict, suspend or terminate Customer's use of and access to the Subscriptions in whole or in part, without notice, with respect to any breach or threatened breach by Customer of any portion of the Terms, such termination to be without prejudice to the right of Gordian to pursue any and all other remedies available to it in equity or at law. If Gordian terminates the Subscriptions based on a breach of any portion of the Terms, Gordian will not refund any amounts paid or cancel any amounts then payable by Customer and reserves the right to refuse to provide access to Subscriptions to Customer in the future.

10. DISCLAIMER OF WARRANTIES. EXCEPT AS EXPRESSLY PROVIDED TO THE CONTRARY IN A WRITING SIGNED BY GORDIAN, THE SUBSCRIPTIONS AND THE CONTENT AND DATA CONTAINED THEREIN ARE PROVIDED ON AN "AS IS" BASIS. GORDIAN EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE, COMPATABILITY, SECURITY, ACCURACY, OR NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, GORDIAN MAKES NO WARRANTY OF ANY KIND THAT THE SUBSCRIPTIONS AND DATA AND CONTENT CONTAINED THEREIN, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, RELIABLE, CURRENT, FREE OF HARMFUL CODE OR VIRUSES, ERROR-FREE, OR THAT DEFECTS WILL BE CORRECTED. GORDIAN IS NOT LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT YOUR SYSTEMS, COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA OR OTHER PROPRIETARY MATERIAL DUE TO CUSTOMER'S USE OF THE SUBSCRIPTIONS OR TO CUSTOMER'S DOWNLOADING OF ANY MATERIAL POSTED ON IT, OR ON ANY WEBSITE LINKED TO IT. THE FOREGOING DOES NOT AFFECT ANY WARRANTIES WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

11. LIMITATION OF LIABILITY. IN NO EVENT SHALL GORDIAN BE LIABLE FOR ANY, SPECIAL, INDIRECT, INCIDENTAL EXEMPLARY, PUNITIVE, TREBLE, CONSEQUENTIAL DAMAGES, OR ANY OTHER DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOSS OF BUSINESS, REVENUE, PROFITS, STAFF TIME, GOODWILL, USE, DATA, OR OTHER ECONOMIC ADVANTAGE, WHETHER OR NOT A PARTY HAS PREVIOUSLY BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE, WHETHER IN AN ACTION IN CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE) OR OTHERWISE, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OF OR INABILITY TO ACCESS OR USE THE SUBSCRIPTIONS OR THE DATA OR CONTENT CONTAINED IN OR ACCESSED THROUGH THE SUBSCRIPTIONS, INCLUDING WITHOUT LIMITATION ANY DAMAGES CAUSED BY OR RESULTING FROM RELIANCE BY ANY USER ON ANY INFORMATION OBTAINED FROM GORDIAN, OR THAT RESULTS FROM MISTAKES, OMISSIONS, INTERRUPTIONS, DELETION OF FILES OR EMAIL, ERRORS, DEFECTS, VIRUSES, DELAYS IN OPERATION OR TRANSMISSION OR ANY FAILURE OF PERFORMANCE, WHETHER OR NOT RESULTING FROM ACTS OF GOD, COMMUNICATIONS FAILURE, THEFT, DESTRUCTION OR UNAUTHORIZED ACCESS TO GORDIAN'S RECORDS, PROGRAMS OR SERVICES. IN NO EVENT SHALL THE AGGREGATE LIABILITY OF GORDIAN (INCLUDING ANY ATTORNEYS' FEES AWARDED UNDER THE TERMS), WHETHER IN CONTRACT, WARRANTY, TORT

(INCLUDING NEGLIGENCE, WHETHER ACTIVE, PASSIVE OR IMPUTED), PRODUCT LIABILITY, STRICT LIABILITY OR OTHER THEORY, ARISING OUT OF OR RELATING TO THE ACCESS TO OR USE OF OR INABILITY TO ACCESS OR USE THE SUBSCRIPTIONS OR TO THE TERMS EXCEED FEES PAID TO GORDIAN FOR THE PARTICULAR SUBSCRIPTIONS DURING THE IMMEDIATELY PRECEDING TWELVE (12) MONTH PERIOD.

