

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 Licensor of the applicable initial license, set-up and training fees set out in the Order Form(s), as well as any applicable annual fee, Licensor will grant to Licensee for use in connection with its internal business operations a limited, non-exclusive, non-transferrable license to the Software and Documentation, subject to the Permitted Use and the terms set forth in this Agreement. Licensee's rights to use the Software and Documentation are limited to the Term and subject to the payment of applicable annual fees. Any Updates (provided pursuant to Section 6 (Annual License, Updates and Technical Support)) will form part of the Software and will be subject to rights granted in this Agreement. Licensee may permit its employees, agents and contractors to use the Software for purposes permitted pursuant to this Agreement and Licensee will be responsible for their compliance in accordance with the terms of this Agreement. Licensee may make a reasonable number of copies of the Software for testing, archival and/or back-up purposes, to be used only when the primary copies of the Software are not operational. All legends, trademarks, trade names, copyright marks and other proprietary notices included in the original copies of the Software must be maintained as part of any and all testing, archival, back-up or other copies of the Software made by Licensee. All rights not expressly granted to Licensee hereunder are reserved by Licensor. Licensee acknowledges that the Software 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 Software is installed. Licensee acknowledges that the activation keys and internal controls in the Software do not necessarily restrict usage to the Permitted Use and do not necessarily ensure compliance with this Agreement.

2. License Restrictions

Licensee agrees (a) subject to any non-waivable rights Licensee may enjoy under applicable law, 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 Software to third parties; (d) not to make the Software available in any form to any person other than Licensee'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. Licensee shall not allow access to the Software by any service bureau, third party outsourcer, or other similar third party service provider unless Licensor consents to such access in writing.

3. Ownership of Intellectual Property; Customer Input

As between Licensor and Licensee, Licensor retains all title, ownership, and intellectual property rights in and to the Software and Documentation, and all developments by Licensor in connection with this Agreement. Licensee acknowledges and agrees that it is only licensing the right to use Licensor's Software and Documentation and that no sale or other transfer of any title or ownership or any proprietary interest of any kind to such Software 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 Licensor and, subject to any non-waivable rights Licensee may enjoy under applicable law, Licensee shall not allow for any duplicates or reproduction of the Software to be made and, upon the termination of this Agreement, shall promptly (and no later than within thirty (30) days of termination) return to Licensor all originals and copies of the Software or provide validation that the Software has been permanently deleted from all of Licensee's systems and destroyed.

Licensor shall have a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual license to use or incorporate into the Software any Customer Input. Licensor shall have no obligation to make Customer Input an Update. Licensee 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, Licensee provides Licensor with permission to use its trademark, logo and trade name ("Branding") within Licensor's promotional and marketing materials. Licensor is granted no other right to the Branding and acknowledges that it shall not gain any proprietary interest in the same. Licensor is under no obligation to make use of, or to provide compensation for, the right or permission granted by Licensee to the Branding. Licensor 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 Licensee by providing thirty (30) days' written notice to Licensor. Upon such termination, Licensor shall refrain from future use of the Branding; however, Licensor may continue to distribute and use the promotional and marketing materials where Licensee's Branding has been previously printed prior to the notice of termination and where such placements cannot be discontinued or altered without Licensor incurring a penalty.

