TERMS AND CONDITIONS

IN WITNESS WHEREOF, the parties agree hereto have caused this Agreement to be executed as of the Effective Date. The parties agree as follows:

1. Rights Granted & Permitted Use

Upon and subject to receipt of payment by Supplier of the applicable initial subscription, set-up and training fees set out in the Order Form(s), Supplier grants to Customer for use in connection with its internal business operations a limited, non-exclusive, non-transferrable, license to the Services and Documentation, subject to the Permitted Use and the terms set forth in this Agreement. Customer's rights to use the Services and Documentation are limited to the Subscription Term and subject to the payment of the applicable subscription fee. Updates (provided pursuant to Section 7 (Subscription License, Updates and Technical Support)) will be provided as part of the Services, will form part of the Services and will be subject to the rights granted in this Agreement. Customer may permit its employees, agents, and contractors to use the Services for purposes permitted pursuant to this Agreement and Customer will be responsible for their compliance in accordance with the terms of this Agreement. All legends, trademarks, trade names, copyright marks and other proprietary notices included in the original copies of the Services must be maintained as part of any and all testing, archival, back-up or other copies of the Services made by Customer. All rights not expressly granted to Customer hereunder are reserved by Supplier. Customer acknowledges that the Services may require activation by way of an activation key on initial installation and from time to time based on certain events, including, without limitation, Updates and changes to hardware on which the Services is installed. Customer acknowledges that the activation keys and internal controls in the Services do not necessarily restrict usage to the Permitted Use and do not necessarily ensure compliance with this Agreement.

2. License Restrictions

Customer agrees (a) subject to any non-waivable rights Customer may enjoy under applicable law, not to carry out penetration or other remote security testing, not to decompile, disassemble, reverse engineer, or otherwise attempt to derive the Software's source code from the object code; (b) not to modify, enhance, change the data structures for or create derivative works from, the Software, (c) not to rent, lease, sell, sublicense or otherwise transfer the Services to third parties; (d) not to make the Services available in any form to any person other than Customer's employees, agents and contractors whose job performance requires such access; and (e) to use reasonable care and protection to prevent the unauthorized use, copying, publication or dissemination of the Software. Customer shall not allow access to the Services by any service bureau, third party outsourcer, or other similar third-party service provider unless Supplier consents to such access in writing.

3. Ownership of Intellectual Property; Customer Input

As between Supplier and Customer, Supplier retains all title, ownership, and intellectual property rights in and to the Services and Documentation, and all developments by Supplier in connection with this Agreement. Customer acknowledges and agrees that it is only licensing the right to use Supplier's Services and Documentation and that no sale or other transfer of any title or ownership or any proprietary interest of any kind to such Services or Documentation is contemplated hereunder, other than the sale of the limited licenses as expressly granted herein. Except as specified in Section 1 (Rights Granted & Permitted Use) or as expressly authorized in writing by Supplier and, subject to any non-waivable rights Customer may enjoy under applicable law, Customer shall not allow for any duplicates or reproduction of the Services to be made and, upon the termination of this Agreement, shall promptly (and no later than within thirty (30) days of termination) return to Supplier all originals and copies of the Services or provide validation that the Services has been permanently deleted from all of Customer's systems and destroyed.

Supplier shall have a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual license to use or incorporate into the Services any Customer Input. Supplier shall have no obligation to make Customer Input an Update. Customer shall have no obligation to provide Customer Input.

4. Use of Logo for Promotional and Marketing Materials

Unless indicated otherwise in the applicable Order Form, Customer provides Supplier with permission to use its trademark, logo, and trade name ("Branding") within Supplier's promotional and marketing materials. Supplier is granted no other right to the Branding and acknowledges that it shall not gain any proprietary interest in the same. Supplier is under no obligation to make use of, or to provide compensation for, the right or permission granted by Customer to the Branding. Supplier shall be the exclusive owner of all right, title, and interest, including copyright in its promotional and marketing materials. The permission to use the Branding may be terminated at any time by Customer by providing thirty (30) days' written notice to Supplier. Upon such termination, Supplier shall refrain from future use of the Branding; however, Supplier may continue to distribute and use the promotional and marketing materials where Customer's Branding has been previously printed prior to the notice of termination and where such placements cannot be discontinued or altered without Supplier incurring a penalty.

5. Implementation, Training and Consulting

If so indicated in the Order Form(s), Supplier will provide to Customer implementation (including configuration), training services and/or consulting services to Customer. Unless otherwise specifically noted in the applicable Order Form, training will be held during weekdays. Supplier's installation and training personnel will have expertise and actual experience in the application area designed for installation at Customer's site. Should Customer require rescheduling of a confirmed implementation and/or training service appointment, Supplier will make commercially reasonable efforts to accommodate Customer's request. If Customer cancels a scheduled and confirmed implementation, training and/or consulting session, Customer will be responsible for Supplier's standard cancellation fees and any other charges as specified in the applicable Order Form and/or Schedule 4. If the parties agree that any implementation, training and/or consulting services will be provided on-site at Customer's facility, Customer will: (i) provide and have properly prepared and set up an adequate training room or space; and (ii) at least one (1) week prior to scheduled training, have the hardware loaded with the operating system Services and the Software, with all being adequately tested on-site. All travel and related expenses necessitated by training, implementation, and/or consulting services being rendered by Supplier hereunder at Customer designated sites will be reimbursed by Customer to Supplier. Such travel and related expenses will include reasonable coach class airfare, transportation to and from Customer site, lodging, meals and miscellaneous (e.g. tips, tolls, etc.) and may include travel time at Supplier's standard travel rate. Unless otherwise specified in the Order Form, all phases/sessions of training and consultation must be completed within three (3) months from Agreed Go Live Date, or all prepaid training fees will be forfeit. Upon Customer's request, Supplier will provide further services to train any additional Customer personnel on the features, operation, and use of the Software, at Supplier's standard price list per diem rates in effect at the time such training is requested by Customer. Additional services that are required as a result of Customer's action, inaction, or failure to meet its obligations, including delays or wait time caused by issues related to Customer's hardware and software, shall be billable to Customer and will be invoiced at Supplier's then-current rates.

6. Customer Responsibilities

Within a reasonable period of time following the execution of this Agreement, and prior to the Implementation Start date of the Services, Customer shall appoint a member of its staff to act as its project lead. The project lead will serve as the main contact for Supplier's personnel in connection with any implementation activities, disseminate information from Supplier to the various departments at Customer's operation, as applicable and relay any required information to Customer personnel in a timely manner. If the implementation affects multiple areas of Customer's operations, then it shall also appoint a team comprised of management level staff from those operational areas involved in the installation to act as its project team. The project lead and/or project team, as applicable, shall have primary responsibility for the coordination and execution of the installation. The project lead and/or the project team shall: (a) have a clear understanding of the general manager's or other top-ranking executive's vision and purchasing decision for the installation of the Services and shall communicate this vision to all levels of Customer's staff; (b) be familiar with and involved in Customer's daily operations; (c) be Customer's primary decision-makers, within their respective areas of operational responsibility, for any policies and procedures which may be involved in the implementation of the Software; (d) report to the general manager or other top-ranking manager as it relates to the responsibilities of installation coordination; (e) ensure that the minimum system requirements set forth in in the Order Form(s), related Documentation and/or the applicable exhibit have been met or exceeded; (f) serve as liaison with other third party vendors who are involved in the implementation process; and (g) be available during all phases of the implementation and training process, and attend all designated training classes and ensure attendance of staff at scheduled training sessions.

Unless expressly agreed otherwise in the Order Form, Customer shall enter all Customer Data required for use of the Services and shall be responsible for the ongoing integrity and accuracy of such data. Supplier shall not have any liability for any Customer Data, including for data that Supplier personnel may enter in an effort to assist Customer or any errors made in such efforts to assist Customer. Supplier reserves the right to refuse to do data entry on Customer's behalf and Customer agrees that Customer is solely responsible for providing sufficient staff to perform any data entry required for the operation of the Software.

Customer shall assume full responsibility for (i) the content of any database, (ii) the selection and implementation of controls on its access and use of the Software, (iii) the security of stored data and (iv) configuration data associated with the implementation of the Software.

7. Subscription License, Updates and Technical Support

During the Subscription Term, and in consideration of the Fees being paid by Customer in accordance with the terms of this Agreement, Supplier will provide, in a timely manner and without additional charge to the subscription fee, the following to Customer:

(a) The right to "use" under license, as provided in Section 1 (Rights Granted & Permitted Use), the Software, Documentation, and related materials;

(b) Commercially reasonable efforts to correct any Errors reported to it by Customer, provided such Errors relate to the proper functioning of the Services and have not been caused by negligence on the part of Customer, a computer malfunction, Third Party Materials, or other causes external to the Software; and further provided that Customer acknowledges and agrees that not all Errors are capable of being corrected.

(c) Point Updates within the major release number (e.g. 2.3 to 2.4) to the Services that Supplier makes generally available to its customers, and Documentation as reasonably necessary for the proper function and continued material conformity of the Services with the applicable Documentation. Where directed by Supplier, Customer agrees to install all Updates to the Services made available by Supplier within ninety (90) days following such availability. If Customer fails to install any such Update, Supplier reserves the right to stop all implementation, training and support services until Customer installs such Update. Any programs which provide new functionality or expand the function of the Services and are regarded as New Products by Supplier, and for which Supplier separately charges other customers, are not covered by this Agreement, but may be offered to Customer for license on terms consistent with this Agreement; and

(d) Access to Supplier's technical support hotline during the hours set out in the applicable Order Form, subject to any other terms and conditions indicated in the applicable Schedule.

Outside of the hours set out in the applicable Order Form, telephone support will be charged to Customer at Supplier's then-current rates and any additional terms and conditions set forth in the Order Form will apply. Customer acknowledges and agrees that telephone support is intended to address specific problems experienced by Customer relating to the Software and is not intended to train Customer's employees or to support third party products ("Other Assistance"). Supplier will advise Customer during a telephone support session if Supplier considers such telephone support to constitute Other Assistance. Following such notice, if Customer wishes for the telephone support session to continue, Customer will pay for such Other Assistance based on Supplier's then-current rates. In connection with the provision of technical support, Supplier may be required to access Customer's system to diagnose, and to resolve, certain issues. To the extent Customer supplies remote access facilities, Customer will be responsible to ensure such facilities are secure and readily available. Customer hereby consents and agrees that Supplier may access the Services by way of remote access for such purposes. Unless otherwise provided for in the Order Form, Supplier will not be responsible for providing technical support of Hardware or the related operating system and configuration. Customer agrees that Supplier will not be responsible for providing Hardware installation specifications (including those regarding cabling, power, space, etc.), or for the installation, operation, maintenance, or technical support of Hardware.