12. CONFIDENTIALITY.

- 12.1 **General.** One party (“Disclosing Party”) may expose or provide to the other party (“Receiving Party”) Disclosing Party’s confidential and proprietary information, including but not limited to information designated as confidential in writing, or information which the Receiving Party should know is confidential and proprietary. Placement of a copyright notice on any portion of the Subscriptions will not be construed to mean that such portion has been published and will not diminish any claim that such portion contains Gordian’s Confidential Information. For the avoidance of doubt, Gordian’s Intellectual Property is Confidential Information.
- 12.2 **Non-Disclosure.** The Receiving Party will protect the Disclosing Party’s Confidential Information from unauthorized dissemination and will use the same degree of care that it uses to protect its own Confidential Information, but in no event less than a reasonable amount of care. Neither party will use Confidential Information of the other party for purposes other than those necessary to directly further the purposes of the Terms. Except as otherwise expressly permitted herein, the Receiving Party shall not disclose Disclosing Party’s Confidential Information to any person or entity other than the Receiving Party’s officers, or employees who (i) need access to such Confidential Information in order to effect the intent of the Terms, and (ii) have entered into written confidentiality agreements, or are bound by professional responsibility obligations, which protect the Disclosing Party’s Confidential Information sufficient to enable the Receiving Party to comply with its obligations of confidentiality under the Terms.
- 12.3 **Exceptions.** Information shall not be considered Confidential Information to the extent, but only to the extent, that the Receiving Party can establish that such information (i) is or becomes generally known or available to the public through no fault of the Receiving Party; (ii) was in the Receiving Party’s possession before receipt from the Disclosing Party; (iii) is lawfully obtained from a Third Party who is not under any confidentiality obligations and has the right to disclose; or (iv) has been independently developed by the Receiving Party without reference to Disclosing Party’s Confidential Information.
- 12.4 **Compelled Disclosure.** Receiving Party may disclose Disclosing Party’s Confidential Information if it is compelled by law to do so, provided that the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party’s cost, if the Disclosing Party wishes to contest such disclosure.
- 12.5 **Other Permitted Disclosures.** Notwithstanding the foregoing confidentiality obligations, either party may provide a copy of the Terms to the following persons and/or entities, who are under obligations of confidentiality substantially similar to those set forth in the Terms: potential acquirers, merger partners, lenders, and investors and to their employees, agents, attorneys, investment bankers, lenders, financial advisors, and auditors in connection with the due diligence review of such party. A party may also provide a copy of the Terms to that party’s outside accounting firm and legal advisors and in connection with any litigation or proceeding relating to the Terms.

13. INDEMNIFICATION.

- 13.1 **Indemnitor Obligations.** To the extent allowable by applicable law, Customer shall defend and indemnify Gordian and/or its affiliates, licensors and service providers, and their officers, directors, employees, contractors, agents, licensors, suppliers, successor and assigns against any third-party claims, actions, suits or proceedings, and all losses, liabilities, damages, costs and expenses (including reasonable attorneys’ fees) arising out of or related to any allegation that the Customer Data, or

Customer's use of the Subscriptions in violation of the Terms, infringes the Intellectual Property rights of, or has otherwise harmed, a Third Party.

- 13.2 **Indemnitee Obligations.** Customer's obligations to defend and indemnify only apply provided Gordian: (i) gives prompt written notice of the claim to Customer; (ii) gives Customer sole control of the defense and settlement of the claim (provided that Customer may not settle any claim against Gordian unless it unconditionally releases Gordian of all liability); and (iii) provides Customer, at Customer's expense, with all reasonable information and assistance relating to the claim and reasonably cooperates with Customer and Customer's counsel.

