

GENERAL TERMS AND CONDITIONS

1. SCOPE AND DEFINITION

- 1.1. Scope.** These General Terms and Conditions shall apply to the licensing of the Software as well as the provision of the Platform Services and the Services to Customer as set forth on the applicable Order.
- 1.2. Definitions.** Capitalized terms not otherwise defined shall have the meaning set forth in this section.
- 1.2.1. **"Acceptance Date"** means the date on which Customer signs the Order.
- 1.2.2. **"Affiliate"** means any individual, corporation, partnership, or business entity that controls, is controlled by, or is under common control by an entity with an ownership of more than 50% of the voting shares.
- 1.2.3. **"Agreement"** means these General Terms and Conditions, the applicable Order and any schedule and appendices thereto executed by the parties.
- 1.2.4. **"Company"** means the entity identified in the Order, which provides the Products in accordance with the terms of this Agreement.
- 1.2.5. **"Confidential Information"** means any data or information that is disclosed to one party ("**Recipient**") by the other party ("**Discloser**") and not generally publicly available, in whatever form, whenever and however disclosed, including but not limited to the Product and Documentation, personal identifiable data or any data or information which is either identified as confidential, or which by its nature a reasonable business person would consider to be proprietary or confidential.
- 1.2.6. **"Customer"** means the entity identified in the Order, which purchases the Products and/or to whom the Software is licensed to and/or who accesses and uses the Platform Services, Services and/or the Deliverables.
- 1.2.7. **"Customer Material"** means any work, material, content, code or data provided to Company by Customer in connection with Customer's use of, or resulting from Customer's use of, the Products.
- 1.2.8. **"Customer System"** means any system owned, operated, or managed by Customer or its Affiliate on which the Software is installed or which is accessed and used for the Platform Services.
- 1.2.9. **"Deliverable"** means any work or material (including software, reports, test cases, or flow charts) delivered to Customer pursuant to this Agreement as described in or pursuant to the Order.
- 1.2.10. **"Documentation"** means Company's standard written user documentation and/or handbooks that describe the design, functions, operation, or use of the Products.
- 1.2.11. **"Fee"** means any fees which Customer is required to pay in accordance with this Agreement.
- 1.2.12. **"Intellectual Property Rights"** or **"IP Rights"** mean any worldwide common law and statutory rights, whether arising under the applicable law or any other state, country, jurisdiction, government, or public legal authority, associated with (i) patents, utility models, and invention disclosures and applications therefor, (ii) trade secrets, or proprietary information, (iii) copyrights, copyrights registrations and applications thereof; (iv) trademarks and service marks, (v) industrial designs, (vi) all rights in databases and data collections; (vii) all moral and economic rights of authors and inventors, however denominated, (viii) rights to apply for, file for, certify, register, record, or perfect any of the foregoing, and (ix) any similar or equivalent rights to any of the foregoing.
- 1.2.13. **"Order"** means the order form, or any other document as agreed by the parties, specifying the options chosen by Customer for the Products as well as Fees and additional conditions.
- 1.2.14. **"Platform Services"** mean any remote on-demand application made available by Company to Customer as identified in the Order.
- 1.2.15. **"Products"** mean collectively the Software, the Platform Services, Services and/or Deliverables provided by Company to Customer as identified in the Order.
- 1.2.16. **"Services"** mean any services performed to Customer pursuant to and as described in the Order.
- 1.2.17. **"Software"** means any software, including its components as well as all available technology adapters with respect thereto as defined in and pursuant to the Order.
- 1.2.18. **"Support"** means support services in connection with the Software and/or the Platform Service provided in accordance with the support terms and any applicable service level agreement set forth in or attached to the Order.
- 1.2.19. **"Term"** means the duration of Customer's rights to use or access the Products and/or the Support as set forth in the Order.
- 1.2.20. **"Third-Party Software"** means software not owned by Company and licensed to or used by Customer, whether supplied by Company or a third party.
- 1.2.21. **"User"** means Customer's employees or contractors for whom Customer has procured a license or subscription to use the Products.