Supplier's obligation to provide support is subject to the following conditions: (i) Customer uses the Services only in accordance with the terms and conditions of the Agreement; (ii) Services implementation, training, re-implementation, and system audit services must be provided by Supplier's employees or Supplier's Authorized Representatives; (iii) Customer has not modified or altered the Software; (iv) Customer has not authorized independent interfacing of third party components to the Software, or relevant database, particularly third party components that write to the database, without the express prior written consent of Supplier; (v) the Software, and the equipment on which it operates, is operated in accordance with the Documentation; (vi) the equipment on which the Services operates is in good operating condition; (vii) Customer implements all Updates on a timely basis and no later than ninety (90) days subsequent to the availability of the Updates; (viii) Customer obtains, maintains, and updates, as required, third party programs and such other Services as is necessary for the proper operation of the Software; and (ix) Customer provides reasonable access to its systems (and, if applicable, such access is to be provided in accordance with the specifications set forth in the Documentation and the applicable exhibits) so as to enable Supplier to provide the technical support services, including, but not limited to, by way of telecommunications, internet or other remote access to the server environment in which the Services resides or such other method reasonably acceptable to Supplier. All time and materials expended by Supplier resulting from Customer's breach of such conditions shall be billed to Customer at Supplier's standard time and materials rates. Support provided pursuant to this Section relates to the Services and the Updates only. Unless, and only to the extent that, Supplier and Customer have expressly agreed for Supplier to provide hardware support pursuant to the Order Form, should the problems that arise be the result of hardware malfunction, Supplier will advise Customer to have the hardware/network repaired. Support resulting from hardware/network problems will be billed to Customer at Supplier's then-current hourly rates.

The subscription fee for the first subscription period is set out in the Order Form.

8. Interfaces

Services interfaces to third party vendor systems may be available, as indicated in the Documentation. To the extent such third-party vendor system interfaces are available, Supplier shall install the Services interfaces as agreed between the parties on the Order Form. Customer shall act as a liaison between Supplier and any third-party vendor(s) with which the Services shall interface. Customer shall have its third-party vendor available at the time that Supplier is scheduled to install the interface and in order to assist with installation, as required by Supplier. Transactions processed by a third-party vendor system may be subject to separate licensing requirements. Customer acknowledges and agrees that it has the sole obligation to obtain, or cause its third-party vendor to obtain, any and all such licenses.

9. Custom Development and Enhancement Requests

This Agreement does not include any programming services for new Services development or Services modifications. Such work, if negotiated and agreed to between Supplier and Customer, shall be the subject of a separate agreement for development services between the parties. The fees, payment terms and delivery schedules related to such work shall be as outlined in such agreement for development services and are independent of Services or services provided under this Agreement. Customer acknowledges that Supplier is not a contract development organization, but rather Supplier is a Services developer that licenses its Services within specified industries. As such, Customer further acknowledges that the Services is a major and valuable asset of Supplier's business and, as such, Supplier shall have complete control of the design and development of the Software, including Updates to the Software. Therefore, Supplier has the right, and sole discretion, to reject any request for enhancement or modification to the Services by Customer. Should Customer require modification of any standard forms incorporated into the Services or design of new forms, any such customization work shall be contracted for separately at Supplier's then-current rates.

10. Payment Terms

Customer agrees to pay to Supplier all Fees as set out in the Order Form(s) for the first year. For subsequent years, the charge for the same services will be the previous year's charge plus the percentage increase of the UK Retail Price Index published in the previous September plus 4%. All Fees are payable in accordance with the terms set out in, and in the currency specified in, the Order Form(s). Unless otherwise indicated on the invoice, all invoices are due upon receipt. Fees stated in the Order Form are exclusive of Taxes. Supplier will provide a refund in respect of prepaid Fees in the event that this Agreement is terminated by Customer during the Subscription Term pursuant to Section 18. If Customer wishes to decrease its Permitted Use of the Software, Customer must notify Supplier sixty (60) days in advance of the conclusion of the Initial Subscription Term or the then-current Renewal Term. In such case, such reduction in Permitted Use of the Services will take effect upon the next Renewal Term. If Customer wishes to increase its Permitted Use of the Software, Customer must notify Supplier in advance and pay any applicable Fees.

Any invoice disputes must be initiated by Customer in good faith and in writing; Customer will be entitled to notify Supplier of any invoice dispute by the date that is thirty (30) days following the date of the applicable invoice, after which time the invoice shall be deemed to be accepted by Customer and will be due and payable in full. If Customer initiates a dispute regarding a particular invoice, any undisputed amounts charged on such invoice will continue to be due and payable. Supplier and Customer agree to use reasonable efforts to address and attempt to resolve any invoice dispute within thirty (30) days after Supplier's receipt of Customer's notice to Supplier regarding such dispute.

Regarding any undisputed invoiced amount that is not paid when due, Supplier reserves the right to charge, and Customer agrees to pay, a late payment fee on the unpaid balance from the due date until paid (whether before or after judgment) equal to the lesser of one and one half percent (1.5%) per month, or the maximum amount allowable by law. If it is determined that Supplier properly charged any amount disputed and withheld by Customer, the late fee will be assessed and paid on the disputed, withheld amount.

Customer acknowledges that Supplier reserves the right to suspend or interrupt Customer's use of the Software, cease providing Updates and/or suspend delivery of technical support to Customer for any period during which any Fees due in accordance with the terms of this Agreement remain unpaid for fifteen (15) days after Supplier provides advanced written notice (including by way of email) of such unpaid Fees to Customer. In such event, Supplier shall not be precluded from exercising any additional remedies that might be available to it under the terms of this Agreement or otherwise.

11. Taxes; Customs

Customer will be responsible for paying all Taxes (other than taxes associated with Supplier's net income or Supplier's authority to do business in a particular jurisdiction), as well as for obtaining any necessary permissions related to the importation and use of the Software, Third Party Services and/or Hardware. If Supplier has a legal obligation to pay or collect Taxes for which Customer is responsible under this Agreement, the appropriate amount shall be computed based on Customer's address listed in the Order Form and invoiced to and paid by Customer, unless Customer provides Supplier with a valid tax exemption certificate authorized by the applicable governmental authority at least five (5) business days prior to the due date of the applicable Supplier invoice. All Fees are payable in full and without reduction or withholding for Taxes. If, for whatever reason, Customer is required by law to withhold any Taxes from Fees, Customer shall gross up its payments to Supplier so that Supplier receives Fees in full and free of any such deductions. Customer shall, upon request of Supplier, provide to Supplier proof that Taxes have been paid, if such payment is not made to Supplier directly. If Supplier pays any costs or expenses incurred in relation to any import duties, customs, formalities, permissions, or other requirements, then Customer shall promptly reimburse Supplier for all such amounts in full.

12. Hardware Purchase

If Customer so elects, Customer shall purchase Hardware at the price indicated in the Order Form or, if at a later date, at the then-current standard prices in effect at the time the order is placed. All Hardware will be shipped F.O.B. origin. Customer shall be responsible for all Delivery Costs. Payment by Customer of Delivery Costs shall be due and payable upon its receipt of Supplier's invoice.

13. Title to the Products

Subject to the second paragraph of this Section 13, with respect to Third Party Services and/or Hardware purchased from Supplier by Customer hereunder (collectively, the "Products"), and in the case of Third-Party Software, the media on which such Products are contained and the license thereto, all risk therein shall pass to Customer upon shipment F.O.B. from the manufacturer's facility. Supplier reserves, and Customer hereby grants to Supplier, a security interest in all Products sold under this Agreement to secure payment of all applicable Fees until the applicable Fees have been paid in full. A copy of this Agreement may be filed, or Supplier may apply for any registration, or give any notification, in connection with the security interest, with, to or on appropriate authorities or registers in any jurisdiction at any time before or after execution by Customer including a financing statement in order to perfect and/or register Supplier's security interest in the Products. Customer agrees to execute and deliver any additional document or instrument and provide all other assistance as Supplier may reasonably request from time to time to establish, perfect, register, give effect to and/or enforce Supplier's security interest in the Products applicable in Customer's place of business. Supplier shall not, unless any requirement or obligation cannot be lawfully excluded, be obliged to comply with any requirement or obligation of any law in connection with the security interest, including without limitation giving to Customer any notice of any form or making any disclosure. Customer shall maintain sufficient insurance and shall bear the responsibility of insurance for Products from the time it leaves the manufacturer's facility until the applicable Fees have been paid in full. For greater certainty, Customer acknowledges and agrees that Supplier never sells but only licenses the right to "use" its Software, Documentation, and related materials, and that no sale or other transfer of any title or ownership or any proprietary interest of any kind whatsoever in or to such Software, Documentation, or related materials is contemplated hereunder.

Where the governing law of this Agreement is that of England and Wales, then this second paragraph of Section 13 shall apply in place of the first paragraph of Section 13. The legal and beneficial title to the Products, or in the case of Third-Party Software, legal and beneficial title to the media, shall remain vested in Supplier and shall not pass to Customer until the purchase price for such Products has been paid in full and received by Supplier. Until payment in full has been received by Supplier and title to the Products passes: Supplier may require Customer to deliver up to Supplier all Products in its possession and if Customer fails to do so promptly, Supplier shall have authority to retake, sell or otherwise deal with and/or dispose of all or any part of the Products; Supplier and its agents and employees shall be entitled for such purpose at any time and without the need to give notice enter upon any property upon which the Products or any part are stored, or upon which Supplier reasonably believes them to be kept; Customer shall hold the Products as bailee and store or mark the Products in a manner reasonably satisfactory to Supplier indicating that title to the Products remains vested in Supplier; Customer shall take all reasonable care of the Products; and Customer shall insure the Products to their full replacement value, and arrange for Supplier to be noted on the policy of insurance as the loss payee. Irrespective of whether title to the Products remains vested in Supplier, risk in the Products shall pass to Customer upon delivery.

14. Confidentiality

By virtue of this Agreement, the parties may have access to the other party's Confidential Information. The parties will hold each other's Confidential Information in confidence. With respect to all Confidential Information other than Services and Documentation provided by Supplier, such obligation shall terminate three (3) years after termination of this Agreement. With respect to the Services and Documentation provided by Supplier, such obligation is perpetual. The parties will not make each other's Confidential Information available in any form to any third-party for any purpose except to the extent necessary to exercise its rights under this Agreement and will treat Confidential Information of the other party with the same degree of care with which it would treat its own confidential information of a like nature, and in no case less than a reasonable degree of care. The parties agree that the limitations of liability contained herein shall not apply to any disclosure of Services or Documentation in breach of this provision and that any such breach shall terminate the rights to such Services and Documentation granted to Customer under this Agreement.

