

This Vendor Management System Agreement ("Agreement") is made effective as of the Effective Date (as defined below) by and between Venminder, Inc. (FKA Digital Comply, Inc.), a Delaware corporation ("Venminder") and the entity which the individual who enters into this Agreement represents and is authorized to bind ("Client"). This Agreement sets out the terms and conditions under which Client may utilize the Vendor Management System as defined below. By executing a Customer Order Form or by continuing to use or access the Vendor Management System, Client acknowledges (1) that it has read and understands this Agreement, (2) that it agrees to be bound by its terms and conditions, (3) to the extent that Client is an individual using or accessing the Vendor Management System on behalf of a company, such individual has the power and authority to bind that company, and (4) this Agreement constitutes a legally binding agreement. For purposes of this Agreement, the "Effective Date" shall mean the earlier of the date this Agreement is accepted or becomes a binding contract pursuant to the previous sentence or the date set forth on the applicable Order Form (as defined below).

## RECITALS

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**WHEREAS**, Venminder provides vendor management software, including optional service modules (collectively, the "System"); and

**WHEREAS**, Venminder wishes to provide the System to Client so that Client may utilize the System; and

**WHEREAS**, Client desires to obtain access to the System and related Services (as defined below) from Venminder;

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

## AGREEMENT

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### SECTION ONE - SERVICES PROVIDED BY VENMINDER

1.01 Services. During the Term of this Agreement, Venminder will provide to Client, and Client will receive from Venminder, certain services for vendor management as set forth in one or more Order Forms (as defined below) that include compliance-related services and software solutions through access to and use of the System ("Services"). All Services will be provided by Venminder or by members of Venminder's service provider partner network pursuant to a Customer Order Form ("Order Form") submitted or approved by or on behalf of Client and accepted by Venminder, the terms of which are incorporated into this Agreement and which shall become part hereof.

1.02 Independent Contractors. The relationship of Venminder and Client is that of independent contractors. Neither Client nor its employees, consultants, contractors or agents are agents, employees, partners or joint venturers of Venminder, nor do they have any authority to bind Venminder by contract or otherwise to any obligation. They will not represent to the contrary, either expressly, implicitly, by appearance or otherwise.

### SECTION TWO - THE SYSTEM

2.01 Providing System. Subject to the terms of this Agreement, during the term of this Agreement, Venminder agrees to host the System and allow Client to access and use the System, and shall use its commercially reasonable efforts to provide the System 24x7 consistent with its practices in effect as of the Effective Date and subject to maintenance downtime, outages and delay occurrences. Venminder shall use its commercially reasonable efforts to diligently and promptly remedy any and all material interruptions. Venminder will not be liable in any manner for any interruptions, outages, or other delay occurrences relating to the System.

2.02 Limitations on Rights Granted. Except as expressly provided to the contrary in this Agreement, Client shall not, and shall not knowingly cause or permit any non-party to, use or reproduce the System. Client shall not, and shall not knowingly cause or permit any non-party, to disassemble, decompile, decrypt, extract, reverse engineer, prepare a derivative work based upon, distribute, or time share the System, or otherwise apply any procedure or process to the System in order to ascertain, derive, and/or appropriate for any reason or purpose, the source code or source listings for the System or any algorithm, process, procedure or other information contained in the System. Except as expressly authorized herein, Client may not rent, lease, assign, sublicense, transfer, modify, alter, or time share the System.

### SECTION THREE - PAYMENT OF FEES

3.01 Fees in General. The retail prices for Services provided by Venminder to Client pursuant to this Agreement (collectively, the "Retail Prices") will be set forth in one or more Order Forms submitted or approved by Client and accepted by Venminder. The Retail Prices may be discounted by one or more discounts at one or more rates (the "Discount Rates") set forth in such Order Forms.

3.02 Fees for the System. Client agrees to pay Venminder for access to and use of the System via the payment method identified on the Order Form. Interest shall accrue at the lesser of 1.0% per month or the maximum amount permitted by applicable law ("Late Fee") for any fees that remain unpaid beyond any due dates. In the event of a dispute made in good faith as to the amount of fees, Client agrees to remit payment on any undisputed amount(s); and, the Late Fee shall not accrue as to any disputed amounts unless not paid within thirty (30) calendar days after said dispute has been resolved by both parties. Venminder's Retail Prices shall remain in effect for a period of one year following the effective date of this contract. Thereafter, Venminder may increase its Retail Prices by providing at least thirty (30) days prior written notice to Client of such increases. Venminder may not increase its Retail Prices more often than once each calendar year and such increases will be limited to 3%. Except as otherwise set forth in an Order Form, the Discount Rates set forth in such Order Form shall apply only during the Initial Term. Upon any Renewal Term, the Client shall pay for the Services at the current Retail Prices.