2. IP RIGHTS

- 2.1. **Ownership.** Company retains all rights, title, and interest, including all IP Rights, in and to the Products and Customer shall retain all rights, title, and interest in and to the Customer Systems and Customer Materials. The Products are made available on a limited license or access basis, and no ownership right is conveyed to Customer, irrespective of the use of terms such as “purchase” or “sale”. Customer may not remove, alter, or obscure any proprietary rights notices contained in or affixed to the Products. Except for the rights expressly granted in this Agreement, no license or right is granted to Customer by Company by implication or otherwise.
- 2.2. **Customer Material.** For the sole purpose of providing the Products, Customer hereby grants to Company and its Affiliates and subcontractors a worldwide, non-exclusive, revocable license to use Customer Materials during the Term. Customer shall ensure that its use of the Products and all Customer Materials are at all times compliant with applicable local, state, federal and international laws and regulations.
- 2.3. **Open Source Component.** Customer acknowledges that certain software components of the Product may be covered by open source licenses as promulgated by the Open Source Initiative or by the Free Software Foundation. To the extent required by such open source license, the terms of such license will apply to such open source component in lieu of the relevant provisions of this Agreement. If such open source license prohibits any of the restrictions in this Agreement, such restrictions will not apply to respective open source component. Company shall provide Customer with a list of open source components upon Customer’s request.

3. PRODUCT USAGE

- 3.1. **Usage Rights.** Subject to payment by Customer of the Fees, Company hereby grants to Customer a limited, non-exclusive, non-transferable, non-sublicensable license or subscription for use of the Products in accordance with this Agreement and the Documentation during the Term, solely for Customer’s internal business purposes. In addition, and unless otherwise specified in the Order, (i) in case of Software and/or Platform Services, Customer may install the Software on its internal Customer System , and/or (ii) Company shall perform the Services, and shall provide the Deliverables as described in the Order on a time and material basis.
- 3.2. **Delivery.** Company shall execute, perform or otherwise make available the Software electronically and the Platform Services over the Internet and shall deliver the applicable license keys and/or login instructions to the email address(es) specified in the Order. Customer is responsible for installation of any downloadable Software, and Customer acknowledges that Company has no further delivery obligation with respect to downloadable Software after delivery of the license keys. Services shall be provided on-site at Customer’s delivery address stated in the Order or remotely from Company’s offices.
- 3.3. **Restrictions.** Customer shall not allow or assist any third party to and shall be responsible for ensuring that its Users do not: (i) modify, adapt, translate, create derivative works of, reverse engineer, decompile, disassemble, reproduce or otherwise attempt to derive the source code of, any part of the Products, any header files or class libraries contained in any part of the Products or any underlying ideas, algorithms, file formats, except as permitted by law, (ii) sell, resell, license, sublicense, distribute, transfer or provide access to a third party, rent or lease any part or include the Products in a service bureau or outsourcing offering, or otherwise encumber the Products with any lien or grant a security interest, time share or offer as a service, (iii) use the Products for the benefit of any third party, publish or otherwise disclose to any third party any results of any benchmark or other performance tests of the Products or publicly disseminate information regarding the performance of the Products or incorporate the Products or any part of it into a product or service provided to third parties, (iv) remove, alter, or obscure any proprietary rights notices contained in or affixed to the Products, (v) use the Products in any hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines, or weapons systems, in which the failure of products could lead directly to death, personal injury, or severe physical or environmental damage, (vi) interfere with any license key mechanism in the Products or otherwise circumvent mechanisms in the Products intended to limit the scope of use or to try to gain unauthorized access to or disrupt any service, device, data, account or network, (vii) use the Products in a way prohibited by law, regulation, governmental order or decree, or to violate the rights of others, and (viii) to spam or distribute malware in a way that could harm the Products or impair anyone else’s use of it.
- 3.4. **Backup.** Except for maintaining a single archival copy of the Software for backup purposes only, Customer shall not make copies of the Software. Nothing herein shall limit or restrict Customer from providing Users with copies of the Documentation for their internal use, in connection with the license granted in this section.
- 3.5. **Support.** Subject to the payment by Customer of the Fees, Company shall provide Customer with Support in respect for the Software and/or the Platform Services for the (Support) Term in accordance with applicable support description and any applicable service level agreement as indicated in the Order. Company may also access Customer’s Platform Services account or instance or request access to the Software in order to respond to support requests.
- 3.6. **Usage Scope.** Only Customer and its Users may access and use the Products and Customer is responsible for all Users’ compliance with this Agreement and use of the Products. All use of the Products by Customer and its Users must be within the authorized scope of use set forth in this Agreement. Without limiting the foregoing, the Software and/or Platform Service may not be simultaneously accessed or used by Customer, by more than the quantities purchased by Customer as set forth in the applicable Order.
- 3.7. **Usage Verification.** Upon Company’s written request Customer shall provide to Company reasonable assistance to verify Customer’s compliance with this Agreement. If Company determines that Customer has exceeded its permitted scope of use, Company shall notify Customer of its determination and may require Customer to immediately discontinue the unpermitted use or terminate Customer’s access to and use of the Product. Company may invoice Customer for additional User licenses or subscriptions commensurate with Customer’s actual past use and Customer shall pay Company’s invoice on receipt. Company and Customer may mutually agree to amend the Order to reflect Customer’s actual use on a going forward basis.