Confidential Information may only be disclosed to those employees or agents who are required to access it in furtherance of this Agreement and who are required to protect such Confidential Information against unauthorized disclosure. Supplier and Customer shall each implement and enforce policies and contractual obligations with its employees, agents and subcontractors to ensure its employees, agents and subcontractors protect the Confidential Information as required pursuant to this Section 14. It shall not be a breach of this Section 14 if Confidential Information is disclosed pursuant to subpoena or other compulsory judicial or administrative process, provided that the party served with such process promptly notifies, to the extent legally permissible, the other party and provides reasonable assistance so that the other party may seek, at its own cost and expense, a protective order against public disclosure.

The parties recognize and agree that monetary damages are an inadequate remedy for breach of the obligations set forth in this Section 14 and further recognize that any breach would result in irreparable harm to the non-breaching party. In the event of such a breach, the non-breaching party may seek injunctive relief from a court of competent jurisdiction to pursue those remedies available to it.

15. Indemnification

Supplier will indemnify, defend and hold Customer Indemnified Parties harmless from, at its expense, any action brought against Customer Indemnified Parties by a third party based upon a claim that Customer's use of the Services within the scope of these Terms and Conditions and the Order Form(s) infringes a United States, Canadian, United Kingdom, European Union, Australian or New Zealand patent or copyright issued to or held by a third party, or misappropriates a trade secret of such third party; provided that Customer notifies Supplier promptly in writing of such claim, provides Supplier with the sole control and authority to defend or settle such action or claim, and gives Supplier the authority, information and assistance necessary to settle or defend such claim.

In the event a claim of infringement is made, or Supplier believes that such a claim is likely to be made, then Supplier shall at its expense: (a) procure the right for Customer to continue using the Software; (b) replace or modify the Services so that it becomes non-infringing, without materially decreasing the functionality of the Software; or (c) if neither (a) or (b) above is commercially practical, then at Supplier's sole option, terminate this Agreement upon three (3) months written notice, and either issue to Customer a credit equal to, or promptly refund to Customer, the subscription fee for the then-current subscription period, less an appropriately prorated amount for use, reflecting the number of months during which Customer enjoyed uninterrupted use of the Services during that subscription period.

Notwithstanding the foregoing, Supplier shall have no obligation to defend Customer or to pay any costs or legal fees for any action, claim or settlement, based upon: (a) use of a version of the Services that was not, at the time that the claim arose, the current unaltered version of the Services provided by Supplier hereunder, including, without limitation, failure of Customer to install Updates containing modifications to make the Services non-infringing; (b) combination, operation, integration or interfacing of the Services with Third Party Materials, other than Third Party Materials or Third Party Services with which the Services was intended to operate as specified in the Documentation associated with the Services if such claim would not have arisen but for such combination, operation, integration or interfacing (regardless of whether or not Supplier has advised Customer that such use would likely result in a claim of infringement by a third party); (c) use of the Services in a manner other than as authorized by the Documentation, the Order Form(s) or these Terms and Conditions; (d) Supplier's compliance with the designs, plans, or specifications furnished by or on behalf of Customer; (e) modifications to the Services by any person other than Supplier or its authorized agents or subcontractors; or (f) Customer's failure to accept any procured right to continue using the Software.

THE FOREGOING STATES SUPPLIER'S SOLE AND EXCLUSIVE LIABILITY AND THE SOLE AND EXCLUSIVE REMEDY OF CUSTOMER INDEMNIFIED PARTIES WITH RESPECT TO ANY CLAIM OF INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OR PROPRIETARY RIGHTS OF ANY THIRD PARTY.

Customer shall defend, indemnify, and hold harmless Supplier Indemnified Parties from and against any and all third-party claims, actions, causes of action, liabilities, damages, costs and expenses, including reasonable legal fees, arising from or related to the exclusions (a) through (f) set out in the third paragraph of this Section 15.

16. Warranties; Disclaimer of Warranties

For a period of ninety (90) days after the Go Live Date, Supplier warrants that the Services will operate substantially in accordance with the specifications set forth in the Documentation, provided that the Services is used on the computer hardware equipment and with third party Services programs which meet Supplier's minimum requirements as set forth in the Order Form(s) or exhibit, as applicable. Customer's exclusive remedy and Supplier's sole liability for breach of this warranty shall be for Supplier to use commercially reasonable efforts to modify the Services so that it conforms to the warranty described above. Without limitation, Supplier shall have no liability to Customer or any third party arising out of Customer's failure to back-up the Services and the related data.

Supplier hereby represents that it has the authority of each manufacturer or producer of Hardware and Third-Party Services which are, if applicable, subject to this Agreement to sell the same to Customer. Customer acknowledges that Supplier is not the manufacturer or producer and therefore makes no warranties, conditions, representations or guarantees, express or implied, concerning Hardware or Third-Party Software, as applicable. So far as possible, Supplier hereby assigns to Customer the manufacturers and producer's warranties, if any, applicable to the Hardware and Third-Party Software, and Customer hereby accepts such assignment and agrees that its sole remedies are included thereunder. Supplier makes no representations regarding the validity or enforceability of any such manufacturers or producer's warranty.

EXCEPT FOR THE WARRANTIES PROVIDED IN THIS SECTION 16 AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SOFTWARE, THIRD PARTY SERVICES AND HARDWARE, AS APPLICABLE, ARE PROVIDED "AS IS" AND "WITH ALL FAULTS", AND SUPPLIER DISCLAIMS ALL OTHER WARRANTIES, REPRESENTATIONS, GUARANTEES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTY AND CONDITION OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE OR THE USE OF REASONABLE SKILL AND CARE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SUPPLIER MAKES NO EXPRESS OR IMPLIED WARRANTIES, REPRESENTATIONS, GUARANTEES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, THE USE OF REASONABLE SKILL AND CARE, NON-INFRINGEMENT, SATISFACTORY QUALITY, ACCURACY, FREEDOM FROM ERROR OR THAT THE SOFTWARE, THIRD PARTY SOFTWARE, SUPPORT, MAINTENANCE OR HARDWARE WILL MEET ALL OF CUSTOMER'S REQUIREMENTS. SUPPLIER MAKES NO EXPRESS OR IMPLIED WARRANTIES, REPRESENTATIONS, GUARANTEES OR CONDITIONS WITH RESPECT TO ANY THIRD-PARTY SERVICES OR THIRD-PARTY SERVICES PROVIDED WITH OR AS PART OF THE SOFTWARE, HARDWARE OR RELATED SERVICES. SUPPLIER'S LIMITED WARRANTIES DO NOT APPLY TO ANY SERVICES WHICH HAS BEEN MODIFIED OR ALTERED IN ANY MANNER BY ANYONE OTHER THAN SUPPLIER OR ITS AUTHORIZED AGENT. SOME STATES OR JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OF CERTAIN OR ANY EXPRESS OR IMPLIED WARRANTIES, REPRESENTATIONS, GUARANTEES OR CONDITIONS, SO THE ABOVE EXCLUSION MAY NOT APPLY TO CUSTOMER. IN THAT EVENT, SUCH WARRANTIES, REPRESENTATIONS, GUARANTEES OR CONDITIONS ARE LIMITED IN DURATION TO THE WARRANTY PERIOD TO THE EXTENT LEGALLY PERMISSIBLE.

Nothing in this Agreement excludes, restricts, or modifies any right or remedy, or any guarantee, representation, warranty, condition, or other term, implied or imposed by any applicable law which cannot lawfully be excluded or limited. This may include any consumer law which contains guarantees that protect the purchasers of goods and services in certain circumstances. If any guarantee, representation, warranty, condition or other term is implied or imposed concerning this Agreement under any consumer law or any other applicable law and cannot be excluded (a "Non-Excludable Provision"), and Supplier is able to limit Customer's remedy for a breach of the Non-Excludable Provision, then the liability of Supplier for breach of the Non-Excludable Provision is limited to one or more of the following, at Supplier's option: (a) in the case of goods, the replacement of the goods or the supply of equivalent goods, the repair of the goods, the payment of the cost of replacing the goods or of acquiring equivalent goods, or the payment of the cost of having the goods repaired; or (b) in the case of services, the supplying of the services again, or the payment of the cost of having the services supplied again.

The parties agree that it is Customer's responsibility to determine whether the Services is suitable for Customer's requirements. No other terms, conditions, representations, warranties or guarantees, whether written or oral, express or implied, will form a part of this Agreement or have any legal effect whatsoever.

17. Limitation of Liability

EXCEPT FOR LIABILITY ARISING (i) FROM CUSTOMER'S BREACH OF SECTION 2 (LICENSE RESTRICTIONS) AND ANY DISCLOSURE BY CUSTOMER OF SERVICES OR DOCUMENTATION IN BREACH OF SECTION 14 (CONFIDENTIALITY), (ii) UNDER SECTION 15 (INDEMNIFICATION) OR (iii) FOR PERSONAL INJURY, DEATH, FRAUD OR FRAUDULENT MISREPRESENTATION:

(A) SUPPLIER'S ENTIRE LIABILITY UNDER THIS AGREEMENT OR IN ANY WAY RELATED TO THE SOFTWARE, THE THIRD-PARTY SOFTWARE, THE HARDWARE, OR ANY RELATED SERVICES WILL BE LIMITED TO DIRECT DAMAGES IN AN AMOUNT EQUAL TO THE FEES PAID BY CUSTOMER TO SUPPLIER PURSUANT TO THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO THE CLAIM; AND

(B) NEITHER PARTY WILL BE LIABLE FOR:

(i) ANY SPECIAL, PUNITIVE, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT OR IN ANY WAY RELATED TO THE SOFTWARE, THE THIRD-PARTY SOFTWARE, THE HARDWARE OR ANY RELATED SERVICES, OR

(ii) ANY LOSS OF REVENUE, PROFITS, GOODWILL OR DATA, OR DATA USE (INCLUDING AS A RESULT OF A VIRUS), BUSINESS INTERRUPTION, FAILURE TO REALIZE AN EXPECTED SAVING, CORRUPTION OF DATA, OR CLAIMS AGAINST THEM BY ANY THIRD PARTY,

EVEN IF THE PARTIES ARE ADVISED, OR MAY REASONABLY SUPPOSED TO HAVE BEEN AWARE, OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

SUCH LIMITATIONS WILL APPLY REGARDLESS OF HOW THE CLAIM ARISES, WHETHER ARISING BASED ON CONTRACT, TORT, NEGLIGENCE, OR OTHERWISE AND WILL APPLY TO ALL ORDER FORMS, SCHEDULES, ADDENDA, AGREEMENTS AND ATTACHMENTS RELATED TO THIS AGREEMENT.