14. CUSTOMER DATA.

- 14.1 **Ownership Rights.** Customer retains sole and exclusive ownership to any and all Customer Data.
- 14.2 **License Rights.** Customer grants Gordian a royalty-free, worldwide, transferable, sublicensable, irrevocable, perpetual license to use any Customer Data, provided such data has been aggregated and anonymized, submitted to the Subscriptions to analyze and report on such data and to use such data for commercial purposes.
- 14.3 **Termination.** Upon termination of the applicable Subscriptions, and no longer than 30 days following termination of the Subscriptions, Customer may request in writing an Exported Copy of its Data in our then standard format at our then standard fee. Provided Customer is not in breach of any of its obligations under the Terms, and upon Customer's written request and payment of the applicable fees, Gordian will provide such Exported Copy. For the avoidance of doubt, Customer will have full access to its Customer Data throughout the Term; the Exported Copy is applicable only when Customer requests that Gordian provide Customer Data in a certain format. Customer acknowledges and agrees that Gordian shall have no obligation to maintain Customer Data after 30 days from termination.
- 14.4 **Security.** Gordian shall have in place a commercially reasonable information security policy designed to provide administrative, technical, and physical security for all Customer Data and in accordance with all applicable laws.
- 14.5 **Customer Obligations.** Customer is responsible for its Customer Data, including its content and accuracy. Customer represents and warrants that it has made all disclosures, provided all notices, and has obtained all necessary rights, consents, and permissions necessary for Gordian to use Customer Data under the Terms without violating or infringing laws, third-party rights, or terms or policies that apply to the Customer Data.

15. USAGE DATA ACCESS AND RIGHTS.

- 15.1 **Collection and Ownership.** Customer acknowledges that Usage Data may be collected by Gordian, including Usage Data from Devices located on location(s) owned, occupied, or otherwise under control of Customer. Gordian shall own all right, title, and interest in the Usage Data.
- 15.2 **Use and Access.** Gordian shall have the right to use any Usage Data for any internal business purposes, including improving the Subscriptions. Gordian may not, either directly or indirectly, sell or share Usage Data with any Third Parties without the prior express written consent of Customer.
- 15.3 **Resultant Data.** Customer hereby agrees that Gordian may collect, use, publish, disseminate, sell, transfer, and otherwise exploit the Resultant Data. Resultant Data is primarily used by Gordian to compile statistical, performance information for creation and development of products, product improvements, product creation, and product marketing. Gordian is the sole owner of all right, title, and interest in and to Resultant Data and any conclusions, impressions, understandings, insights, process improvements, or other information derived, extracted, or otherwise obtained by Gordian from

Resultant Data, and the Resultant Data shall be owned exclusively by Gordian with all rights thereto, which shall be deemed Gordian Intellectual Property.

- 16. PRIVACY POLICY.** Our [Privacy Policy](#) explains how Gordian collects, uses, and discloses information about our users. By using our Software, Subscriptions and services, Customer agrees that Gordian can use such data in accordance with our Privacy Policy.
- 17. COMMERCIAL COMPUTER SOFTWARE.** The Software and Data provided hereunder are commercial items, developed at private expense, as defined in FAR 2.101. If the Software and Data are provided to the United States Government for end use, the government's technical data and software rights related to the Software and Data shall include only those rights defined in the Terms. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, or 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).
- 18. MISCELLANEOUS.**

- 18.1 Notices.** All Notices will be in writing and will be deemed to have been duly given: (a) when delivered by hand; (b) three (3) days after being sent by registered or certified mail, return receipt requested and postage prepaid; (c) one (1) day after deposit with a nationally recognized overnight delivery or express courier service; or (d) when provided via email when the sender has received a delivery/read receipt. Gordian shall provide Customer, at its sole discretion, notice via the email address or physical address (if provided) provided by Customer when registering Customer's online account. Notices for Gordian shall be sent both physically and electronically to the following addresses:

