Evaluation Agreement

This Evaluation Agreement (this "**Agreement**") applies to your free trial and evaluation (a "**Trial**") of any software products or services offered by Unravel Data Systems, Inc. ("**Unravel**", "**we**", or "**us**"). Before you download and/or use any of Unravel's software in connection with a Trial, you must agree to the terms of this Agreement. You will be referred to herein as "**you**" or "**Customer**"

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE DOWNLOADING AND/OR USING ANY OF OUR SOFTWARE OR SERVICES IN CONNECTION WITH A TRIAL. THIS AGREEMENT GOVERNS YOUR USE OF OUR SOFTWARE AND ANY SERVICES WE PROVIDE TO YOU DURING ANY TRIAL. WE ARE ONLY WILLING TO LICENSE THE SOFTWARE AND PROVIDE SERVICES TO YOU IF YOU ACCEPT ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT. BY DOWNLOADING, INSTALLING, OR USING OUR SOFTWARE OR SERVICES IN CONNECTION WITH A TRIAL, OR BY CLICKING BELOW TO ACCEPT THIS AGREEMENT, YOU ARE CONFIRMING THAT YOU UNDERSTAND THIS AGREEMENT, AND THAT YOU ACCEPT ALL OF ITS TERMS AND CONDITIONS. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE LEGAL AUTHORITY TO BIND IT TO THIS AGREEMENT, IN WHICH CASE "YOU" OR "CUSTOMER" WILL MEAN THAT ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT ACCEPT ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT, THEN WE ARE UNWILLING TO LICENSE ANY OF OUR SOFTWARE TO YOU OR PROVIDE ANY SERVICES TO YOU IN CONNECTION WITH A TRIAL, AND YOU MAY NOT DOWNLOAD, INSTALL, OR USE OUR SOFTWARE OR SERVICES IN CONNECTION WITH ANY TRIAL.

1. <u>Definitions</u>. The following terms shall have the following meanings when used in this Agreement:

    1.1. **"Authorized User"** means Customer's employees, consultants or contractors who are authorized by Customer to use the Software on Customer's behalf (and solely in connection with their performance of services for Customer).

    1.2. **"Documentation"** means the end user manuals, guides, online help files and other supporting materials that Unravel generally makes available to its customers with the Software.

    1.3. "**Effective Date**" means the earlier of (i) the date on which you click below to accept this Agreement or (ii) you download our Software or use any of our Services in connection with a Trial.

    1.4. "**NDA**" means the non-disclosure or confidentiality agreement previously entered into by the parties.

    1.5. "**Services**" means installation, implementation, training or other professional services provided by Unravel to Customer as mutually agreed on.

    1.6. **"Software"** means the object-code version of Unravel's proprietary application performance management software program, including all Documentation, as well as any Updates to the Software that Unravel makes available to Customer.

    1.7. "**Trial Period**" means the period beginning on the Effective Date and ending thirty (30) days thereafter.

    1.8. "**Update**" means a Software release that Unravel makes generally available to its customers, along with any corresponding changes to Documentation.

2. <u>Software.</u> Subject to the terms and conditions of this Agreement, Unravel hereby grants to Customer and its Authorized Users a non-exclusive, non-transferable, limited-term, royalty-free, revocable (pursuant to the termination provisions set forth herein), license to install, execute and use the Software during the Trial Period solely for Customer's internal evaluation purposes. Customer will be responsible and liable for the acts and omissions of all Authorized Users in connection with this Agreement. The Software may contain open source components ("**OSS Components**"). As a result, in addition to the proprietary code that Customer is licensing under this Agreement, Customer's use of the OSS Components in the Software may be subject to certain open source licenses. A description of the OSS Components, and references to those licenses, can be

found at https://unraveldata.com/unravel-data-systems-version-4-4/. Customer agrees that it is responsible for complying with the terms of all applicable open source licenses in its use of the Software and the OSS Components.

3.	Performance Data. Customer acknowledges that the Software transmits certain data to Unravel via the Internet regarding the usage and performance of the Software (the "**Performance Data**"). Customer may turn off the functionality of the Software that transmits such Performance Data back to Unravel. Customer hereby gives Unravel permission to use any Performance Data received by Unravel to (a) assist Unravel in providing support to Customer and (b) for internal purposes to improve Unravel's products and services.