THE FOREGOING LIMITATIONS OF LIABILITY ALLOCATE THE RISKS BETWEEN SUPPLIER AND CUSTOMER AND FORM A MATERIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES. SUPPLIER'S PRICING REFLECTS THIS ALLOCATION OF RISK AND THE LIMITATION OF LIABILITY SPECIFIED HEREIN.

18. Term and Termination

Term. The subscription will continue until the conclusion of the Subscription Term, unless earlier terminated in accordance with Section 18 or Section 18. This Agreement will automatically renew for additional subscription periods (each being a "Renewal Term" and, collectively, with the Initial Subscription Term, the "Subscription Term") unless either party provides the other party with ninety (90) days written notice prior to the conclusion of the Initial Subscription Term or the Renewal Term, as applicable. All terms and conditions hereof shall remain in effect during any Renewal Term, except as the parties otherwise expressly agree to in writing.

Failure to Pay Subscription Fee. In the event that Customer fails to pay the applicable subscription fee when due, Supplier reserves the right to elect to take one of the following courses of action (without limiting Supplier's other available remedies): (i) notify Customer that this Agreement will immediately expire (or has expired) effective as of the expiration of the then-current Subscription Term; or (ii) allow this Agreement to renew for another Renewal Term, in which event, the applicable subscription fee for such renewal period will continue to be payable; provided, however, that if Supplier does not affirmatively notify Customer that alternative (i) or (ii) has been selected, then alternative (ii) will apply.

Termination by Supplier. Subject to Section 18 (Failure to Pay Subscription Fee), and the remedies set out in the last paragraph of Section 10, Supplier has the right to terminate the license granted under this Agreement if Customer is in default of any term or condition of this Agreement and fails to cure such default within thirty (30) days after receipt of written notice of such default. Without limitation, it will be deemed a customer default under this Agreement if Customer fails to pay any amount when due hereunder. Supplier may terminate this Agreement immediately if: (i) Customer breaches Section 2 (License Restrictions); or (ii) Customer becomes insolvent, a receiver, administrator, controller, or a liquidator is appointed to Customer, Customer assigns any of its property for the benefit of creditors or any class of them or any proceedings have been commenced by or against Customer under any bankruptcy, insolvency, or similar laws.

Supplier may deem a Major release End of Life and terminate the licence by giving Customer a minimum of 12 months' notice.

Termination by Customer. Where there is no breach by the Supplier, the Customer has the right to terminate following the Initial Term by giving no less than 90 days written notice to the Supplier prior to the start of any Renewal Term.

Where there is a breach by the Supplier of any term or condition of this Agreement, and it fails to cure such default within thirty (30) days after receipt of written notice of such default, then the Customer may terminate at any time with 90 days written notice to the Supplier.

Effect of Termination. Upon termination of this Agreement for any reason, all amounts owed to Supplier pursuant to this Agreement will be immediately due and payable, and all license rights granted to Customer hereunder will be immediately revoked and terminated. Following the termination of this Agreement, the Sections titled "Ownership of Intellectual Property; Customer Input," "Payment Terms," "Taxes; Customs," "Confidentiality," "Indemnification," "Warranties; Disclaimer of Warranties," "Limitation of Liability," "Audit," "Governing Law" and "General" will continue in full force and effect in accordance with their terms. Within ten (10) days following termination, Customer will cease using and will securely destroy or return to Supplier all copies of the Software, Documentation, and any applicable copies thereof in accordance with Section 3 (Ownership of Intellectual Property; Customer Input; Data) and confirm the same to Supplier in writing by a duly authorized officer.

19. Audit

During the Subscription Term, Customer shall maintain complete and accurate books, records, policies, and procedures (collectively "Books and Records") sufficient to confirm Customer's compliance with these Terms and Conditions and the Order Form(s), including without limitation compliance with Permitted Use, and payment of Fees to Supplier. During the Subscription Term and for a period of one (1) year thereafter, Customer shall permit Supplier (or an independent representative engaged by Supplier), upon thirty (30) days prior written notice, to audit (each an "Audit") Customer's Books and Records and deployment of the Services to the extent reasonably necessary to verify Customer's compliance with the terms, conditions, and restrictions of this Agreement, at such times during Customer's regular business hours as Supplier may reasonably request. Supplier may exercise its right to audit no more frequently than one (1) time each calendar year. If any Audit should disclose any underpayment of Fees, Customer shall promptly pay Supplier such underpaid amount (whether before or after judgment), together with interest thereon at a rate of one and one-half percent (1.5%) per month during which each such amount was owed and unpaid, or the highest interest rate allowed by law, whichever is lower. If the amount of such underpayment exceeds five percent (5%) of amounts otherwise payable, then Customer shall reimburse Supplier for Supplier's reasonable and customary audit expenses. The rights and obligations set forth in this Section 19 shall survive termination or expiration of the Subscription Term (as such term is defined in Section 18(a)) for a period of one (1) year from such termination or expiration.

20. Assignment

Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other party's prior written consent (not to be unreasonably withheld); provided, however, either party may assign this Agreement in its entirety (including all schedules and Order Forms), without the other party's consent in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Notwithstanding the foregoing, if a party is acquired by, sells substantially all of its assets to, or undergoes change of control in favour of, a direct competitor of the other party, then such other party may terminate this Agreement with immediate effect upon written notice. Any purported assignment in violation of this section shall be void and of no effect. Any permitted assignee shall assume all assigned obligations of its assignor under the Agreement.

21. Governing Law

The law that will apply to any question of interpretation regarding this Agreement, any question of the existence of this Agreement, or a lawsuit arising out of or in connection with this Agreement, and which courts have jurisdiction over any such lawsuit, depend on the country of incorporation or organization, as applicable, of Customer, and will be determined as follows:

Customer Country of Incorporation:	Governing Law:	Courts Having Jurisdiction:
The United States of America, Mexico or a Country in Central or South America or the Caribbean	The laws of the State of New York and the federal laws of the United States applicable in that state.	(a) The United States District Court for the Southern District of New York (to the extent it has subject matter jurisdiction), or (b) the Commercial Division of the Supreme Court of the State of New York in New York County (or, if such court lacks subject matter jurisdiction, in the courts of the State of New York in New York County)
Canada	The laws of the Province of Ontario and the laws of Canada applicable in that province.	Toronto, Ontario
The United Kingdom or Another Country in Europe, the Middle East or Africa	The laws of England and Wales.	England and Wales
Australia or a Country in Asia or the Pacific Region	The laws of the State of New South Wales and the laws of the Commonwealth of Australia applicable in that state.	Sydney, Australia

Each party agrees to the applicable governing law above without regard to choose or conflicts of law rules, and, subject to the availability of injunctive relief pursuant to Section 14 (Confidentiality) and to Section 22 (Dispute Resolution), to the jurisdiction of the applicable courts above. The parties exclude the operation of the United Nations Convention on Contracts for the International Sale of Goods.

22. Dispute Resolution

Upon any dispute, controversy or claim between the parties, each of the parties will designate a representative from senior management to attempt to resolve such dispute. The designated representatives will negotiate in good faith to resolve the dispute over a period of thirty (30) days. If the dispute is not resolved in this thirty (30) day period, a party may submit the dispute to binding arbitration. Customer shall select an arbitrator from a list of three (3) arbitrators to be provided by Supplier to Customer, each of which shall be skilled in the legal and business aspects of the services industry. The parties agree that the arbitrator's fee shall be shared equally between the parties and that each party shall be responsible for its costs, legal and otherwise, in relation to the arbitration, unless the arbitrator decides that the circumstances justify an award of costs. The arbitration shall be conducted in the English language and shall take place in accordance with arbitration rules and in the location set forth in the below chart, depending on the country of incorporation or organization, as applicable, of Customer:

Customer Country of Incorporation:	Applicable Arbitration Rules:	Location of Arbitration:
The United States of America, Mexico or a Country in Central or South America or the Caribbean	Commercial Arbitration Rules of the American Arbitration Association	New York City, New York
Canada	Canadian Arbitration Association	Toronto, Ontario
The United Kingdom or Another Country in Europe, the Middle East or Africa	London Court of International Arbitration	London, England
Australia or a Country in Asia or the Pacific Region	Australian Centre for Commercial Arbitration	Sydney, Australia

The foregoing provision shall not limit the ability of a party to seek injunctive relief.

23. General.

Export Compliance. The Software, Products and related services, and derivatives thereof may be subject to export laws and regulations. Each party represents that it is not named on any U.S. government denied-party list. Customer shall not permit access or use of the Services or Products in a U.S.-embargoed country, EU-embargoed country, or United Nations-embargoed country or in violation of any other applicable embargo, export law or regulation.

Anti-Corruption. Customer has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Supplier's employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If Customer learns of any violation of the above restriction, Customer will use reasonable efforts to promptly notify Supplier.

Modifications. This Agreement may not be modified except in writing signed by both parties.

Subcontractors. Supplier reserves the right to make use of subcontractors to provide services and to use such means as Supplier, in its sole discretion, considers appropriate. Supplier's use of subcontractors shall not relieve it of its obligations under this Agreement.

Independent Contractor. The relationship of the parties established by this Agreement is that of independent contractors. This Agreement does not establish an agency, joint venture or partnership relationship between Supplier and Customer. Supplier and its personnel, agents, Suppliers, and Supplier's Authorised Representatives are acting as independent contractors and not as employees or agents of Customer. Nothing in this Agreement will be construed to permit either party to bind the other or to enter into obligations on behalf of the other party.

Non-Solicitation. During the Term of this Agreement and for a period of one (1) year following the termination of this Agreement, each party hereto agrees not to solicit, recruit or employ any employee of the other party without the prior written consent of the Chief Executive Officer, President or Director of the other party. For purposes of this section, the term "employee," shall include any person with such status at any time during the six (6) months preceding any solicitation in question. For the avoidance of doubt, the foregoing restriction shall not apply to the following forms of solicitation (and resulting employment): (i) a party using general bona fide solicitations directed at the public or industry participation in general in publications or internet resources not specifically targeted at employees of the other party, or employing any person who responds to such solicitations; (ii) using search firms, or hiring any persons solicited by such search firms, so long as such firms are not advised by a party to solicit employees of the other party; or (iii) soliciting any person who has left the employment of the other party prior to the date of this Agreement.

Severability. If any provision contained herein or part thereof is determined to be void or unenforceable in whole or in part by a court of competent jurisdiction, such invalid provision or part thereof shall be deemed not to affect or impair the validity or enforceability of any other provision or part thereof contained herein, all of which remaining provisions or parts thereof shall be and remain in full force and effect.

Headings. The headings and subheadings contained herein are inserted for convenience of reference only and shall in no way be construed to be interpretations of terms.