- 3.8. Hosting Platform Provider.** In order to provide the Platform Services, Company may use third party Platform hosting providers. Company's platform hosting providers are identified in the applicable Platform Service infrastructure. Company may change, discontinue or replace platform hosting providers from time to time, provided there is no material change to, discontinuation or termination of the Platform Service or applicable data protection and IT-security standards.
- 3.9. Third-Party Software.** Customer is solely responsible for the installation, maintenance, repair, use, and upgrade of Third-Party Software the Products are used with. Company disclaims all warranties of any kind with respect to such Third-Party Software.
- 3.10. Third-Party Materials.** For all materials designated as "Third-Party Materials" on an Order, the parties acknowledge that such materials will be necessary for Company to perform or provide the Product, and Customer shall be solely responsible for obtaining necessary licenses or rights to the Third-Party Materials.

4. FEES

- 4.1. Payment.** Except as otherwise set forth in the Order, Fees are due and payable thirty (30) days after Customer's receipt of an undisputed invoice. Customer shall provide Company with accurate billing and contact information and notify Company of any changes to such information. All Fees are non-refundable and non-cancellable except as otherwise set forth herein.
- 4.2. Fee Modification.** The Fees are in consideration of the current version of the Product and Customer acknowledges that it is not relying on future availability of any Products beyond the current Term or any Product upgrades or feature enhancements in consideration of the Fees paid for the Term. Upon the renewal of the Order or Support, Company reserves the right to modify the Fees payable by Customer upon sixty (60) days' prior written notice to Customer.
- 4.3. Interest.** If any sum payable under this Agreement is not paid when due, without prejudice to Company's other rights under this Agreement, that sum will bear interest from the due date until the date when payment is received by Company, both before and after any judgment at the rate of one and a half percent (1.5%) per month, subject to the maximum rate allowed by applicable law. In the event Customer in good faith disputes any amount due under any invoice issued by Company, Customer shall pay the undisputed amount, and the parties shall use diligent efforts to resolve any such dispute.
- 4.4. Taxes.** All payments, Fees, and other charges payable by Customer to Company under this Agreement are exclusive of all sales, goods and services, value added, property, excise, or any other taxes, levies, and assessments of any jurisdiction. Customer shall bear all such taxes, levies, and assessments imposed on Customer or Company arising out of this Agreement, excluding any tax based on Company's net income. If any deduction or withholding is required by law to be made by Customer, the amount of Fees shall be increased to the amount which, after making any deduction or withholding, leaves the amount equal to Fees which would have been due if no deduction or withholding had been required. Customer to whom the deduction or withholding applies, shall pay to the relevant taxation authority, or other authorities, as appropriate, the full amount of the deduction or withholding, and furnish to Company all documents confirming such deduction or withholding. These documents should include, to the extent existing, any evidence necessary to ensure utilization of tax credit by Company. Company will repay to Customer the portions of a gross-up amount which led to an effective tax saving because of tax credit available to Company.
- 4.5. Expenses.** Customer shall reimburse Company for actual travel and living expenses of its personnel engaged in the performance of the Services at locations other than Company facilities, together with other out-of-pocket expenses incurred in connection with performance of the Service. Company shall adhere to any travel policy reasonably promulgated by Customer.