For physical notices for U.S. Customers:

Gordian
Attn: Legal Department
30 Patewood Drive, Building 2, Suite 350
Greenville, SC 29615

For physical notices for Canadian Customers:

Gordian
Attn: Legal Department
3700 Steels Ave. W., Suite 400
Vaughan, ON L4L 8K8

For physical notices for UK Customers:

Gordian
Attn: Legal Department
The Capitol Building Oldbury, Bracknell, UK
England, RG12 8FZ

For all electronic notices:

legal@gordian.com

- 18.2 Force Majeure.** Except for Customer's obligation to pay fees due, to the extent that a delay or failure to perform all or any part of the obligations set forth in the Terms, applicable Statement of Work, or applicable Order Document is caused, in whole or in part, by events, occurrences, or causes beyond the control and without any negligence on the part of the party seeking protection under this Section, neither party shall have the right to terminate the Terms or any Order Document, and neither party shall incur any liability to the other party on account of any loss, claim, damage, or liability resulting from such delay or failure to perform. Such force majeure events, occurrences, or causes shall include,

without limitation, acts of God, acts of government, flood, fire, explosions, earthquakes, pandemics, civil unrest, acts of war, acts of terrorism, strikes, lockouts, riots or other labor problems, computer, telecommunications, Internet service provider or hosting facility failures or delays involving hardware, software or power systems not within the parties' possession or reasonable control, and denial of service attacks. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused, however, either party may terminate the Terms or an Order Document due to a force majeure event, occurrence, or cause as described in this section that extends beyond 90 days.

- 18.3 **Independent Contractor Status.** Gordian is an independent contractor, and neither Gordian nor its employees or subcontractors will, under any circumstances, be considered employees, servants or agents of Customer. Customer will not be legally responsible for any negligence or other wrongdoing by Gordian, its employees, servants or agents. Customer will not withhold from payments to Gordian any federal, state or unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to Gordian or its employees, servants or agents. Furthermore, Customer will not provide to Gordian any insurance coverage or other benefits, including workers' compensation, normally provided by Customer for its employees.
- 18.4 **Compliance with Law.** Each party shall comply with all applicable federal, state, provincial and local laws and regulations in connection with the performance of its obligations and the exercise of its rights under the Terms.
- 18.5 **Governing Law and Jurisdiction.** All matters arising out of or relating to the Terms will be governed by and construed under the internal laws of the State of South Carolina without giving effect to any choice or conflict of law provision or rule. Any legal suit, action, or proceeding arising out of or relating to the Terms or the transactions contemplated hereby must be instituted in the federal courts of the United States of America or the courts of the State of South Carolina in each case located in the City of Greenville and County of Greenville, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such legal suit, action, or proceeding. Service of process, summons, notice, or other document by mail to such party's address set forth in the Terms will be effective service of process for any suit, action, or other proceeding brought in any such court.
- (A) Notwithstanding the foregoing, if Customer is a Federal Customer, the Terms shall be governed by the laws of the United States, and venue and jurisdiction of any dispute will be determined by applicable federal statute. If federal laws of the United States are not dispositive, then to the extent permitted by federal law, the Terms will be governed by the laws of the State of South Carolina, excluding its conflict of law principles.
- (B) Notwithstanding the foregoing, if Customer is a Public Sector Customer located within the United States, the Terms shall be governed by the laws of your state, excluding its conflict of laws principles.
- (C) Notwithstanding the foregoing, if Customer is domiciled in Canada, the Terms shall be governed by the laws of Canada as applicable.
- (D) Notwithstanding the foregoing, if Customer is domiciled in the United Kingdom, the Terms shall be governed by the laws of the United Kingdom as applicable.
- 18.6 **Waiver.** No waiver by either party of any of the provisions in the Terms will be effective unless explicitly set forth in writing. The failure of either party to exercise in any respect a right provided for in the Terms shall not be deemed to be a subsequent waiver of the same right, or any other right. The waiver by either party of any breach of any provision of the Terms shall not be deemed a waiver of any subsequent breach by the other party of the same or of different provisions.

