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10.2 Termination. Either party will have the right to terminate this Agreement for any reason or no reason by providing notice thereof to the other party, or in the case of Licensee, terminating Licensee's account.

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- (b) Licensee will remove the Licensed Software from the Apps and Hype Labs may use license protection mechanisms in the Licensed Software to block or prevent the Apps from utilizing the functionality of the Licensed Software;
- (c) Subject to subsection (d) below, all rights granted by each party hereunder to the other will terminate.
- (d) Sections 2.3, 3, 4.1, 6, 7, 8, 9, 10.3 and 12 will survive the expiration or termination of this Agreement for any reason.

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Hype Labs may make changes to this Agreement from time to time. If Hype Labs changes this Agreement in any way that materially modifies Licensee's rights or obligations, Hype Labs will give Licensee's at least seven (7) days' notice before the changes take effect, during which period of time Licensee may reject the changes by terminating the Agreement and Licensee's account.

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12.2 Waiver and Amendment. Except as set forth in Section 11, no modification, amendment or waiver of any provision of this Agreement will be effective unless in writing and signed by the party to be charged. No failure or delay by either party in exercising any right, power, or remedy under this Agreement will operate as a waiver of any such right, power or remedy.

12.3 Choice of Law; Jurisdiction, Venue. This Agreement will be governed by the laws of the State of California, without regard to its provisions on conflicts of law. Each party hereby irrevocably consents to the exclusive jurisdiction and venue of the state and federal courts located in the in San Francisco, CA connection with any dispute hereunder or the enforcement of any right or obligation hereunder. The parties agree that the U.N. Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

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12.5 Independent Contractors. The parties are independent contractors with respect to each other. Each party is not and will not be deemed to be an employee, agent, partner, joint venturer, franchisee or legal representative of the other for any purpose and will not have any right, power or authority to create any obligation or responsibility on behalf of the other.

12.6 Severability. If any provision of this Agreement will be held by a court of competent jurisdiction to be contrary to law, such provision will be changed and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law and the remaining provisions of this Agreement will remain in full force and effect.

12.7 Complete Understanding. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements, understandings, proposals and representations between or by the parties.

12.8 Force Majeure. Except with respect to obligations to make payments hereunder, neither party will be deemed in default hereunder, nor will it hold the other party responsible for, any cessation, interruption or delay in the performance of its obligations hereunder due to causes

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