5. WARRANTY AND LIABILITY

- 5.1. Representation.** Each party represents that it has validly entered into this Agreement, and has the legal power to do so.
- 5.2. Warranty.** Company warrants to Customer that (i) the Software will conform in all material respects to the Documentation in effect on the Acceptance Date during the first six (6) months of this Agreement, provided the Software is used in accordance with the Documentation, (ii) the Platform Services will conform in all material respects to the Documentation in effect during the Term, (iii) the Services will be performed in a professional and workmanlike manner, and that the Deliverables will conform in all material respects to the Documentation or specifications set forth in the Order for a period of ninety (90) days after the completion of the Services and delivery of the Deliverables, provided that the Deliverables are used in accordance with the applicable Documentation. Notwithstanding any provision of this Agreement to the contrary, Company shall not have any obligation under this section to the extent a nonconformity of the Products are the result of (a) the Products having been modified, repaired, or reworked by any party other than Company or a third party on behalf of Company, (b) any use of the Products in conjunction with another product or service not recommended in the applicable Documentation, (c) any damage to the Products by power failure, fire, explosion, or any act of God or other cause beyond Company's reasonable control, or (d) any use of or access to the Products not in conformance with the Documentation. Warranty is fully excluded in cases of free-of-charge (trial) use of the Products.
- 5.3. Remedy.** If the Product does not conform to the warranty as provided in 5.2, Company will use commercially reasonable efforts to correct the nonconformity causing the warranty failure in the Product provided the failure can be recreated by the Customer or Company. Customer shall notify Company in writing, specifically describing the non-conformity of the Product within the warranty period and Company shall verify the existence of such non-conformity before Company proceeds to correct the non-conformity. For any breach of the warranty in 5.2, Customer's sole and exclusive remedy will be as described in this section.
- 5.4. DISCLAIMER.** EXCEPT AS EXPRESSLY PROVIDED IN 5.2, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE PRODUCTS ARE PROVIDED BY COMPANY "AS IS", AND NEITHER COMPANY NOR ITS THIRD-PARTY LICENSORS MAKE ANY OTHER REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING WARRANTIES: ARISING UNDER STATUTE, USAGE, TRADE CUSTOM, ACCURACY, OF TITLE, NON-INFRINGEMENT, USAGE OF TRADE, COURSE OF DEALING, COURSE OF

PERFORMANCE OR OTHERWISE WITH RESPECT TO THE PRODUCTS, AND COMPANY DISCLAIMS ANY AND ALL WARRANTIES, REPRESENTATIONS, OR CONDITIONS RELATING THERETO INCLUDING, WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR ANY INTENDED OR PARTICULAR PURPOSE. COMPANY DOES NOT GUARANTEE THAT THE PRODUCT WILL BE FREE OF DEFECTS, RUN ERROR-FREE OR UNINTERRUPTED OR MEET CUSTOMER'S REQUIREMENTS.

5.5. LIABILITY. EXCEPT FOR A BREACH OF SECTIONS 3, INDEMNIFICATION LIABILITY UNDER SECTION 6, A BREACH OF SECTION 7, AMOUNTS OWED BY CUSTOMER UNDER ANY ORDER, OR IN THE EVENT OF DAMAGE CAUSED INTENTIONALLY OR BY GROSS NEGLIGENCE OR RESULTING IN DEATH, BODILY INJURY OR DAMAGE TO HEALTH, NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, REGARDLESS OF THE FORM OR CAUSE OF ACTION, WHETHER IN CONTRACT OR TORT, OR THE NUMBER OF CLAIMS AND TO THE EXTENT PERMITTED BY APPLICABLE LAW (I) NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY, FOR ANY CONSEQUENTIAL SPECIAL, INCIDENTAL, PUNITIVE OR INDIRECT DAMAGES, ANY LOSS OF REVENUES OR PROFITS, LOSS OF OR INACCURATE DATA, LOSS OF USE, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS, COSTS OF DELAY OR ANY COST OF COVER ARISING OUT OF THIS AGREEMENT, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND (II) EACH PARTY'S AGGREGATE LIABILITY FOR ANY CLAIM ARISING OUT OF THIS AGREEMENT WILL BE LIMITED TO THE FEES ACTUALLY PAID OR PAYABLE BY CUSTOMER PURSUANT TO THE ORDER THAT IS THE SUBJECT OF SUCH CLAIM WITHIN TWELVE (12) MONTHS PRECEDING THE DATE OF THE CLAIM. THE PARTIES AGREE THAT THIS SECTION REFLECTS A REASONABLE ALLOCATION OF RISK BETWEEN THE PARTIES IN LIGHT OF THE TERMS OF THIS AGREEMENT. THIS LIMITATION OF LIABILITY WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY HEREUNDER.