- 18.7 **Severability.** If any term or provision of the Terms are invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of the Terms or invalidate or render unenforceable such term or provision in any other jurisdiction.
- 18.8 **Assignment.** Customer may not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under the Terms, in each case whether voluntarily, involuntarily, by operation of law, or otherwise, without Gordian's prior written consent, which consent Gordian may give or withhold in its sole discretion. No delegation or other transfer will relieve Customer of any obligations or performance under the Terms. Any purported assignment, delegation, or transfer in violation of this Section is void. Gordian may freely assign or otherwise transfer all or any of its rights, or delegate or otherwise transfer all or any of its obligations or performance, under the Terms without consent. The Terms are binding upon and inures to the benefit of the parties hereto and their respective permitted successors and assigns.
- 18.9 **Sole Benefit.** The Terms are for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, confers on any other person any legal or equitable right, benefit, or remedy of any nature whatsoever under the Terms.
- 18.10 **Modifications.** Gordian retains the right to modify the terms and conditions of the Terms at any time. Any modification is effective immediately upon posting on any website used to access the Subscriptions. Customer's continued use of the Subscriptions following posting will be conclusively deemed an acceptance of all such modification(s). Customer's rights with respect to any dissatisfaction with any modifications made pursuant to this Section is to terminate the Terms and comply with all applicable termination provisions of the Terms, including but not limited to, return of all Proprietary Information in its possession to Gordian and discontinuing access or use of the Subscriptions. In the event of such termination, Gordian will not refund any amounts paid or due.
- 18.11 **Headings.** The headings of the various paragraphs herein are intended solely for the convenience of reference and are not intended for any purpose whatsoever to explain, modify, or place any construction upon any of the provisions of the Terms.
- 18.12 **Drafting.** The Terms shall not be construed in favor of or against a party based on the author of the document.
- 18.13 **Entire Agreement.** The Terms, including any applicable Order Documents, cancels and supersedes all prior or contemporaneous oral or written communications, agreements, requests for proposals, proposals, purchase orders—whether or not signed by Gordian—conditions, representations, and warranties, or other communication between the parties relating to its subject matter and constitutes the parties' entire agreement relating to its subject matter. Except as set forth in Section 17.10, no modification to the Terms will be binding unless in writing and signed by an authorized representative of each party.

Last Updated: May 6, 2024

Addendum 1

Additional Terms for Estimating Software

These Additional Terms, in addition to the SaaS Terms, govern Customer's access to, and use of, use of RSMMeans Online, MTCQS, or other estimating software subscriptions (collectively "Estimating Software"), both as a paid subscriber or as a free trial user, and are incorporated by reference into the SaaS Terms of Use ("SaaS Terms") (these Additional Terms and the SaaS Terms are collectively referred to as the "Terms"). Capitalized terms not defined here have the same meaning as defined in the SaaS Terms.

1. DEFINITIONS.

- 1.1 **"Downloaded Data"** means insubstantial portions of the Estimating Data temporarily downloaded from the Estimating Software.
- 1.2 **"Estimating Data"** means collectively the Data and any proprietary cost estimating models available through the Estimating Software.
- 1.3 **"Renewal Date"** means the day the Customer's then current twelve (12) month subscription period expires.