Notices. All notices under this Agreement shall be in writing and shall be deemed to have been given upon: (i) personal delivery; (ii) the third business day after being sent by pre-paid recorded post; or (iii) the second business day after sending by facsimile with telephonic confirmation of receipt. Notices to Supplier shall be sent to the address shown in the introductory paragraph of this Agreement addressed to Supplier's signatory of this Agreement. Notices to Customer shall be sent to the address shown in the introductory paragraph of this Agreement addressed to Customer's signatory of this Agreement. Each party may modify its recipient of notices by providing notice pursuant to this Agreement.

Waiver. No delay by either party in enforcing any of the terms or conditions of this Agreement will affect or restrict such party's rights and powers arising under this Agreement. No waiver of any term or condition of this Agreement will be effective unless made in writing. The waiver by any party of a breach of this Agreement does not constitute a waiver of a repeat of the same breach or of other breach of rights or obligations under this Agreement.

Entire Agreement. This Agreement constitutes the entire Agreement between the parties with respect to the subject matter of this Agreement and supersedes all proposals, oral and written, and all previous negotiations and communications between the parties and their representatives with respect to the subject matter of this Agreement. For greater certainty, this Agreement will prevail over terms and conditions of any Customer-issued purchase order, which will have no force and effect, even if Supplier accepts or does not otherwise reject the purchase order. Each party acknowledges that, in entering into this Agreement, it does not rely on any statement, representation, assurance or warranty (whether it was made negligently or innocently) of any person (whether a party to this Agreement or not) other than as expressly set out in this Agreement.

Third party rights. A person who is not a party to this Agreement shall not have any rights to enforce any term of this Agreement.

Force Majeure. Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control provided that the party affected by such failure or delay gives the other party prompt written notice of the cause and uses commercially reasonable efforts to correct such failure or delay within a reasonable period of time.

Counterparts. This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a Portable Document Format (PDF), or by using a web-based e-signature platform such as DocuSign or EchoSign, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page or e-signature was an original thereof.

Definitions and Interpretation.

"**Affiliate**"	Includes any entity or association controlled by, controlling or under common control with a party and for the purposes of this definition, the term "control" shall mean (i) the ownership of more than fifty percent (50%) of the voting shares of the subject entity or association; (ii) the right or power, directly or indirectly, to elect or remove directors; or (iii) the right or power to control management.
"**Audit**"	Has the meaning set out in Section 19.
"**Branding**"	Has the meaning set out in Section 4.
"**Books and Records**"	Has the meaning set out in Section 19.
"**Confidential Information**"	All tangible or intangible information and materials, in any form or medium, including, but not limited to, all of the following, whether or not patentable: information that is clearly designated or identified as confidential by appropriate letter or by a proprietary stamp or legend; all information disclosed orally or visually, or other form of tangible information without an appropriate letter or a proprietary stamp or legend, if it would be apparent to a reasonable person familiar with the party's business and industry in which it operates, that such information is of a confidential nature; Services and the Documentation; documentation and other information related to hardware specifications, components lists, suppliers and the like; any scientific or technical design, drawing, process, technique or procedure; trade secrets; information related to business plans, forecasts, sales and marketing plans, Customers, pricing and finances; Customer data contained in the Services databases; the conduct of the other party in performing this Agreement; and the terms and conditions of this Agreement. Confidential Information will not include information that: (i) is or becomes generally known to the public through no act or omission of the other party; (ii) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (iii) is lawfully disclosed to the other party by a third-party without restriction on disclosure; or (iv) is independently developed by or for the other party without use of or reference to the other party's Confidential Information, as evidenced by files from the time of such independent development.
"**Customer Indemnified Parties**"	Customer and its Affiliates and any of their respective officers, directors, employees, agents, successors and permitted assigns.
"**Customer Data**"	Customer's data and/or all data supplied by or on behalf of Customer to Supplier (including that supplied through the Services) and/or which Supplier (and/or any sub-contractor) generates, collects, processes, stores or transmits in connection with the Agreement.
"**Customer Input**"	Suggestions, enhancement requests, recommendations or other feedback provided by Customer, its employees, contractors, and agents relating to the operation or functionality of the Software.
"**Customer Sites**"	The physical location or address where Customer utilizes the Services for the Permitted Use, as set out on the applicable Order Form(s).
"Documentation"	Supplier-supplied related hard-copy or electronically reproducible technical and user documents associated and provided with the Software.
"**Delivery Costs**"	Costs related to the delivery of Hardware or Third-Party Software, including insurance, packaging, shipping, freight, and other delivery-related costs.
"**Error**"	Reproducible error of the Services which prevents the use of the Services substantially as described in the specifications set forth in the Documentation.
"**Fees**"	Subscription fees, implementation and training fees, amounts payable in respect of Hardware and all other fees due hereunder.
"**Go Live Date**"	The sooner of the date on which Customer is provided with access to the Services and the date set out in the Order Form as the Go Live date, unless otherwise agreed in writing by both parties.
"**Hardware**"	Hardware products produced by third party manufacturers which Supplier buys from such manufacturers or distributors for resale to its customers (to the extent available), including, but not limited computer hardware and point of sale devices.
"Implementation Start Date"	The date upon which Customer agrees they shall have all necessary resources, permissions, and personnel available for the Supplier to commence the supply of the Professional Services, and/or all other items so contained on the Order Form.
"Initial Subscription Term"	The fixed term designated on the Order Form beginning on the later of (i) the Effective Date or (ii) the start date of the Subscription Term indicated on the Order Form. If no Initial Subscription Term is indicated on the Order Form, the Initial Subscription Term shall be a period of one (1) year from the Effective Date.
"**New Product**"	Any new feature, module or enhancement to the Services that Supplier markets and licenses for additional fees separately from Updates.

"Normal Business Hours"	09:00 – 17:00 (UK time) on a day (other than a Saturday or Sunday) on which the banks are ordinarily open for business in the City of London.
"**Order Form**"	A separate document provided by Supplier, agreed to by the parties to, and governed by, this Agreement, by which Customer orders licenses and services. Additional Order Forms executed by the parties with respect to additional licenses, Products and services will form part of this Agreement.
"**Other Assistance**"	Has the meaning set out in Section 7.
"**Permitted Use**"	The quantity or extent of a license to the Services or modules thereof, as specified in the Order Form. The Order Form may specify that the license is measured by number of Users, number of Workstations or limited to specific Customer Sites.
"**Products**"	Has the meaning set out in Section 13.
"**Renewal Term**"	Has the meaning set out in Section 18.
"**Services"**	As set out in section 3 of the Order Form.
"Software"	Computer programs as described in the Order Form, together with any technical information and documentation necessary for the use of such programs.
"**Subscription**"	The agreement for Customer's use of the Services for the Subscription Term pursuant to this Agreement and the commercial terms specified in the Order Form.
"**Subscription Term**"	Has the meaning set out in Section 18.
"**Supplier Authorized Representatives**"	Supplier's authorized representatives who, by written authorization from Supplier, may have authorization to sell, install, or provide training in respect of the Software.
"**Supplier Indemnified Parties**"	Supplier and its Affiliates and any of their respective officers, directors, employees, agents, successors and permitted assigns.
"**Taxes**"	Any local, state, provincial, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including, but not limited to, value-added taxes, excise, use, goods and services taxes, consumption taxes or similar taxes, export and import fees, customs duties and similar charges, in each case, associated with the Software, Third Party Services, Services and/or Hardware, imposed upon the Fees or otherwise arising out of, or in connection with, the transactions contemplated by this Agreement.
"**Third Party Materials**"	Any software, hardware, data, or other materials or products not provided by Supplier.
"**Third Party Software**"	Services owned by third party producers which Supplier distributes or resells to its customers.
"**Updates**"	The latest updates, modifications, improvements to the Software, including corrections of Errors, which relate to the operating performance but do not change the basic functionality of the Software.
"**User**"	A person or machine that utilizes the Services for the Permitted Use, as authorized pursuant to an Order Form, as applicable.
"**Workstation**"	A personal computer or device providing equivalent functionality which can execute the Services, and which is linked to a computer network from which the Services are accessible, as authorized pursuant to an Order Form, as applicable.

Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular.

Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this Agreement under that statute or statutory provision.

Any words following the terms including, include or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

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SCHEDULE 1: Services

The paygate product is a corporate payment gateway, deployed on-premises at the Customer's site or in a hosted environment maintained by the Supplier, that transforms a customer's input data records into verified and authorised payment files that are then securely transmitted and submitted into a designated payment scheme/interbank infrastructure. Examples of this would be the Bacs clearing system in the UK, where paygate allows approved payments to be submitted to the interbank system over Bacstel-IP or Secure-IP. paygate is maintained to ensure it meets the regulatory requirements of the in-country schemes in which it operates.

Validate provides a service that enables data to be inputted and validated against either validates own internal database or against other third-party external databases – provided by the Supplier or by the Customer. For example, Validate allows financial data and information (such as bank accounts, sort codes or credit card data) to be input and verified to provide a degree of assurance. Validate is available as a standalone service, accessed over the internet, or via an API to allow it to be fully integrated with a customer's required solution. Each time that an individual check is requested by the Customer and sent to the Validate service, and a response to that query is given, this constitutes a "Click".

SCHEDULE 2: Hosting

HOSTING SETUP, INSTALLATION AND CONFIGURATION

The Services can be utilised in different hosted configurations depending on Customer preference and as detailed in Order Form and/or applicable Schedule(s).

There is a no single point of failure policy on all hosted infrastructure and the system architecture of the Services is designed to be fully clustered so that all elements of the system are built as a mirrored pair. This means that two instances of each item are working as a single entity. If one item fails, the other continues to provide the functionality of that part of the system to the rest of the service.

HOSTING FACILITIES

The hosting equipment shall be installed in a purpose built, Tier 4, fully ISO27001 accredited hosting environment with built in data replication across two UK datacentre locations.

The facilities have 24×7×365 on-site security, manned entry, 3 metre perimeter walls, video surveillance, access card entry, biometric scanners & man traps; as well as climate control, fire suppression, and managed power supply with an uninterruptable power supply and generator back-up.

All equipment is stored within secure racks on encrypted 'Enterprise' class databases, with IDS/IPS and Cisco Firewalls.

INTERNET CONNECTIVITY

The Customer shall be responsible for supplying its own internet connection service. The Customer shall, and shall ensure that its Authorised Users shall, have internet access to access the Software and/or services.

The Supplier shall supply burstable bandwidth connectivity services. The connectivity shall include multiple connections and a network operations centre that monitors servers, the network platform and internet access. The internet connectivity provided by the Supplier shall not be less than 100MB per second, burstable to a maximum of 1GB per second.

HOSTING SERVICES

The Hosting Services provided by the Supplier include internet connectivity (as detailed in paragraph 3 above), load distribution management, security services, monitoring, back-up, release management and change control, and administration services.