6. INDEMNITY

6.1. By Company.

6.1.1. Company shall defend, or at Company's option, settle, any claim, demand, suit, or proceeding made or brought against Customer, its directors, employees, and agents by a third party alleging that the authorized use of the Product in accordance with this Agreement infringes such third party's IP Rights ("**Claim Against Customer**"), and shall indemnify Customer from any costs, damages, liabilities, losses, claim, demand, judgement or settlement and expenses (including reasonable attorneys' fees) finally awarded against Customer as a result of, or for amounts paid by Customer under a court-approved settlement of a Claim Against Customer, provided that Customer (i) promptly gives Company written notice of the Claim Against Customer, (ii) gives Company sole control of the defense and settlement of the Claim Against Customer (unless the settlement terms impose obligations upon Customer in addition to the payment of money, in which case Company will obtain Customer's consent to such settlement, such consent to not be unreasonably withheld by Customer), and (iii) gives Company all reasonable assistance. Customer may, at its expense, participate in any such action, suit, or claim with counsel of its choice.

6.1.2. If Company receives notice of a Claim Against Customer, Company may in its discretion and at no cost to Customer (i) modify the Product so that it no longer infringes, without breaching the warranty set forth in section 5.2, (ii) obtain a license for Customer's continued use of the Product in accordance with this Agreement, or (iii) terminate this Agreement upon thirty (30) days' written notice and refund Customer as follows: (a) as it relates to perpetual software licenses, refund the amount paid by Customer for the Software as depreciated on a straight line basis over a five (5) year period, upon return or certified destruction of the Software, (b) as it relates to subscription licenses, refund the prepaid but unused subscription fee that corresponds to the period of license discontinuation upon return or certified deinstallation of the Software or discontinuation of the Platform Service, and (c) for Services or Deliverables, refund the prepaid but unused Fees that corresponds to such discontinuation.

6.1.3. The above obligations do not apply to the extent a Claim Against Customer arises from: (i) Customer Materials or circumstances covered by Customer's indemnification obligations in section 6.2, (ii) Customer's material breach of this Agreement which gave rise to the Claim Against Customer, (iii) Customer's use of the Product in combination with technology not provided by Company, (iv) Company's compliance with any requirements or specifications set forth in Customer Materials, (v) Customer's use of any unsupported release of the Software (vi) a Third-Party Software and/or (vii) Customer's settlement or admission with respect to a Claim Against Customer without Company's prior written consent.

6.2. By Customer. Customer shall defend, or at Customer's option, settle, any claim, demand, loss, cost, liability, damage, suit, or proceeding or judgement or settlement, made or brought against Company, its directors, employees, and agents by a third party arising out of (i) Customer's material breach of this Agreement, or (ii) Customer's operation of the Customer Systems and/or use of Customer Material ("**Claim Against Company**"), and shall indemnify Company from any and all costs, damages, liabilities, losses, and expenses (including reasonable attorneys' fees) incurred by or awarded against Company as a result of, or for amounts paid by Company under a court-approved settlement of a Claim Against Company, provided that Company (a) promptly gives Customer written notice of the Claim Against Company, (b) gives Customer control of the defense and settlement of the Claim Against Company, and (c) gives Customer all reasonable assistance. Company may, at its expense, participate in any such action, suit, or claim with counsel of its choice. Customer's obligations under this subsection include claims arising out of the acts or omissions of its employees or agents, any other person to whom Customer has given access to the Product, and any person who gains access to the Product as a result of Customer's failure to use reasonable security precautions, even if the acts or omissions of such persons were not authorized by Customer.