2. USAGE RIGHTS AND RESTRICTIONS. The Subscriptions give Customer access to the Estimating Data. Notwithstanding any grant of rights set forth in the SaaS Terms, Customer is licensed to use the Estimating Data made available through the Estimating Software solely in the regular course of construction estimating and related work. Such use is subject to any restrictions set forth in the SaaS Terms, as well as the following:

- 2.1 **Downloaded Data.** The Subscriptions includes the right to temporarily store Downloaded Data in a spreadsheet for Customer's personal and/or employment related use on a single storage device under Customer's exclusive control solely (i) to display internally such Downloaded Data and (ii) to include and distribute the Downloaded Data in a construction estimate or related work prepared for a specific project, to be distributed to a specific party, provided such party agrees not to further disseminate the Downloaded Data. Customer acknowledges its responsibility in assuring compliance with the foregoing by any Third Party to whom Customer transmits Downloaded Data pursuant to the preceding sentence.
- 2.2 **Other Restrictions.** Customer may not merge the Estimating Data with any software program or extract such Estimating Data other than into a spreadsheet for any use on a single computer. Customer may not use the Estimating Data or any cost estimates or similar reports generated through the Software for the purpose of providing facility condition assessment services, job order contracting services, indefinite quantity construction contracting services, or similar services for any Third Parties. Customer may not use, copy, download, store, publish, modify, translate, transmit, transfer, sell or prepare derivative works of the Estimating Data, or any portion of the Estimating Data, in any form or by any means, except (i) as expressly permitted by the Terms, or (ii) with Gordian's express written permission. Downloaded Data shall not be stored or used in an archival database or other searchable database except as expressly permitted by the Terms. Customer shall not sell, license, or distribute Estimating Data (including printouts and Downloaded Data) to Third Parties, except as expressly permitted by the Terms, or use the Estimating Data as a component of or as a basis for any material or product offered for sale, license or distribution. Except for the license granted pursuant to the Terms, all rights, title and interest in the Estimating Data, in all formats and media throughout the world, including all copyrights, are and will continue to be the exclusive property of Gordian.

- 3. TRIAL USE.** Free 30-day trials may be granted for a one-time use, once per user during any consecutive twelve (12) calendar month period subject to the Terms. Free trials may be terminated by Gordian at any time without prior notice if there is a violation of the provisions of the Terms, such termination to be without prejudice to the right of Gordian to pursue any and all other remedies available to it in equity or at law. Customer agrees to promptly update all information provided to Gordian, including its password, in the event of any known or suspected unauthorized use of Customer's trial use, or any known or suspected breach of security, including loss, theft, or unauthorized disclosure of its password. In the event of a breach of security, Customer will remain liable for any unauthorized use of its free trial. Free trials are not intended for academic projects and/or student use. All inquiries for such uses must be made by calling 800-334-3509 or emailing gordiansupport@gordian.com.
- 4. PAID SUBSCRIPTIONS.**

 - 4.1 Fees and Payment.** For any paid Subscriptions, Customer agrees to pay, using a valid credit card which Gordian accepts, the applicable Subscription Fees, unless other payment terms are agreed to in an Order Document signed by Customer and Gordian. All Subscription Fees are non-refundable under any circumstances. Gordian reserves the right to increase fees, surcharges, and Subscription Fees, or to institute new fees, at any time, upon reasonable notice posted in advance on the Estimating Software with such fees to become effective upon the renewal of its then current Subscriptions.
 - 4.2 Renewal.** Gordian will automatically renew Customer's Subscriptions on the Renewal Date and Customer authorizes Gordian to charge Customer's credit card with the applicable Subscription Fees and any sales or similar taxes that may be imposed on the Subscription Fee payment on the renewal date unless Customer cancels its Subscriptions prior to the Renewal Date.
 - 4.3 Cancellation.** Customer may cancel its Subscriptions at any time by Contacting Gordian Customer Service, provided that any Subscription Fees charged prior to the Effective Date of cancellation will not be refunded, in whole or in part. Customer will not be eligible for a pro-rated refund of any portion of the Subscription Fees paid for any unused days of the then-current Term for which Customer paid, and the Subscriptions will expire at the end of the then-current Term.