4.	Services. Unravel and Customer may mutually agree upon Services to be performed by Unravel during the Trial Period. The manner and means used by Unravel to perform such Services are subject to Unravel's sole discretion. Customer agrees to provide Unravel with any required Customer materials needed for Unravel to perform the Services (the "**Customer Materials**"), and hereby grants Unravel a royalty-free, non-exclusive, worldwide license to use such Customer Materials for the sole purpose of enabling Unravel to perform the Services. Unravel retains all right, title and interest in and to (a) anything it uses or develops in connection with performing Services for Customer, including, among other things, software, tools, specifications, ideas, concepts, inventions, processes, techniques, and know-how, and (b) anything it delivers to Customer during the course of performing Services (collectively, "**Deliverables**"). Unravel hereby grants to Customer and its Authorized Users, a non-exclusive, non-transferable, royalty-free, limited-term license to use the Deliverables during the Trial Period solely in conjunction with Customer's use of the Software. Customer may not copy, modify, or otherwise create derivative works of any Deliverables without Unravel's prior written consent in each case.

5.	Restricted Activities. Customer and its Authorized Users shall not, and shall not allow or authorize any third party to: (a) modify, adapt, alter, translate, or create derivative works of the Software; (b) sublicense, lease, rent, loan, or otherwise transfer the Software to any third party, (c) use the Software in any service bureau or time-sharing arrangement, (d) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the Software, in whole or in part; (e) hack or modify any license key, or try to avoid or change any license registration process Unravel may implement; or (f) otherwise use or copy the Software in violation of this Agreement or the Documentation.

6.	Ownership. Unravel and its licensors own and retain all right, title, and interest, including all intellectual property rights, in and to: (a) the Software and Services, (b) its Confidential Information (as defined in the NDA), (c) any and all information, data, materials, or content provide to or made available by Unravel to Customer hereunder, and (d) any improvements, modifications, and enhancements in the foregoing (collectively, the "**Unravel IP**"). Except for the rights expressly granted in this Agreement, Customer shall acquire no other rights, express or implied, in or to the Unravel IP, and all rights not expressly provided to Customer hereunder are reserved by Unravel and its licensors. Customer and its licensors own and retain all right, title, and interest, including all intellectual property rights, in and to its Confidential Information (as defined in the NDA) and the Customer Materials (collectively, the "**Customer IP**"). Except for the rights expressly granted in this Agreement, Unravel shall acquire no other rights, express or implied, in or to the Customer IP, and all rights not expressly provided to Unravel hereunder are reserved by Customer and its licensors

7.	Term. Unless otherwise terminated in accordance with this section, this Agreement will remain in effect during the Trial Period and will automatically terminate upon conclusion of such Trial Period. Either party may immediately terminate this Agreement if the other party materially breaches this Agreement. In addition, Customer may terminate this Agreement without cause upon 10 days' prior written notice to Unravel. Unless otherwise agreed by the parties, upon the expiration or termination of the Trial Period: (a) all rights granted herein will automatically terminate, (b) Unravel will cease providing the Services, and (c) Customer will discontinue all use of the Software and will return to Unravel any materials provided by Unravel to Customer. Sections 1, 3, 6, 7, 8, 9, 10, 11 and 14 will survive any termination or expiration of this Agreement.

8.	Confidentiality; Feedback. The parties shall comply with the provisions of the NDA, except that: (a) to the extent that the term stated in the NDA terminates prior to the termination of this Agreement, the term of the NDA is hereby amended to be equal in term hereof; (b) the definition of Confidential Information set forth in the NDA is hereby amended to include all confidential, non-public, information provided by either party under this Agreement and the performance hereof; and (c) the purpose for which either party may use the Confidential Information under the NDA is hereby amended to permit use of such Confidential Information to the extent necessary to perform its obligations and exercise its rights under this Agreement.
By submitting any Feedback, Customer hereby assigns to Unravel all right, title, and interest in and to the Feedback, if any. For purposes of this Agreement, "**Feedback**" means any comments, feedback, potential errors and improvements, reports, or

ideas about the Software or Services that Customer may provide to Unravel concerning the functionality and performance of the Software or Services.

9.   Indemnification. Unravel will indemnify, defend and hold harmless Customer and its shareholders, officers, directors, employees, affiliates and agents (each an "**Indemnified Party**") from and against any and all damages, liabilities, costs, expenses, and losses (including, without limitation, reasonable legal fees) ("**Losses**") finally awarded by a court of competent jurisdiction to an Indemnified Party arising out of any claim, suit, action or proceeding by a third party to the extent that such Losses arise from any allegation that the Software directly infringes any U.S. patents or copyrights or misappropriates any trade secrets recognized as such under the Uniform Trade Secrets Act (an "**Infringement Claim**"). The foregoing obligations are conditioned on Customer (a) notifying Unravel promptly in writing of such action, (b) giving Unravel sole control of the defense thereof and any related settlement negotiations, and (c) cooperating with Unravel and, at Unravel's request and expense, assisting in such defense. If the Software becomes, or in Unravel's opinion is likely to become, the subject of an Infringement Claim, Unravel may, at its option and expense, either (i) procure for Customer the right to continue using the Software, (ii) replace or modify the Software so that it becomes non-infringing, or (ii) if options (i) and (ii) are not commercially practicable in Unravel's reasonable estimation, terminate this Agreement and accept return of the Software.   Notwithstanding the foregoing, Unravel will have no obligation under this Section 9 or otherwise with respect to any Infringement Claim to the extent it is based on: (1) any use of the Software not in accordance with this Agreement and the Documentation, (2) any use of the Software in combination with other products, equipment, software, systems, devices or data not supplied by Unravel or specified in the Documentation, unless the Infringement Claim would have arisen irrespective of such combination, (3) any use of any release of the Software other than the most current release made available to Customer, (4) Customer's failure to stop using the Software after receiving written notice to do so from Unravel in order to avoid further infringement or misappropriation, (5) any modification of the Software by any person other than Unravel's personnel or (6) the OSS Components.   THIS SECTION 9 STATES UNRAVEL'S ENTIRE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR INFRINGEMENT CLAIMS.