6.3. Exclusive Remedy. This section states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for relevant claims as described in this section.

7. CONFIDENTIAL INFORMATION

7.1. Confidentiality Obligations. The Recipient shall (i) use Confidential Information solely for performing its obligations or exercising its rights under this Agreement, (ii) keep all Confidential Information in strict confidence; and (iii) not disclose, cause or permit disclosure

of the Confidential Information to any third party, except as permitted under this Agreement. Specifically, the Recipient shall limit disclosure of any Confidential Information to its directors, officers, employees, Affiliates, agents, or representatives (collectively “**Representatives**”) except those that have a “need to know” in order to carry out the purpose set forth above and ensure that such Representatives have signed an agreement containing disclosure and use provisions similar to those set forth herein. The Recipient shall be held to the same standard of care as it applies to its own confidential information, which shall not be less than reasonable care. The Recipient is responsible for any breach of this Agreement by any of its Representatives.

7.2. Exceptions. Confidential Information shall not include information that the Recipient can demonstrate (i) was in the Recipient's possession prior to disclosure hereunder; (ii) is or becomes publicly available through no fault of or failure to act by the Recipient in breach of this Agreement; (iii) was rightfully known by the Recipient prior to disclosure of such information by the Discloser to the Recipient; (iv) was independently developed by the Recipient without any use of or access to the Confidential Information; and (v) is required to be disclosed by a judicial or governmental order, and Discloser has been given timely notice (if legally permissible) of such order so that Discloser and/or Recipient may seek an injunction or protective order. If only particular parts or aspects of Confidential Information become subject to any of the foregoing exceptions, all other portions or aspects shall remain subject to this Agreement.

8. DATA PRIVACY AND IT-SECURITY

8.1. Personal Data. Each party warrants that it shall use, collect, store and/or process personal identifiable data as defined under and in accordance with any applicable data privacy laws.

8.2. Data Collection. Customer shall not submit and Company shall not collect any personal identifiable data of Customers' employees, clients or any other related natural person, unless necessary to fulfill each parties' contractual rights and obligations under this Agreement. Customer shall (i) not share or transmit any personal identifiable data to Company unless strictly necessary and/or (ii) limit any necessary transfer of personal identifiable data to Company to the utmost minimum required for the performance of this Agreement. In the event that Customer intends to use and/or transmit personal identifiable data to Company for use within the Product, Customer shall inform Company with written notice prior to using and/or transmitting such personal identifiable data to Company and Customer shall take all necessary measures that the parties are compliant with applicable data privacy laws.

8.3. Credentials. Access credential for the Products may not be shared with third parties or by and between Users or other Customer's employees or contractors. Customer shall ensure that all Users keep their user IDs and passwords for the Product strictly confidential and not share such information with any unauthorized persons. User IDs are granted to individual, named persons and shall not be shared. Customer is responsible for any and all actions taken through use of Customer accounts and passwords. Customer agrees to notify Company immediately if Customer becomes aware of any unauthorized use of the Products.

8.4. Security. Customer acknowledges that use of the Product necessarily involves transmission of Customer Material over networks that are not owned, operated or controlled by Company, and Company is not responsible for any Customer Material's lost, altered, intercepted or stored across such networks. Company cannot guarantee that its security procedures will be error-free, that transmissions of Customer Material will always be secure or that unauthorized third parties will never be able to defeat Company security measures or those of Company's third-party hosting providers. Customer is solely responsible for maintaining the security of its Customer System. Company assumes no responsibility or liability for Customer Material.

9. TERM AND TERMINATION

9.1. Term. This Agreement shall remain in effect for the Term, unless terminated earlier in writing pursuant to the terms of this section. Upon the renewal of an Order, this Agreement shall be applicable to the extent of any variations set out in the Order.