Last Updated: May 6, 2024

Addendum 2

Additional Terms for Procurement Software

These Additional Terms, in addition to the SaaS Terms, govern your access to, and use of eGordian Subscriptions, JOC Cloud Subscriptions, or other subscription for procurement software solutions and are incorporated by reference into the SaaS Terms of Use ("SaaS Terms") (these Additional Terms and the SaaS Terms are collectively referred to as the "Terms"). Capitalized terms not defined here have the same meaning as defined in the SaaS Terms.

1. DEFINITIONS.

- 1.1 **"Client Contract"** means a contract between Customer and a mutual client of Customer for whom Customer is to provide construction services as part of the mutual client's JOC Program.
- 1.2 **"JOC"** means Job Order Contracting, which is an indefinite quantity, indefinite delivery method for procuring construction services.
- 1.3 **"JOC Program"** means a program set up to allow for procurement and performance of construction on an indefinite quantity, indefinite delivery basis.
- 1.4 **"JOC System"** the Proprietary Information used for the setup, operation, maintenance, or participation in a JOC Program
- 1.5 **"JOC Services Contract"** means a contract between Customer and Gordian for the setup and operation of JOC Program.
- 1.6 **"Proprietary Information"** means collectively the JOC System, the Software, the Documentation, the Data, and other related proprietary materials.
- 1.7 **"Term"** shall mean the duration set forth in Section 3 of these Additional Term.

2. **USAGE RIGHTS.** Notwithstanding any grant of rights set forth in the SaaS Terms, Gordian grants Customer the right to use the Subscriptions and any Proprietary Information for the sole purpose of (i) setting up and operating its own JOC Program as set forth in an applicable JOC Services Contract;(ii) purchasing under an existing JOC Program as set forth in an applicable JOC Services Contract; or (iii) for executing the Customer's duties and responsibilities under a Client Contract. Such use shall be subject to all restrictions set forth in the SaaS Terms.

3. **TERM.** The Subscriptions will commence upon execution of the JOC System Contract or Client Contract and shall remain in effect for the term of the JOC System Contract or the Client Contract or until terminated in accordance with the Terms. The Term shall not be subject to automatic renewal.

4. **FEES.** The Subscription is subject to Customer payment of all applicable fees as set forth in the JOC System Contract or the Client Contract under the terms and conditions contained therein. If Customer has any questions about the fees due under to a Client Contract, Customer should contact the entity with whom it has entered into the Client Contract.

Last Updated: May 6, 2024

Addendum 3

Additional Terms for Planning Software

These Additional Terms, in addition to the SaaS Terms, govern your access to, and use of VFA Facility subscription, Sightlines Member Portal subscription, or other facilities assessment planning software subscriptions, and are incorporated by reference into the SaaS Terms of Use ("SaaS Terms") (these Additional Terms and the SaaS Terms are collectively referred to as the "Terms"). Capitalized terms not defined here have the same meaning as defined in the SaaS Terms.

1. DEFINITIONS.

- 1.1. **"Protected Materials"** including any Data in the Software and any reports or other works created or generated as an output of Customer's use of the Subscriptions, except for any portion of such works that consist of Customer Data.