The Supplier shall provide load-balancing services to distribute load and redundancy across application servers.

SECURITY SERVICES

The Supplier shall provide security services as follows:

a. facility access shall be limited to the authorised Supplier and contracted third-party personnel.
b. the facility shall be monitored twenty-four [24] hours a day, seven [7] days a week through closed circuit video surveillance and shall require identification for access; and
c. data access security shall be provided through managed firewall services with security on all web pages, a private network path for administration and SNMP monitoring, and fully hardened servers.

MONITORING SERVICES

The Supplier shall provide, twenty-four [24] hours a day and seven [7] days a week, monitoring of the computing, operating, and networking infrastructure to detect and correct abnormalities. This includes environmental monitoring, network monitoring, load-balancing monitoring, web server and database monitoring, firewall monitoring, and intrusion detection.

BACK-UP, ARCHIVING AND RECOVERY SERVICES

The Supplier shall develop the back-up schedule, perform scheduled back-ups, provide routine and emergency data recovery, and manage the archiving process. In the event of data loss, the Supplier shall provide recovery services to try to restore the most recent back-up. All production application servers, database servers, and hardware security modules run as a matched pair of primary and failover instances in separate AWS UK data centres. Databases shall be continuously backed up to provide point in time recovery. Daily, weekly, and monthly server backups are performed using the grandfather, father, son strategy. Failover and recovery tests shall be performed monthly, and the Supplier shall implement any actions or remedial measures that may be necessary. Server backups are encrypted and held in a third AWS UK data centre. The Recovery Time Objective is 0-2 hours, and the Recovery Point Objective is 0-15 mins.

All transaction data and configuration is stored in a database. The Services use two databases configured in a High Availability mode. This means that data is constantly being written to both databases at the same time. If one were to fail, the second would continue. As soon as the first is back online the High Availability mechanism will ensure that the database on this instance is then brought up to date. This all happens automatically without any intervention required from the Customer.

RELEASE MANAGEMENT AND CHANGE CONTROL

The Supplier shall provide release management and change control services to ensure that versions of servers, network devices, storage, operating system software and utility and application software are audited and logged, and that new releases, patch releases and other new versions are implemented as deemed necessary by the Supplier to maintain the Hosting Services.

SCHEDULE 3: Maintenance & Support

HOSTED SERVICE MAINTENANCE EVENTS

Maintenance of the hosting equipment, facility, Software, or other aspects of the Hosting Services that may require interruption of the Hosting Services ("Maintenance Events") shall not be performed during Normal Business Hours. The Supplier may interrupt the Services to perform emergency maintenance during the daily window of 10.00 pm to 2.00 am UK time. In addition, the Supplier may interrupt the Hosting Services outside Normal Business Hours for unscheduled maintenance, provided that it has given the Customer at least three [3] days' advance notice.

Any Maintenance Events that occur during Normal Business Hours, and which were not requested or caused by the Customer, shall be considered downtime for the purpose of service availability measurement. The Supplier shall always use reasonable endeavours to keep any service interruptions to a minimum.

The Supplier may determine, at its sole discretion, that providing appropriate service levels requires additional equipment and/or bandwidth and may install that equipment and/or bandwidth without approval from the Customer, provided that it does not diminish in any way the functionality, connectivity, security or compatibility of the Services.

GENERAL MAINTENANCE

Maintenance includes all regularly scheduled error corrections, as well as, at the Supplier's discretion, any Software updates and upgrades that pertain to fixes and/or improvements to applicable Services as described in Schedule 1 and as specified in the Sales Proposal and/or Order Form.

For Hosted Services, Software version updates shall be communicated and deployed to all relevant Customers at the sole discretion of the Supplier.

For on-premises Services, available Software version updates shall be communicated to all relevant customers and deployed as per clause 7 of the Terms and Conditions. Where such access is not provided by the Customer, the Supplier may, at its discretion, levy an additional charge for completing any updates.

The Supplier shall maintain technical support on at least the two most current releases of the Software. Support for additional Services developed by the Supplier, and/or upgrades to different Software, Services, products, Hardware, or deployment options, as requested by the Customer, may be purchased separately at the Supplier's then current rates.

The Supplier shall maintain and update the Software as above. Should the Customer determine that the Software includes a defect, the Customer may at any time file error reports and the Supplier shall use reasonable endeavours to correct any errors. The Supplier may, at its discretion, upgrade versions, install error corrections and apply patches to the Services as specified in the Sales Proposal and/or Order Form. The Supplier shall use reasonable endeavours to avoid unscheduled downtime for Service(s) maintenance.

SUPPORT SERVICES

The Supplier shall provide the Customer with technical support services as follows.

The Supplier shall issue customer identification numbers ("CINs") to the Customer Support Representatives ("CSR") which will allow those CSRs to access Supplier technical support. Supplier technical support shall accept voicemail, email, and web form-based incident submittal from CSRs with valid CINs twenty-four [24] hours a day, seven [7] days a week.

The Supplier technical support centre shall accept calls for telephone support during Normal Business Hours (calls shall be conducted in English) other than where extended support hours apply (as specified on the Sales Proposal and/or Order Form). The Supplier shall use reasonable commercial endeavours to process support requests, issue trouble ticket tracking numbers, if necessary, determine the source of the problem and respond to the Customer (resolution times as stated below may not apply to outages caused by third-party events, and are subject to resolution within Normal Business Hours). The Supplier technical support call centre shall respond to all support requests from CSRs with valid CINs within the time periods specified below, according to priority.

The named CSRs and Supplier technical support shall jointly determine the priority of any defect, using one of the following priorities:

Priority	Description	Response Time	Target Resolution Time
Priority 1	The Customer cannot process a payment or a validation	Within one [1] Normal Business Hour.	Four [4] Normal Business Hours. Continuous effort after initial response and with Customer co-operation.
Priority 2	Certain non- essential features of the Service are impaired while most major components of the Service remain functional.	Within twelve [12] Normal Business Hours.	Within seven [7] Normal Business Days after initial response.
Priority 3	Errors that are non- disabling or cosmetic and clearly have little or no impact on the normal operation of the Services.	Within twenty-four [24] Normal Business Hours.	Next release of Software.

Note: While Supplier will respond to any reported issue, and commence problem resolution efforts, within the above-specified timeframes and will resolve each case as soon as reasonably possible, giving appropriate consideration to the impact of the issue upon Customer's business operations, actual resolution time will depend on the nature of the case and the resolution itself. A resolution may consist of a fix that resolves the issue, a reasonable workaround for the issue, delivery of information that effectively resolves the issue, or anther commercially reasonable solution to the issue. The priority assigned to any case shall be determined by Supplier in accordance with the descriptions and examples given above, at Supplier's discretion.

The Customer will ensure that all Customer personnel reporting Incidents to the Supplier are reasonably trained in and conversant with the Services.

For the avoidance of doubt, Support provided within the Fees does not include on-site services, ad-hoc change requests or training. These services are available at additional cost.

SCHEDULE 4: Professional Services

This schedule sets out the terms upon which the Supplier agrees to provide Professional Services to the Customer as set out within the Agreement. In the event of a conflict between this Professional Services Schedule and the Supplier's Standard Terms and Conditions, this Professional Services Schedule shall take precedence.

DEFINITIONS

- "Charges" means the fees payable by the Customer to the Supplier in consideration of the Supplier supplying the Professional Services which may be calculated (without limitation) on the basis of one or more of the following elements: Daily Rate, time and materials, fixed Charges, and estimated Charges.
- "Daily Rate" means the Charge rate per man, per day, payable by the Customer in consideration of the supply by the Supplier of the Professional Services.

- “Customer’s Equipment” means all computer hardware, software, network and communications facilities and all related equipment owned by or in the control of Customer.
- “Professional Services” means the services provided by the Supplier to the Customer pursuant to this Schedule and as specified within the Order Form, including, but not limited to, training, configuration, implementation, consultation, and bespoke development.

SUPPLIER OBLIGATIONS

The Supplier shall

- provide the Professional Services as so defined within the Order Form in accordance with this Schedule.
- retain management and control over the personnel it assigns to provide the Professional Services.
- comply with any reasonable safety and security procedures applicable to the Customer's site and made known to the Supplier by the Customer prior to the Implementation Start date in writing.

CUSTOMER OBLIGATIONS

In addition to any Customer obligations set out within the Order Form and Standard Terms and Conditions, the Customer shall:

- supply the Supplier with any information and assistance reasonably necessary for the Supplier to perform its obligations under this Schedule and the Agreement as the case may be.
- ensure the availability of all necessary resources, permissions, and personnel necessary for the Supplier to commence the supply of the Professional Services and/or all other items so contained on the Order Form on or before the agreed Implementation Start Date.
- provide the Supplier’s personnel with free and safe access to the Customer's site and Customer’s Equipment sufficient to enable the Supplier to perform its obligations under this Agreement.
- remain responsible for the maintenance and protection of the Customer’s Equipment including the protection, integrity, and backup of its data, installing and maintaining up to date anti-virus and firewall software and compliance with all applicable law.
- where the Professional Services delivered hereunder include implementation of Bacs related functionality, or any other functionality for transmission of data files over a live or production environment, remain responsible for the testing and verification of data file integrity and accuracy prior to any such transmission to Bacs or otherwise.
- be solely responsible for removing all confidential or personal data (as defined in Data Protection Laws) from any data sample prior to disclosure to the Supplier. Where such confidential or personal data is disclosed to the Supplier then the customer does so at the Customer’s risk.

CHARGES

Unless otherwise stated within the Order Form, the Daily Rate shall be charged for each of the Supplier’s personnel assigned to provide the Professional Services. Part days shall be charged on a pro rata basis subject to a minimum charge of half the Daily Rate. Unless otherwise specified in the Order Form the stated number of days is an estimate, based on the Supplier’s knowledge and experience of the Professional Services to be provided.

Unless otherwise specified in the Order Agreement, reasonable expenses in respect of travel, subsistence and overnight accommodation shall be charged to the Customer at the Supplier’s then prevailing standard rates or, where appropriate, at cost.

The Daily Rate includes the Supplier’s normal working day of 7.5 hours between 0900 hours to 1730 hours (excluding 1 hour break for lunch at any time) Monday to Friday excluding local public or bank holidays. Any additional hours worked at the Customer's request shall be charged at the Supplier’s then current overtime rate.

OVERDUE PAYMENT

Supplier may withhold the Professional Services in the event that the Customer is overdue with any payment owed to the Supplier or is in breach of this Schedule until such time as the payment is made or the breach remedied.

CHANGE CONTROL & CANCELLATION

Either party may request in writing any amendment to the Professional Services or addition thereto (“Change Request”). Any Change Request, including any resulting increase in Charges, shall be subject to written agreement between the parties, not to be unreasonably withheld or delayed.