### SECTION FOUR - TERM AND TERMINATION

4.01 Term. The initial term ("Initial Term") of this Agreement shall be defined in the Order Form and shall continue from the Effective Date until terminated as set forth herein. Thereafter, unless either party notifies the other in writing at least ninety (90) days in advance of the scheduled expiration date that such party elects not to renew this Agreement, this Agreement shall automatically renew for successive one (1) year periods ("Renewal Term"). The Initial Term and any Renewal Term shall collectively be referred to as the "Term". In the event that one or more Order Forms submitted by Client provides for a term for the Services beyond the Initial Term, then the Term of this Agreement shall be deemed to run co-terminous with such longer term (the "Extended Term"), and the Renewal Term of this Agreement shall begin as of the end of such Extended Term, with the provisions of this Section 4.01 applying mutatis mutandis.

4.02 Termination for Breach or Insolvency. Unless prohibited by law, and without prejudice to Venminder's other rights and remedies, Venminder shall have the right to terminate this Agreement and the licenses granted hereunder immediately if: (a) Client breaches any of the material terms of this Agreement and if such breach is capable of cure, fails to cure such breach within thirty (30) days of receipt of notice from Venminder, or (b) Client becomes or is declared insolvent or bankrupt, is subject to any proceedings relating to its liquidation, insolvency or for the appointment of a receiver or similar officer for it, makes an assignment for the benefit of all or substantially all of its creditors, or admits in writing its inability to pay its debts when due. Upon termination of this Agreement pursuant to this Section 4.02, all licenses granted to Client hereunder shall terminate automatically and Client shall immediately cease use of the System.

## SECTION FIVE - OBLIGATIONS

5.01 Confidential Information. The parties acknowledge that in their performance of their duties hereunder either party may communicate to the other (or its designees) certain confidential and proprietary information, including without limitation, in the case of Venminder, information concerning the Services, the System and the know-how, technology, techniques, or business or marketing plans related thereto (collectively, the "Confidential Information") all of which are confidential and proprietary to, and trade secrets of, the disclosing party. Confidential Information does not include information that: (i) is public knowledge at the time of disclosure by the disclosing party; (ii) becomes public knowledge or known to the receiving party after disclosure by the disclosing party other than by breach of the receiving party's obligations under this section or by breach of a third party's confidentiality obligations; (iii) was known by the receiving party prior to disclosure by the disclosing party other than by breach of a third party's confidentiality obligations; or (iv) is independently developed by the receiving party. As a condition to the receipt of the Confidential Information from the disclosing party, the receiving party shall: (i) not disclose in any manner, directly or indirectly, to any third party any portion of the disclosing party's Confidential Information; (ii) not use the disclosing party's Confidential Information in any fashion except to perform its duties hereunder or with the disclosing party's express prior written consent; (iii) disclose the disclosing party's Confidential Information, in whole or in part, only to employees and agents who need to have access thereto for the receiving party's internal business purposes; (iv) take all necessary steps to ensure that its employees and agents are informed of and comply with the confidentiality restrictions contained in this Agreement; and (v) take all necessary precautions to protect the confidentiality of the Confidential Information received hereunder and exercise at least the same degree of care in safeguarding the Confidential Information as it would with its own confidential information, and in no event shall apply less than a reasonable standard of care to prevent disclosure. The receiving party shall promptly notify the disclosing party of any unauthorized disclosure or use of the Confidential Information. The receiving party shall cooperate and assist the disclosing party in preventing or remedying any such unauthorized use or disclosure. The existence and terms of this Agreement may not be disclosed by Client except as required by applicable law. Venminder may disclose the existence and terms of this Agreement to its affiliates, successors and assigns, and any other party that is under an obligation of confidentiality to Venminder. Client authorizes Venminder and its affiliates to use Confidential Information for the purpose of offering additional or alternative services to Client, and facilitating introductions of Client to alternate vendors. The System, in the normal course of operations, provides Venminder with aggregated, statistical data (such as product or feature usage and functionality metrics), which is anonymized and aggregated with other such anonymized data so that it does not and cannot contain any information identifiable or attributable to any individual or client, either alone or in combination with other data ("Aggregated Anonymous Data"). To the extent that any Aggregated Anonymous Data is collected by Venminder, Client agrees that Venminder may use, store, analyze, and disclose such Aggregated Anonymous Data for any lawful business purpose without a duty of accounting to Client.