5. Implementation, Training and Consulting

If so indicated in the Order Form(s), Licensor will provide to Licensee implementation, training services and/or consulting services to Licensee. Unless otherwise specifically noted in the applicable Order Form, training will be held during weekdays. Licensor's installation and training personnel will have expertise and actual experience in the application area designed for installation at Licensee's site. Licensee acknowledges that Services are scheduled on a first come, first served basis, and shall be mutually agreed upon by Licensor and Licensee subject to Licensor's availability. Should Licensee require rescheduling of confirmed installation and training service appointment, Licensor will make commercially reasonable efforts to accommodate Licensee's request. If Licensee cancels a scheduled and confirmed training session, Licensee will be responsible for Licensor's standard cancellation fees and any other charges as specified in the applicable Order Form. If the parties agree that training will be provided on-site at Licensee's facility, Licensee 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 software 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 Licensor hereunder at Licensee designated sites will be reimbursed by Licensee to Licensor. Such travel and related expenses will include reasonable coach class airfare, transportation to and from Licensee site, lodging, meals and miscellaneous (e.g. tips, tolls, etc.) and may include travel time at Licensor's standard travel rate. Unless otherwise specified in the Order Form, all phases/sessions of training must be completed within six (6) months from receipt of the Software, or all prepaid training fees will be forfeit. Upon Licensee's request, Licensor will provide further services to train any additional Licensee personnel on the features, operation, and use of the Software, at Licensor's standard price list per diem rates in effect at the time such training is requested by Licensee. Additional services that are required as a result of Licensee's action, inaction or failure to meet its obligations, including delays or wait time caused by issues related to Licensee's hardware and software, shall be billable to Licensee and will be invoiced at Licensor's then-current rates.

6. Licensee Responsibilities

Within a reasonable period of time following the execution of this Agreement, and prior to the commencement of installation of the Software, Licensee shall appoint a member of its staff to act as its project lead. The project lead will serve as the main contact for Licensor's personnel in connection with any installation activities, disseminate information from Licensor to the various departments at Licensee's operation, as applicable and relay any required information to Licensee personnel in a timely manner. If the implementation affects multiple areas of Licensee'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 Software and shall communicate this vision to all levels of Licensee's staff; (b) be familiar with and involved in Licensee's daily operations; (c) be Licensee'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 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 installation process; and (g) be present during all phases of the installation and training process to include attendance at all designated training classes and ensure attendance of staff at scheduled training sessions.

Licensee shall enter all data required for installation of the Software and shall be responsible for the integrity of such data. Licensor shall not have any liability for any Licensee data, including for data that Licensor personnel may enter in an effort to assist Licensee or any errors made in such efforts to assist Licensee. Licensor reserves the right to refuse to do data entry and Licensee agrees that Licensee is solely responsible for providing sufficient staff to perform any data entry required for the installation of the Software.

Licensee 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. Annual License, Updates and Technical Support

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

- (a) Annual renewal of 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 Licensee, provided such Errors relate to the proper functioning of the Software and have not been caused by negligence on the part of Licensee, a computer malfunction, Third Party Materials or other causes external to the Software; and further provided that Licensee acknowledges and agrees that not all Errors are capable of being corrected;
- (c) Updates to the Software that Licensor makes generally available to its licensees, and Documentation as reasonably necessary for the proper function and continued material conformity of the Software with the applicable Documentation. Licensee agrees to install all Updates to the Software made available by Licensor within ninety (90) days following such availability. If Licensee fails to install any such Update, Licensor reserves the right to stop all implementation, training and support services until Licensee installs such Update. Any programs which provides new functionality or expand the function of the Software and are regarded as New Products by Licensor, and for which Licensor separately charges other customers, are not covered by this Agreement, but may be offered to Licensee for license on terms consistent with this Agreement; and
- (d) Access to Licensor’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 Order Form.

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

Licensor’s obligation to provide support is subject to the following conditions: (i) Licensee uses the Software only in accordance with the terms and conditions of the Agreement; (ii) Software implementation, training, re-implementation, and