Any date confirmed in writing for the provision of one or more Professional Services days may only be cancelled or postponed by the Customer subject to written notification to the Supplier. If a request for cancellation or postponement is received from the Customer less than five (5) working days before the commencement of the Professional Service Day(s) then the Supplier shall be entitled to levy Charges equivalent to the full applicable Daily Rate or the full applicable fixed rate (as set out in the relevant Order Form) for the cancelled or postponed Professional Services Day(s).

In the event that the Professional Services specified in any Order Form do not commence on or before ninety (90) days from the agreed Implementation Start date, and where not otherwise agreed in writing by both the Parties, then the Supplier shall be entitled to levy a Charge equivalent to the greater of either of the following, as specified in the relevant Order Form: (i) the full applicable Daily Rate; or (ii) twenty five percent (25%) of the total Professional Services fees.

In the event that the Professional Services specified in any Order Form do not commence on or before one hundred and eighty (180) days from the agreed Implementation Start date, and where not otherwise agreed in writing by both Parties, then the Supplier shall be entitled to levy a charge equivalent to the greater of either of the following, as specified in the relevant Order Form: (i) the Daily Rate; or (ii) fifty percent (50%) of the total Professional Services fees, and the corresponding Order Form shall thereafter be deemed cancelled.

SCHEDULE 5: Bureau Services

The Supplier is a fully accredited Bacs Approved Bureau. To maintain this status the Supplier undergoes regular in-depth inspections by the Bacs Bureau Inspection team. Only organisations with exemplary business practices are approved to act on behalf of other Service Users in the capacity of a Bacs Approved Bureau. To learn more about the Bacs Approved Bureau status, please visit the Bacs website.

The Supplier acts as a Bureau for Customers making use of an indirect submission method. This method may be supplied to the Customer in a number of different formats but in all cases, the Supplier is acting as the Bacs Approved Bureau.

Bureau Details:	Paygate Solutions Limited Gladstone House, Hithercroft Road, Wallingford, Oxfordshire, OX10 9BT goldstar@paygate.uk www.paygate.uk
Bureau Number:	B20875

1. **DATA PROTECTION**

    a. For the purpose of Data Protection Law, the Customer shall be deemed to be the Data Controller and the Supplier (acting as a Bacs Approved Bureau) the Data Processor and the parties shall comply with the provisions of the Data Protection Law and all other regulations in relation to the collection, exchange and processing of Personal Data).

2. **SERVICE SETUP**

    a. The Customer must instruct their sponsoring Bank to link any required Service User Numbers to the Supplier's Bureau Number (B20875).

3. **SERVICE OPERATION**

    a. The Customer will prepare and send the required file(s) to the Supplier for Submission.

    b. The Supplier will prepare and sign the Customer's file(s) using the Supplier's Bureau certificate.

    c. The Submission details will be sent to the Customer's appointed representative.

    d. The Customer's appointed representative must check that the number of records, the contents of all records, and that all totals are correct, and send the Supplier confirmation to proceed. File(s) cannot be submitted until such confirmation is received.

    e. On receipt of authorisation the Supplier will submit the file(s) to Bacs or Faster Payments as directed.

    f. The Customer must ensure that any file(s) for Bureau Submission are sent to the Supplier at least one [1] hour before the end of the Customer's contracted support period, confirm receipt by the Supplier, and the Customer's nominated representative (and/or other contact staff as required) must be available for consultation during the entire submission process.

    g. So long as the file(s) are confirmed as received by the Supplier no later than one [1] hour before the end of the Customer's contracted support period then, subject to clause 3.5 above and notwithstanding any submission cut-off times or service availability imposed by Bacs or Faster Payments, the Supplier will use reasonable endeavours to ensure that the file(s) are submitted that same day.

    h. If the file(s) are unable to be submitted on the day of receipt, the Supplier will use reasonable endeavours to complete the submission on the next available input day.

4. **DATA DELIVERY**

a. File(s) must be sent to the Supplier in the format specified and agreed in the Sales Proposal and/or Order Form.

b. File(s) must be sent to the Supplier at least one [1] hour before the end of the Customer's contracted support period, confirmed by telephone and customer contact staff must be available for consultation during the process.

c. The Bacs or Faster Payments Submission Summary confirming the status of the Submission will be sent to the Customer's representative by the Supplier upon completion of the Submission(s).

5. **DATA VERIFICATION**

a. Upon receipt of the submission details from the Supplier prior to Submission, the Customer's appointed representative must check that the number of records, the contents of all records, that all totals are correct, and send confirmation of authorisation for Submission to the Supplier.

b. File(s) cannot be submitted until confirmation is received indicating that the file(s) can be submitted.

c. The success of a Submission will depend on the quality of the data and format of the file(s); Supplier staff may not be able to rectify errors and in such cases, cannot guarantee acceptance of the file(s).

d. The Supplier is not liable or responsible for the accuracy of the content of any Customer supplied file(s) for Submission.

6. **DATA LIMITS**

a. It is the Customer's responsibility to ensure that the total value of payments does not exceed the limit negotiated with the Customer's Bacs sponsor. File limits are the responsibility of the Customer and should be managed through their sponsoring bank, including temporary limit increases and pre-authorisation of files which may be over the agreed limit.

b. Each submission can consist of up to five [5] separate files on a single day, or as specified on the Sales Proposal and/or Order Form.

7. **CANCELLATION OF PAYMENTS**

a. If the Customer communicates a request for the Supplier to cancel a submission that was submitted via the Bureau service, and where this request is confirmed as received by the Supplier in advance of the end of the Bacs Processing Day for the Submission in question, then the Supplier shall use reasonable endeavours to cancel the Submission as requested.

8. **BACS REPORTS**

Clients have access to the standard Bacs scheme reports as part of the service. As the names and availability of these reports may be updated by Bacs from time to time, the current and complete list is published on the official Bacs website (*www.bacs.co.uk*) within the Operating Services section.

a. If the Customer is unable to collect their reports directly from the Bacs Payment Services website, the Customer can instruct their Bank to permit the Supplier (acting as a Bacs Approved Bureau) to obtain the reports on their behalf.

b. Reports will be sent to the Customer's representative by the Supplier.

c. The Customer is responsible for dealing with any rejected or adjusted records identified in the Bacs reports.

d. For the avoidance of doubt, in all cases where the Supplier is acting as the Bacs Approved Bureau, it remains the Customer's sole responsibility for ensuring any and all Bacs reports are promptly obtained, reviewed, and acted upon.

SCHEDULE 6: **EISCD Licence (The Extract) Terms and Conditions**

1. The Supplier includes use of the EISCD (the "Extract") as part of the Software. The Supplier grants the Customer as a royalty-free fully paid-up licence to use the Extract solely for use in connection with the UK Clearing Services. The Customer shall not use the Extract other than for the purpose in relation to which it was supplied.

2. Except as provided by the Customer licence (and s.296A of the Copyright Designs and Patents Act 1988) the Customer is not granted any rights to copy, modify, develop or adapt the Extended ISCD or to use, sell, dispose of or transfer the Extended ISCD or any copies thereof in the possession of the Customer, and no title or rights of ownership, copyright or any other intellectual property rights in the Extended ISCD are or will be transferred to the Customer.

3. The Customer's right to use the Extended ISCD is limited to use in connection with the UK Bacs scheme, Faster Payments scheme, CHAPS Sterling scheme and Cheque and Credit Clearing scheme.

4. The Customer acknowledges that all property rights including but not limited to Intellectual Property rights in the Sorting Code, Sorting Code Data, and the Extended ISCD are owned by UK Payments.

5. No title or rights of ownership or any Intellectual Property rights in the Extended ISCD, Sorting Code or Sorting Code Data are or will be transferred to the Customer.

6. The Customer may not make any copies of the Extended ISCD except for one copy of the Extended ISCD for backup purposes.

7. A statement that the Extended ISCD and all copies thereof are the property of VocaLink and a prohibition on the Customer from selling, loaning or in any other way disposing of any copies of the Extended ISCD to any third parties.

8. An obligation on the Customer to keep the Extended ISCD confidential and a prohibition on the Customer disclosing the Extended ISCD to any third party.

9. Upon the Customer ceasing to use the Extended ISCD, an obligation on the Customer to return to the Distributor all copies of the Extended ISCD in the Customer's possession or control.

10. That the Extended ISCD and any related data licensed to the Customer are provided on an ''as is'' basis. The Customer licence must not grant any warranty or indemnity of any kind whatsoever in respect of the Extended ISCD and must exclude the fullest extent permitted by law all conditions and warranties express or implied or otherwise.

11. The Customer shall update its Extended ISCD at least monthly.

12. That, upon notification by VocaLink to the Customer that the licence agreement between VocaLink and the Distributor has been terminated, the Distributor's rights and obligations under the Customer licence will automatically be assigned forthwith to VocaLink who will thereupon be deemed a party to the Customer licence and all rights and obligations there under will be directly enforceable by or against VocaLink as the case may be.

13. An acknowledgement by the Customer that VocaLink and its officers, employees, agents, and licensors have no liability to it whatsoever in connection with the Customer licence or the Customer's use of the Extended ISCD.

14. An obligation on the Customer to ensure that all its relevant staff are aware of and comply with the terms of the Customer licence.

15. An obligation on the Customer to ensure that all copies of the Extended ISCD and of any manuals made by the Customer will incorporate a notice indicating that copyright in the Extended ISCD and any related manuals is vested in VocaLink.

SCHEDULE 7: DATA PROCESSING AGREEMENT

1. DEFINITIONS

1.1 The terms **"process/processing", "data subject", "data processor", "data controller", "personal data", "personal data breach"**, and **"data protection impact assessment"** shall have the same meaning ascribed to them in Data Protection Laws.

1.2 "**Addendum**" means this Data Processor Addendum.

1.3 "**Authorised Sub-processors**" means (a) those Sub-processors (if any) set out in Annex 2 (*Authorised Sub-processors*); and (b) any additional Sub-processors consented to in writing by the Customer in accordance with section 5.1;

1.4 **"Customer"** means the Customer or Licensee under the Main Agreement.

1.5 "**Data Protection Laws**" means in relation to any Personal Data which is Processed in the United Kingdom in the performance of the Main Agreement the Data Protection Act 2018 and the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 together with all laws and regulations implementing, replacing, amending or supplementing the same and any other applicable data protection or privacy laws including where applicable the guidance and codes of practice issued by the Information Commissioner from time to time;

1.6 "**EEA**" means the European Economic Area.

1.7 "**Personal Data**" means the data described in Annex 1 (*Details of Processing of Personal Data*) and any other personal data processed by the Supplier on behalf of the Customer pursuant to or in connection with the Main Agreement.