5.02 Indemnification. Client agrees to indemnify, defend, and hold harmless Venminder, its employees or agents from and against any loss, liability, damage, penalty or expense (including attorneys' fees, expert witness fees and cost of defense) they may suffer or incur as a result of (i) any failure by Client or any employee, agent or affiliate of Client to comply with the terms of this Agreement; (ii) any warranty or representation made by Client being false or misleading; (iii) negligence of Client or its subcontractors, agents or employees; or (iv) any representation or warranty made by Client or any employee or agent of Client to any third person other than as specifically authorized by this Agreement.

5.03 Disclaimer of All Warranties. THE SYSTEM IS PROVIDED "AS IS" WITHOUT ANY WARRANTY WHATSOEVER. VENMINDER DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, TO CLIENT AS TO ANY MATTER WHATSOEVER, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY VENMINDER OR ITS EMPLOYEES OR REPRESENTATIVES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF VENMINDER'S OBLIGATIONS.

5.04 LIMITATION OF LIABILITY. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR TO ANY OTHER THIRD PARTY FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, RELIANCE, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SYSTEM, WHETHER FORESEEABLE OR UNFORESEEABLE, AND WHETHER BASED ON BREACH OF ANY EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, MISREPRESENTATION, NEGLIGENCE, STRICT LIABILITY IN TORT, OR OTHER CAUSE OF ACTION (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF DATA, GOODWILL, PROFITS, INVESTMENTS, USE OF MONEY, OR USE OF FACILITIES; INTERRUPTION IN USE OR AVAILABILITY OF DATA; STOPPAGE OF OTHER WORK OR IMPAIRMENT OF OTHER ASSETS; OR LABOR CLAIMS), EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. UNDER NO CIRCUMSTANCES SHALL VENMINDER'S TOTAL LIABILITY TO CLIENT ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE AMOUNTS PAID BY CLIENT UNDER THIS AGREEMENT TO A MAXIMUM OF ONE THOUSAND DOLLARS (\$1,000.00), NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON WARRANTY, CONTRACT, TORT OR OTHERWISE. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, NEITHER PARTY EXCLUDES OR LIMITS LIABILITY TO THE OTHER FOR: FRAUD OR FRAUDULENT MISREPRESENTATION, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, DEATH OR PERSONAL INJURY CAUSED BY NEGLIGENCE AND BREACH OF SECTION 5.07 ('LICENSE TO VENMINDER TRADEMARKS') AND SECTION 5.08 ("INTELLECTUAL PROPERTY").

5.05 Taxes. Client shall pay, indemnify and hold Venminder harmless from (i) any sales, use, excise, import or export, value-added, or similar tax or duty, and any other tax or duty not based on Venminder's income; and (ii) all government permit fees, customs fees and similar fees which Venminder may incur with respect to this Agreement. Such taxes, fees and duties paid by Client shall not be considered a part of, a deduction from, or an offset against, payments due to Venminder hereunder.

5.06 Authority; Organization. Client represents and warrants to Venminder as follows:

5.06.01 Client has the full power and authority to execute, deliver and perform this Agreement. This Agreement is valid, binding and enforceable against Client in accordance with its terms and no provision requiring Client's performance is in conflict with its obligations under any constitutional document, charter or any other agreement (of whatever form or subject) to which Client is a party or by which it is bound.

5.06.02 Client is duly organized, authorized and in good standing under the laws of the state, region or country of its organization and is duly authorized to do business in all other states, regions or countries in which Client's business make such authorization necessary or required.

5.06.03 Client enters into this Agreement and will only use the System in the course of its own business, trade or profession and not as a consumer (nor for any personal, household or domestic purposes).