10.   No Warranties. CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT ALL USE OF THE SOFTWARE AND SERVICES IS AT CUSTOMER'S SOLE RISK AND THAT THE SOFTWARE AND SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE." UNRAVEL AND ITS SUBSIDIARIES, AFFILIATES, AND LICENSORS MAKE NO EXPRESS WARRANTIES AND DISCLAIM ALL WARRANTIES REGARDING THE SOFTWARE AND SERVICES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, INTERFEENCE WITH CUSTOMER'S QUIET ENJOYMENT, NON-INFRINGEMENT AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR TRADE USAGE.

11.   Limitation of Liability. EXCLUDING EACH PARTY'S OBILGATION OF CONFIDENTIATLITY UNDER SECTION 8 AND CUSTOMER'S BREACH OF SECTION 5 OR VIOLATION OF UNRAVEL'S INTELLECTUAL PROPERTY RIGHTS, EACH PARTY EXPRESSLY UNDERSTANDS AND AGREES THAT (a) EACH PARTY, ITS AFFILIATES AND LICENSORS SHALL NOT BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL CONSEQUENTIAL OR EXEMPLARY DAMAGES INCURRED BY SUCH PARTY, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, AND (b) THE TOTAL LIABILITY OF EACH PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL NOT EXCEED $100.

12.   **Compliance with Laws.** Each party will comply with all federal, state, and local laws applicable to the Software and Services and their use, this Agreement, and the conduct of its business. Customer may not remove or export from the United States or allow the export or re-export of the Software, or anything related thereto, in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority.

13.   **U.S. Government End Users.** Unravel does not develop any technical data or computer software pursuant to this Agreement. The Software and Documentation are "commercial items" as that term is defined at FAR 2.101. Unravel provides the Software and Documentation, including any related software, technology, technical data, and/or professional services in accordance with this Section 13 and the Customer acquires only those rights in technical data and software customarily provided to the public as defined in this Agreement. If any Federal Executive, Legislative, or Judicial Agency has a need for rights not conveyed under the terms described in this Section 13, it must negotiate with Unravel to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written addendum specifically conveying

such rights must be included in any applicable contract or agreement to be effective. This U.S. Government Rights clause in this Section 13 is in lieu of, and supersedes, any other FAR, DFARS, or other clause, provision, or supplemental regulation that addresses Government rights in computer software or technical data under this Agreement.

14.   <u>Miscellaneous</u>. This Agreement will be governed by the laws of the State of California without reference to conflict of law principles. The application of the UN Convention of International Sale of Goods and the Uniform Computer Information Transactions Act to this Agreement are disclaimed in their entirety. Each party agrees to submit to the exclusive jurisdiction of the courts located within the county of San Francisco, California to resolve any legal matter arising from this Agreement. Customer may not assign any of its rights or obligations under this Agreement, whether by operation of law or otherwise, without the prior written consent of Unravel. Unravel may assign its rights and obligations under this Agreement without the consent of the Customer. This Agreement and the NDA are the entire Agreement between the parties relating to the subject matter hereof. This Agreement shall control over any additional or different terms of any correspondence, order, confirmation or similar document, even if accepted in writing by both parties, and waivers and amendments of any provision of this Agreement shall be effective only if signed by both parties and clearly understood by both parties to be an amendment or waiver. The failure of either party to enforce its rights under this Agreement at any time for any period shall not be construed as a waiver of such rights. If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will continue in full force and effect and the invalid or unenforceable provision shall be reformed to the extent necessary to make it valid and enforceable. Notices will be sent by first-class mail, overnight courier, or prepaid post, sent to the address set forth above, to the other party's respective CEO and will be deemed given three (3) business days after mailing or upon confirmed delivery or confirmed receipt.