2. USAGE RIGHTS AND RESTRICTIONS.

- 2.1. **Use of Protected Materials.** Gordian's Intellectual Property includes, but is not limited to, Protected Materials. Gordian shall retain sole and exclusive ownership of and all rights, title, and interest in the Protected Materials (whether developed by Gordian, Customer, or a Third Party), including the logic and structure thereof, which constitute valuable trade secrets of Gordian. Notwithstanding any grant of rights set forth in the SaaS Terms, Customer obtains only a limited non-exclusive, non-assignable, non-transferable, non-sublicensable, royalty free license for access and use of Protected Materials for Customer's internal business purposes, subject to the restrictions set forth in the SaaS Terms and in this Section. Customer may download and temporarily store insubstantial portions of the Data in a spreadsheet for Customer's use on a single storage device under Customer' exclusive control solely to (i) display internally such Data and (ii) to include and distribute the Data solely for the limited purpose set forth above.
- 2.2. **Restrictions on Protected Materials.** Customer shall not itself, or through any Affiliate, employee, consultant, contractor, agent, or other Third Party: (i) sell, resell, distribute, host, lease, rent, license or sublicense, in whole or in part, the Protected Materials; (ii) decipher, decompile, disassemble, reverse assemble, modify, adapt, translate, reverse engineer or otherwise attempt to make any changes to or derive source code, algorithms, tags, specifications, architecture, structure or other elements from the Protected Materials, in whole or in part, for any purpose; (iii) allow access to, provide, divulge or make available the Protected Materials to any user other than Customer's employees who have a need to such access and who shall be bound by a nondisclosure agreement with provisions that are at least as restrictive as the terms of the Terms; (iv) write or develop any derivative works based upon the Protected Materials; (v) use the Protected Materials to provide processing services to Third Parties, or otherwise use the same on a 'service bureau' basis; (vi) disclose or publish, without Gordian's prior written consent, performance or capacity statistics or the results of any benchmark test performed on the Protected Materials; or (viii) otherwise use or copy the Protected Materials except as expressly permitted herein.
- 2.3. **Name Usage Rights for Benchmarking.** If Gordian is providing any benchmarking Services to Customer or is providing access to Benchmarking Data through the Software, Customer grants to Gordian a non-exclusive, royalty free license, to: (a) use Customer's name in connection with any published lists of other institutions furnishing data for comparison purposes, (b) use Customer Data for benchmarking purposes provided that specific data applicable to Customer shall not be identified or identifiable, and (c) identify Customer to other institutions as a client of Gordian for marketing purposes.

Addendum 4

Additional Terms for Business Intelligence

These Additional Terms, in addition to the SaaS Terms, govern Customer's access to, and use of, use of Business Intelligence Subscriptions, and are incorporated by reference into the SaaS Terms of Use ("SaaS Terms") (these Additional Terms and the SaaS Terms are collectively referred to as the "Terms"). Capitalized terms not defined here have the same meaning as defined in the SaaS Terms.

1. DEFINITIONS.

- 1.1 **"Business Intelligence Data"** means all Data provided via the Business Intelligence Subscriptions, including any and all dashboards, reporting and other visual representation available via the Business Intelligence Subscriptions.

2. USAGE RIGHTS AND RESTRICTIONS.

- 2.1. The Subscriptions give Customer access to the Business Intelligence Data. Gordian's Intellectual Property includes, but is not limited to, Business Intelligence Data. Gordian shall retain sole and exclusive ownership of and all rights, title, and interest in the Business Intelligence Data (whether developed by Gordian, Customer, or a Third Party), including the logic and structure thereof, which constitute valuable trade secrets of Gordian. Notwithstanding any grant of rights set forth in the SaaS Terms, Customer is licensed to use the Business Intelligence Data made available through the Subscription Services solely in the regular course of construction estimating and related work. Such use is subject to any restrictions set forth in the SaaS Terms, as well as the following:
- 2.2. **Other Restrictions.** Customer may not merge the Business Intelligence Data with any software program or extract such Business Intelligence Data for any use. Customer may not use, copy, download, store, publish, modify, translate, transmit, transfer, sell or prepare derivative works of the Business Intelligence Data, or any portion of the Business Intelligence Data, in any form or by any means, except (i) as expressly permitted by the Terms, or (ii) with Gordian's express written permission. Customer shall not sell, license, or distribute Business Intelligence Data (including printouts) to Third Parties, except as expressly permitted by the Terms, or use the Business Intelligence Data as a component of or as a basis for any material or product offered for sale, license or distribution. Except for the license granted pursuant to the Terms, all rights, title and interest in the Business Intelligence Data, in all formats and media throughout the world, including all copyrights, are and will continue to be the exclusive property of Gordian.

Last Updated: May 6, 2024