9.2. Termination For Convenience. Upon expiration of the initial Term of the Product or Support, the Term shall automatically renew for successive periods of twelve (12) months each at then current rates, unless either party cancels such renewal by notifying the other party in writing at least sixty (60) days prior to the expiration of the then-current term, unless otherwise agreed in the Order.

9.3. Termination for Breach. Either party may terminate this Agreement immediately upon written notice to the other party, if the other party is in material breach of this Agreement and fails to correct the breach thirty (30) days following written notice from the other party specifying the breach. Notwithstanding anything to the contrary, Company may alternatively suspend use of the Product, if Customer violates the restrictions set forth in section 3 or if any undisputed sum payable under this Agreement is past due for longer than thirty (30) days. Any use of the Products in breach of this Agreement or the Documentation, that in Company's reasonable judgment threatens the security, integrity or availability of the Product, may result in immediate suspension of Customer's access to the Product. Company shall use commercially reasonable efforts to provide Customer with prior written notice of any planned suspension and an opportunity to remedy such violation or threat before the suspension occurs.

9.4. Termination for Insolvency. Either party may terminate this Agreement immediately upon written notice to the other party if the other party has a receiver appointed, or an assignee for the benefit of creditors or in the event of any insolvency or inability to pay debts as they become due by the other party, except as may be prohibited by applicable bankruptcy laws.

9.5. Effect of Termination. Expiration or termination of this Agreement will not relieve any party of its obligations to pay any amounts accrued or otherwise owed under this Agreement. Upon termination or non-renewal of this Agreement, all usage or access rights granted to Customer hereunder shall terminate and Customer shall not use the Products, and Company shall have no further obligation to provide the Products. Customer must remove any Customer Materials in the Platform Services prior to termination. Upon termination of an Order for Services, Customer shall pay Company any unpaid fees and expenses incurred on or before the termination date on a time and material basis, based on the rates agreed in the Order. In addition, no later than ten (10) calendar days after termination or non-renewal, each party shall return or certify destruction of all Confidential Information in its possession or control to the other party, if so requested. Any provision that is intended to continue after termination shall not be affected by the termination

of this Agreement.