system audit services must be provided by Licensor’s employees or Licensor’s Authorized Representatives; (iii) Licensee has not modified or altered the Software; (iv) Licensee 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 Licensor; (v) the Software, and the equipment on which it operates, is operated in accordance with the Documentation; (vi) the equipment on which the Software operates is in good operating condition; (vii) Licensee implements all Updates on a timely basis and no later than ninety (90) days subsequent to the availability of the Updates; (viii) Licensee obtains, maintains, and updates, as required, third party programs and such other software as is necessary for the proper operation of the Software; and (ix) Licensee 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 Licensor 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 Software resides or such other method reasonably acceptable to Licensor. All time and materials expended by Licensor resulting from Licensee’s breach of such conditions shall be billed to Licensee at Licensor’s standard time and materials rates. Support provided pursuant to this Section relates to the Software and the Updates only. Unless, and only to the extent that, Licensor and Licensee have expressly agreed for Licensor to provide hardware support pursuant to the Order Form, should the problems that arise be the result of hardware malfunction, Licensor will advise Licensee to have the hardware/network repaired. Support resulting from hardware/network problems will be billed to Licensee at Licensor’s then-current hourly rates.

8. Interfaces

Software 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, Licensor shall install the Software interfaces as agreed between the parties on the Order Form. Licensee shall act as a liaison between Licensor and any third party vendor(s) with which the Software shall interface. Licensee shall have its third party vendor available at the time that Licensor is scheduled to install the interface and in order to assist with installation, as required by Licensor. Transactions processed by a third party vendor system may be subject to separate licensing requirements. Licensee 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 software development or software modifications. Such work, if negotiated and agreed to between Licensor and Licensee, 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 Software or services provided under this Agreement. Licensee acknowledges that Licensor is not a contract development organization, but rather Licensor is a software developer that licenses its Software within specified industries. As such, Licensee further acknowledges that the Software is a major and valuable asset of Licensor’s business and, as such, Licensor shall have complete control of the design and development of the Software, including Updates to the Software. Therefore, Licensor has the right, and sole discretion, to reject any request for enhancement or modification to the Software by Licensee. Should Licensee require modification of any standard forms incorporated into the Software or design of new forms, any such customization work shall be contracted for separately at Licensor’s then-current rates.

10. Payment Terms

Licensee agrees to pay to Licensor all Fees as set out in the Order Form(s). 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. Other than as provided for pursuant to Section 15 (Indemnification), Licensor does not provide credits or refunds for Fees already due or paid. If Licensee wishes to decrease its Permitted Use of the Software, Licensee must notify Licensor sixty (60) days in advance. If Licensee wishes to increase its Permitted Use of the Software, Licensee must notify Licensor in advance and pay any applicable Fees.

Any invoice disputes must be initiated by Licensee in good faith and in writing; Licensee will be entitled to notify Licensor 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 Licensee and will be due and payable in full. If Licensee initiates a dispute with regard to a particular invoice, any undisputed amounts charged on such invoice will continue to be due and payable. Licensor and Licensee agree to use reasonable efforts to address and attempt to resolve any invoice dispute within thirty (30) days after Licensor's receipt of Licensee's notice to Licensor regarding such dispute.

With regard to any undisputed invoiced amount that is not paid when due, Licensor reserves the right to charge, and Licensee 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 Licensor properly charged any amount disputed and withheld by Licensee, the late fee will be assessed and paid on the disputed, withheld amount.

Licensee acknowledges that Licensor reserves the right to suspend or interrupt Licensee's use of the Software, cease providing Updates and/or suspend delivery of technical support to Licensee for any period during which any Fees due in accordance with the terms of this Agreement remain unpaid for fifteen (15) days after Licensor provides advanced written notice (including by way of email) of such unpaid Fees to Licensee. In such event, Licensor 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

Licensee will be responsible for paying all Taxes (other than taxes associated with Licensor's net income or Licensor'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 Software and/or Hardware. If Licensor has a legal obligation to pay or collect Taxes for which Licensee is responsible under this Agreement, the appropriate amount shall be computed based on Licensee's address listed in the Order Form and invoiced to and paid by Licensee, unless Licensee provides Licensor 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 Licensor invoice. All Fees are payable in full and without reduction or withholding for Taxes. If, for whatever reason, Licensee is required by law to withhold any Taxes from Fees, Licensee shall gross up its payments to Licensor so that Licensor receives Fees in full and free of any such deductions. Licensee shall, upon request of Licensor, provide to Licensor proof that Taxes have been paid, if such payment is not made to Licensor directly. If Licensor pays any costs or expenses incurred in relation to any import duties, customs, formalities, permissions or other requirements, then Licensee shall promptly reimburse Licensor for all such amounts in full.