1.8 "**Main Agreement**" means the license or services agreement into which this Addendum is incorporated.

1.9 "**Services**" means the services described in the Main Agreement.

1.10 "**Standard Contractual Clauses**" means the standard contractual clauses for the transfer of personal data to processors established in third countries, as approved by the European Commission in Decision 2010/87/EU, or any set of clauses approved by the European Commission which amends, replaces, or supersedes these.

1.11 "**Sub-processor**" means any data processor (including any affiliate of the Supplier) appointed by the Supplier to process personal data on behalf of the Customer.

1.12 "**Supervisory Authority**" means (a) an independent public authority which is established by a Member State pursuant to Article 51 GDPR; and (b) any similar regulatory authority responsible for the enforcement of Data Protection Laws.

1.13 **"Supplier"** means the Supplier or Licensor under the Main Agreement.

2. PROCESSING OF THE PERSONAL DATA

2.1 The parties agree that the Customer is a data controller, and that the Supplier is a data processor for the purposes of processing Personal Data.

2.2 Each party shall at all times in relation to processing connected with the Main Agreement comply with Data Protection Laws.

2.3 The Supplier shall only process the types of Personal Data relating to the categories of data subjects for the purposes of the Main Agreement and for the specific purposes in each case as set out in Annex 1 (Details of Processing of Personal Data) to this Addendum and shall not process, transfer, modify, amend or alter the Personal Data or disclose or permit the disclosure of the Personal Data to any third party other than in accordance with the Customer's documented instructions (whether in the Main Agreement or otherwise) unless processing is required by applicable law to which the Supplier is subject, in which case the Supplier shall to the extent permitted by such law inform the Customer of that legal requirement before processing that Personal Data.

2.4 The Supplier shall immediately inform the Customer if, in its opinion, an instruction pursuant to the Main Agreement or this Addendum infringes Data Protection Laws.

2.5 The Customer warrants to and undertakes with the Supplier that all data subjects of the Personal Data have been or will be provided with appropriate notices and information to establish and maintain for the relevant term the necessary legal grounds under Data Protection Laws for transferring the Personal Data to the Supplier to enable the Supplier to process the Personal Data in accordance with this Addendum and the Main Agreement.

3. PROCESSOR PERSONNEL

3.1 The Supplier shall treat all Personal Data as strictly confidential and shall inform all its employees, agents, contractors and/or Authorized Sub-processors engaged in processing the Personal Data of the confidential nature of such Personal Data.

3.2 The Supplier shall take reasonable steps to ensure the reliability of any employee, agent, contractor and/or Authorized Sub-processor who may have access to the Personal Data, ensuring in each case that access is limited to those persons or parties who need to access the relevant Personal Data, as necessary for the purposes set out in section 2.1 above in the context of that person's or party's duties to the Supplier.

3.3 The Supplier shall ensure that all such persons or parties involved in the processing of Personal Data are subject to:

3.3.1 confidentiality undertakings or are under an appropriate statutory obligation of confidentiality; and

3.3.2 user authentication processes when accessing the Personal Data.

4. SECURITY

4.1 The Supplier shall implement appropriate technical and organisational measures to ensure a level of security of the Personal Data appropriate to the risks that are presented by the processing, from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data transmitted, stored or otherwise processed.

5. SUB-PROCESSING

5.1 Subject to section 5.4, the Supplier shall not engage any Sub-processor to process Personal Data other than with the prior specific or general written authorisation of the Customer.

5.2 In the case of general written authorisation, the Supplier shall inform the Customer of any intended changes concerning the addition or replacement of other processors, thereby giving the Customer the opportunity to object to such changes.

5.3 With respect to each Sub-processor, the Supplier shall:

5.3.1 carry out adequate due diligence on each Sub-processor to ensure that it can provide the level of protection for the Personal Data as is required by this Addendum including without limitation sufficient guarantees to implement appropriate technical and organisational measures in such a manner that Processing will meet the requirements of Data Protection Laws and this Addendum.

5.3.2 include terms in the contract between the Supplier and each Sub-processor which are the same as those set out in this Addendum and shall supervise compliance thereof.

5.3.3 insofar as that contract involves the transfer of Personal Data outside of the EEA, incorporate the Standard Contractual Clauses or such other mechanism as directed by the Customer into the contract between the Supplier and each Sub-processor to ensure the adequate protection of the transferred Personal Data, or such other arrangement as the Customer may approve as providing an adequate protection in respect of the processing of Personal Data in such third country(ies); and

5.3.4 remain fully liable to the Customer for any failure by each Sub-processor to fulfil its obligations in relation to the Processing of any Personal Data.

5.4 As at the date of the Main Agreement or (if later) implementation of this Addendum, the Customer hereby authorises the Supplier to engage those Sub-processors set out in Annex 2 (*Authorised Sub-processors*).

6. DATA SUBJECT RIGHTS

6.1 The Supplier shall without undue delay, and in any case within three (3) working days, notify the Customer if it receives a request from a data subject under any Data Protection Laws in respect of Personal Data, including requests by a data subject to exercise rights in chapter III of GDPR, and shall provide full details of that request.

6.2 The Supplier shall co-operate as reasonably requested by the Customer to enable the Customer to comply with any exercise of rights by a data subject under any Data Protection Laws in respect of Personal Data and to comply with any assessment, enquiry, notice or investigation under any Data Protection Laws in respect of Personal Data or the Main Agreement, which shall include:

6.2.1 the provision of all information reasonably requested by the Customer within any reasonable timescale specified by the Customer in each case, including full details and copies of the complaint, communication or request and any Personal Data it holds in relation to a data subject.

6.2.2 where applicable, providing such assistance as is reasonably requested by the Customer to enable the Customer to comply with the relevant request within the timescales prescribed by Data Protection Laws; and

6.2.3 implementing any additional technical and organisational measures as may be reasonably required by the Customer to allow the Customer to respond effectively to relevant complaints, communications, or requests.

7. INCIDENT MANAGEMENT

7.1 In the case of a personal data breach, the Supplier shall without undue delay notify the personal data breach to the Customer providing the Customer with sufficient information which allows the Customer to meet any obligations to report a personal data breach under Data Protection Laws. Such notification shall as a minimum:

7.1.1 describe the nature of the personal data breach, the categories and numbers of data subjects concerned, and the categories and numbers of Personal Data records concerned.

7.1.2 communicate the name and contact details of the Supplier's data protection officer or other relevant contact from whom more information may be obtained.

7.1.3 describe the likely consequences of the personal data breach; and

7.1.4 describe the measures taken or proposed to be taken to address the data breach, including, where appropriate, measures to mitigate its possible adverse effects.

7.2 The Supplier shall fully co-operate with the Customer and take such reasonable steps as are directed by the Customer to assist in the investigation, mitigation and remediation of each personal data breach, in order to enable the Customer to *(i)* perform a thorough investigation into the personal data breach, *(ii)* formulate a correct response and to take suitable further steps in respect of the personal data breach in order to meet any requirement under Data Protection Laws.

7.3 The parties agree to coordinate and cooperate in good faith on developing the content of any related public statements or any required notices for the affected persons. The Supplier shall not inform any third party without first obtaining the Customer's prior written consent, unless notification is required by law to which the Supplier is subject, in which case the Supplier shall to the extent permitted by such law inform the Customer of that legal requirement, provide a copy of the proposed notification, and consider any comments made by the Customer before notifying the personal data breach.

8. DATA PROTECTION IMPACT ASSESSMENT AND PRIOR CONSULTATION

8.1 The Supplier shall, at the Customer's request, provide reasonable assistance to the Customer with any data protection impact assessments and any consultations with any Supervisory Authority of the Customer as may be required in relation to the processing of Personal Data by the Supplier on behalf of the Customer.

9. DELETION OR RETURN OF CONTROLLER PERSONAL DATA

9.1 Upon request made by the Customer within thirty (30) days of the earlier of: *(i)* cessation of processing of Personal Data by the Supplier; or *(ii)* termination of the Main Agreement, the Supplier shall return all Personal Data to the Customer. After such thirty (30) day period, the Supplier shall securely dispose of Personal Data and delete all copies of it (except to the extent that any applicable law requires the Supplier to retain a copy of such Personal Data) and Customer acknowledges that the Supplier will have no obligation to maintain or provide such Personal Data.

10. AUDIT RIGHTS

10.1 The Supplier shall make available to the Customer on request all information necessary to demonstrate compliance with this Addendum and Data Protection Laws and allow for and contribute to audits, including inspections by the Customer or another auditor mandated by the Customer of any premises where the processing of Personal Data takes place.

10.2 The Supplier shall permit the Customer, or another auditor mandated by the Customer during normal working hours and on reasonable prior notice to inspect, audit and copy any relevant records, processes, and systems in order that the Customer may satisfy itself that the provisions of Data Protection Laws and this Addendum are being complied with.

10.3 The Supplier shall provide full co-operation to the Customer in respect of any such audit and shall at the request of the Customer, provide the Customer with evidence of compliance with its obligations under this Addendum and Data Protection Laws.

11. INTERNATIONAL TRANSFERS OF CONTROLLER PERSONAL DATA

11.1 The Supplier shall not (permanently or temporarily) process the Personal Data nor permit any Authorised Sub-processor to (permanently or temporarily) process the Personal Data in a country outside of the EEA without an adequate level of protection, other than in respect of those recipients in such countries listed in Annex 3 (*Authorised Transfers of Personal Data*), unless authorised in writing by the Customer in advance.

11.2 When requested by the Customer, the Supplier shall promptly enter into (or procure that any relevant Sub-processor of the Supplier enters into) an agreement with the Customer on Standard Contractual Clauses and/or such variation as Data Protection Laws might require, in respect of any processing of Personal Data in a country outside of the EEA without an adequate level of protection.

12. LIABILITY

13. The disclaimers and limitations of liability set out under the Main Agreement shall apply also to this Addendum.

14. COSTS

14.1 The Customer shall pay any reasonable costs and expenses incurred by the Supplier in meeting the Customer's requests made under this Addendum.

15. MISCELLANEOUS

15.1 Any obligation imposed on the Supplier under this Addendum in relation to the processing of Personal Data shall survive any termination or expiration of the Main Agreement.

15.2 Regarding the subject matter of this Addendum, in the event of any conflict or inconsistency between any provision of the Main Agreement and any provision of this Addendum, the provision of this Addendum shall prevail. In the event of any conflict or inconsistency between the Main Agreement or this Addendum and the Standard Contractual Clauses, the Standard Contractual Clauses shall prevail.

ANNEX 1: DETAILS OF PROCESSING OF PERSONAL DATA

This Annex 1 includes certain details of the processing of Personal Data as required by Article 28(3) GDPR.