10. MISCELLANEOUS

- 10.1. Notices.** All notices shall be in writing and addressed to the registered office of the parties as set out in the Order or to such address as either party may later provide in writing to the other party by certified or registered mail, courier, fax or email or through Customer's account.
- 10.2. Publicity.** For marketing and promotional purposes, Customer agrees that Company may identify Customer in Company's promotional, marketing or other materials and refer to Customer by name, trade name and trademark as applicable. Customer hereby grants to Company a license to use Customer's name and applicable trademarks in accordance with this section.
- 10.3. Non-Solicitation.** During the term of this Agreement and for one year thereafter, neither party will solicit any of the other party's employees or contractors to leave their current employment or engagement with the other party. The placement of general employment solicitations and advertisements in public media (e.g. newspapers, company website postings, internet recruiting sites), or the engagement of a recruiting firm who solicits the other party's employees as part of a general solicitation effort, without any direction from the hiring party to solicit individuals from such other party, will not constitute a breach of the terms of this section.
- 10.4. Injunctive Relief.** Each party acknowledges and agrees that any breach of its obligations with respect to Confidential Information and IP Rights may cause substantial harm to the other party that could not be remedied by payment of damages alone. Accordingly, the other party shall be entitled, in addition to any other rights or remedies, to seek injunctive relief in any jurisdiction where damage may occur.
- 10.5. Exports.** Customer shall comply with all applicable export control laws, rules, and regulations with respect to its use of the Product, including the Export Administration Regulations promulgated by the U.S. Department of Commerce or U.S. Treasury Department's list of Specially Designated Nationals. Without limiting the foregoing, Customer shall not export or re-export all or any part of the Product without Company's prior written consent. Customer agrees to notify Company promptly if Customer or any User may be in non-compliance with this section.
- 10.6. No Waiver.** Neither party's failure or delay in exercising any of its rights shall constitute a waiver of such rights unless expressly waived in writing.
- 10.7. Relationship.** The parties are independent contractors, and nothing contained in this Agreement shall be construed to constitute as agents, partners, joint ventures, or otherwise as participants in a joint undertaking, that would give on party the express or implied right, power or authority to create any duty or obligation of the other party.
- 10.8. Force Majeure.** Neither party shall be deemed to be in breach of any provision of this Agreement for any failure (except for a failure to pay Fees) resulting from acts or events beyond that party's reasonable control, including but not limited to (i) severe weather, power failure, fires, explosions, earthquakes, drought, tidal waves and floods, (ii) war, hostilities, invasion, act of foreign enemies, mobilization, requisition, or embargo, (iii) rebellion, revolution, insurrection, or military or usurped power, or civil war, (iv) contamination by radio-activity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosive, or other hazardous properties of any explosive nuclear assembly or nuclear component of such assembly, (v) diminishment of power of telecommunications or data networks or services, or refusal of a license by a government agency, (vi) riot, commotion, strikes, go slows, lock outs or disorder, unless solely restricted to employees of Company or its subcontractors. If any of such event continues for more than sixty (60) days preventing a party from performing, either party may terminate this Agreement upon written notice to the other party.
- 10.9. Assignment.** Neither this Agreement nor any rights granted hereunder may be assigned by either party, without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. No such consent will be required in the event of an assignment to either party's Affiliate, or a merger or a sale of substantially all of a party's assets; provided that the assigning party provides notice as soon as reasonably practicable. The right of assignment granted herein shall apply only to the business of Customer as it existed prior to such assignment or sale. This Agreement shall inure to the benefit of the parties' permitted successors and assigns.
- 10.10. Severability.** If any provision of this Agreement is held to be invalid or unenforceable, such provision will be interpreted in a manner that best reflects the parties' intentions, and the remaining provisions of this Agreement will remain in full force and effect.
- 10.11. Entire Agreement.** This Agreement constitutes the entire agreement between Company and Customer regarding the subject matter hereof and supersedes all prior oral and written communications. It may be executed in one or more counterparts, all of which together shall be considered one and the same and may be executed and delivered by facsimile or electronic signature. All amendments or modifications to this Agreement must be in writing and signed by authorized representatives of both parties, however, the General Terms and Conditions may also be incorporated by way of reference in an Order. In the event of any conflict or inconsistency, the order of precedence shall be (1) the Order, (2) these General Terms and Conditions, and (3) the Documentation.
- 10.12. Governing Law and Jurisdiction.** This Agreement shall be governed by the laws of the country/state in which the Company entity as specified in the Order is located, without reference to conflict of laws principles. The place of jurisdiction shall be where the registered office of the Company entity as specified in the Order is located. This Agreement excludes the United Nations Convention on Contracts for the International Sale of Goods. Notwithstanding the foregoing, Company may bring a claim for equitable relief in any court with proper jurisdiction.
- 10.13. Subsequent Arbitration.** If there is no bilateral treaty regarding litigation and enforcement between the states where the parties are located, each party consents to all disputes arising out of or in connection with this Agreement shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules and

such arbitration shall be final binding and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The place of the arbitration shall be as set forth in section 10.12, and the arbitration language shall be English.

- 10.14. Ultimate U.S. Federal Government Provisions.** Company will provide the Product, including related Documentation and technology for ultimate federal government end use solely in accordance with the following: government technical data and software rights related to the Product include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for 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). If a government agency has a need for rights not granted under these terms, it must negotiate with Company to determine if there are acceptable terms for granting those rights, and a mutually acceptable written addendum specifically granting those rights must be included in any applicable agreement.
- 10.15. Australian Consumer Law.** Nothing in this Agreement excludes, restricts or modifies the application of Part 3-2 Div. 1 of the Australian Consumer Law as set out in Schedule 2 of the Competition and Consumer Act 2010 (Cth) (“**ACL**”). To the fullest extent permitted by law, Company’s liability for any breach of a consumer guarantee implied by the ACL (and which cannot be excluded) shall be limited to any one or more of the following (as determined by Company in its absolute discretion) (i) in the case of goods, the replacement repair or payment of the cost of replacement or repair of the goods, and (ii) in the case of services, supplying the services again or payment of the cost of having the services supplied again.