5.07 License to Venminder Trademarks. Subject to the limitations in this Agreement, Venminder grants Client a revocable nonexclusive right and license to use Venminder's trademarks (the "Trademarks") during the term of this Agreement solely in conjunction with the use of the System and in accordance with Venminder's trademark usage guidelines. Venminder grants no rights in the Trademarks or in any other trademark, trade name, service mark, business name or goodwill of Venminder except as licensed hereunder or by separate written agreement of the parties. Client agrees that it will not at any time during or after this Agreement assert or claim any interest in or do anything that may adversely affect the validity of any Trademark or any other trademark, trade name or product designation belonging to or licensed to Venminder (including, without limitation registering or attempting to register any Trademark or any such other trademark, trade name or product designation). During the term of this Agreement, Client agrees not to use any trademark, trade name or product name confusingly similar to a trademark, trade name or product name of Venminder, except for the Trademarks expressly licensed hereunder. Upon expiration or termination of this Agreement, Client will immediately cease all display, advertising and use of all of the Trademarks and will not thereafter use, advertise or display any trademark, trade name or product designation which is, or any part of which is, similar to or confusing with any Trademark or with any trademark, trade name or product designation associated with Venminder or any of Venminder's products and services.

5.08 Intellectual Property. "Intellectual Property" means all of the following owned by a party: (i) trademarks and service marks (registered and unregistered) and trade names, and goodwill associated therewith; (ii) patents, patentable inventions, computer programs, and software; (iii) databases; (iv) trade secrets and the right to limit the use or disclosure thereof; (v) copyrights in all works, including software programs; and (vi) domain names. The rights owned by a party in its Intellectual Property shall be defined, collectively, as "Intellectual Property Rights." Other than the express licenses granted by this Agreement, Venminder grants no right or license to Client by implication, estoppel or otherwise to the System or any Intellectual Property Rights of Venminder. Each party shall retain all ownership rights, title, and interest in and to its own products and services (including in the case of Venminder, in the System) and all Intellectual Property Rights therein, subject only to the rights and licenses specifically granted herein. Venminder (and not Client) shall have the sole right, but not the obligation, to pursue copyright and patent protection, in its sole discretion, for the System and any Intellectual Property Rights incorporated therein. Client will cooperate with Venminder in pursuing such protection, including without limitation executing and delivering to Venminder such instruments as may be required to register or perfect Venminder's interests in any Intellectual Property Rights and any assignments thereof. Client shall not remove or destroy any proprietary, confidentiality, trademark, service mark, or copyright markings or notices placed upon or contained in any materials or documentation received from Venminder in connection with this Agreement.

## **SECTION SIX - GENERAL PROVISIONS**

6.01 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable for any reason, the remaining provisions not so declared shall nevertheless continue in full force and effect, but shall be construed in a manner so as to effectuate the intent of this Agreement as a whole, notwithstanding such stricken provision or provisions.

6.02 Drafting. No provision of this Agreement shall be construed against any party merely because that party or counsel drafted or revised the provision in question. All parties have been advised and have had an opportunity to consult with legal counsel of their choosing regarding the force and effect of the terms set forth herein. This Agreement shall be deemed to be jointly prepared by the parties and therefore any ambiguity or uncertainty shall be interpreted accordingly.

6.03 Waiver. No term or provision of this Agreement shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other party, whether express or implied, shall not constitute a consent to, waiver of, or excuse for any different or subsequent breach.

6.04 Assignment. This Agreement will bind and inure to the benefit of each party's permitted successors and assigns. Client may not assign this Agreement without the written consent of Venminder. Venminder may assign this Agreement in its sole discretion without the written consent of Client.

6.05 Amendments. This Agreement may be amended by Venminder by posting a new version of this Agreement within the System or any place that Client has access to in order to view the revised Agreement. Any new version of this Agreement will immediately replace in its entirety this Agreement.

6.06 Notices. All notices and other communications required or permitted under this Agreement shall be in writing and given by personal delivery, telecopy (confirmed by a mailed copy), or first class mail, postage prepaid, sent to the addresses set forth in the Order Form. In addition, Venminder may provide notice to Client via e-mail, including, but not limited to as it relates to product updates, new features and offers and Client hereby consents to such e-mail notification.

6.07 Section Headings. The section headings contained in this Agreement are for convenient reference only, and shall not in any way affect the meaning or interpretation of this Agreement.

6.08 Entire Agreement; Binding Effect. This Agreement, including all schedules, exhibits, Order Forms and attachments thereto, sets forth the entire agreement and understanding of the parties hereto in respect of the subject matter contained herein, and supersedes all other prior agreements, promises, covenants, arrangements, communications, representations or warranties, whether oral or written, by any officer, partner, employee or representative of any party hereto. In the event of any conflict between any provision in this Agreement and any pre-existing agreement between Venminder and the Client, the provisions in this Agreement shall prevail and the conflicting provision or provisions in the pre-existing agreement shall be deemed stricken for so long as this Agreement is in effect. This Agreement shall be binding upon and shall inure only to the benefit of the parties hereto and their respective successors and assigns. Nothing in this Agreement, express or implied, is intended to confer or shall be deemed to confer upon any persons or entities not parties to this Agreement, any rights or remedies under or by reason of this Agreement.

6.09 Jurisdiction; Venue; Governing Law. The parties mutually acknowledge and agree that this Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be construed, governed and enforced in accordance with the laws of the Commonwealth of Kentucky, without regard to the internal law of Kentucky regarding conflict of laws. The parties mutually consent and submit to the exclusive jurisdiction of the federal and/or state courts of Kentucky and any action or suit concerning this Agreement (including non-contractual disputes or claims) and/or other related matters shall be brought by the parties in federal or state court with appropriate subject matter jurisdiction in Kentucky. The parties mutually acknowledge and agree that they shall not raise in connection therewith, and hereby waive, any defenses based upon venue, inconvenience of forum or lack of personal jurisdiction in any action or suit brought in accordance with the foregoing. The parties acknowledge that they have read and understand this clause and agree willingly to its terms.

6.10 Attorney's Fees. Should suit be brought to enforce or interpret any part of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs, including expert witness fees and fees on any appeal.

6.11 Publicity. Client hereby grants Venminder permission to use Client's name in its marketing materials including, but not limited to use on Venminder's website, customer listings, in interviews and press releases.

6.12 Equal Opportunity. Venminder shall comply with the following provisions for so long as the Agreement is in effect. **Venminder shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a) to the extent applicable. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.**

6.13 Non-Solicitation. During the Term of this Agreement and for the twelve (12) month period following the termination of this Agreement, Client shall not, without the express prior, written consent of a duly authorized representative of Venminder, directly or indirectly, either for itself or any other person or entity, solicit or induce or attempt to solicit or induce to leave the employ of Venminder any employee, provided that Client shall not be prohibited from: (i) employing any such person who contacts Client on his or her own initiative without any direct solicitation by or on behalf of Client, and (ii) conducting generalized solicitation for employees, not specifically targeted at Venminder's employees, through the use of media advertisements, professional search firms or otherwise.

6.14 Force Majeure. Neither party shall be responsible for failures or interruptions of communications facilities or equipment of third parties, labor strikes or slowdowns, shortages of resources or materials, natural disasters, world events, acts of war or terrorism, delay or disruption of shipment or delivery, trespass or interference of third parties, whether physical or electronic, or similar events or circumstances outside its reasonable control, whether or not otherwise enumerated; provided that this provision shall not apply to failure or inability to pay amounts due for Services provided pursuant to this Agreement.

6.15 Survival. All representations, covenants and warranties shall survive the execution of this Agreement, and all terms that by their nature are continuing shall survive the termination or expiration of this Agreement, including, but not limited to, subsections 1.02, 1.03 and 2.03 and all of Sections 3, 5 (excluding the license to use Venminder's trademarks granted in Section 5.07) and 6.

CLIENT ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, THAT IT UNDERSTANDS THIS AGREEMENT, AND THAT BY CONTINUING TO ACCESS OR USE THE SYSTEM, CLIENT AGREES TO BE BOUND BY THIS AGREEMENT'S TERMS AND CONDITIONS. CLIENT FURTHER AGREES THAT, EXCEPT FOR THE ORDER FORM OR ANY OTHER WRITTEN SEPARATE AGREEMENTS BETWEEN VENMINDER AND CLIENT, THIS AGREEMENT IS A COMPLETE AND EXCLUSIVE STATEMENT OF THE RIGHTS AND LIABILITIES OF THE PARTIES.