12. Hardware Purchase

If Licensee so elects, Licensee 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. Licensee shall be responsible for all Delivery Costs. Payment by Licensee of Delivery Costs shall be due and payable upon its receipt of Licensor's invoice.

13. Title to the Products

Subject to the second paragraph of this Section 13, with respect to Third Party Software and/or Hardware purchased from Licensor by Licensee 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 Licensee upon shipment F.O.B. from the manufacturer's facility. Licensor reserves, and Licensee hereby grants to Licensor, 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 Licensor 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 Licensee including a financing statement in order to perfect and/or register Licensor's security interest in the Products. Licensee agrees to execute and deliver any additional document or instrument and provide all other assistance as Licensor may reasonably request from time to time to establish, perfect, register, give effect to and/or enforce Licensor's security interest in the Products applicable in Licensee's place of business. Licensor 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

Licensee any notice of any form or making any disclosure. Licensee 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, Licensee acknowledges and agrees that Licensor 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 Licensor and shall not pass to Licensee until the purchase price for such Products has been paid in full and received by Licensor. Until payment in full has been received by Licensor and title to the Products passes: Licensor may require Licensee to deliver up to Licensor all Products in its possession and if Licensee fails to do so promptly, Licensor shall have authority to retake, sell or otherwise deal with and/or dispose of all or any part of the Products; Licensor 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 Licensor reasonably believes them to be kept; Licensee shall hold the Products as bailee and store or mark the Products in a manner reasonably satisfactory to Licensor indicating that title to the Products remains vested in Licensor; Licensee shall take all reasonable care of the Products; and Licensee shall insure the Products to their full replacement value, and arrange for Licensor to be noted on the policy of insurance as the loss payee. Irrespective of whether title to the Products remains vested in Licensor, risk in the Products shall pass to Licensee 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 Software and Documentation provided by Licensor, such obligation shall terminate three (3) years after termination of this Agreement. With respect to the Software and Documentation provided by Licensor, 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 Software or Documentation in breach of this provision and that any such breach shall terminate the rights to such Software and Documentation granted to Licensee 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. Licensor and Licensee 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

Licensor will indemnify, defend and hold Licensee Indemnified Parties harmless from, at its expense, any action brought against Licensee Indemnified Parties by a third party based upon a claim that Licensee's use of the Software 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 Licensee notifies Licensor promptly in writing of such claim, provides Licensor with the sole control and authority to defend or settle such action or claim, and gives Licensor the authority, information and assistance necessary to settle or defend such claim.

In the event a claim of infringement is made, or Licensor believes that such a claim is likely to be made, then Licensor shall at its expense: (a) procure the right for Licensee to continue using the Software; (b) replace or modify the Software 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 Licensor's sole option, terminate this Agreement upon three (3) months written notice, and either issue to Licensee a credit equal to, or promptly refund to Licensee, the annual fee for the then-current annual period, less an appropriately prorated amount for use, reflecting the number of months during which Licensee enjoyed uninterrupted use of the Software during that annual period.

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

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

Licensee shall defend, indemnify and hold harmless Licensor 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

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

Licensor hereby represents that it has the authority of each manufacturer or producer of Hardware and Third Party Software which are, if applicable, subject to this Agreement to sell the same to Licensee. Licensee acknowledges that Licensor 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, Licensor hereby assigns to Licensee the manufacturer's and producer's warranties, if any, applicable to the Hardware and Third Party Software, and Licensee hereby accepts such assignment and agrees that its sole remedies are included thereunder. Licensor makes no representations regarding the validity or enforceability of any such manufacturer's 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 SOFTWARE AND HARDWARE, AS APPLICABLE, ARE PROVIDED "AS IS" AND "WITH ALL FAULTS", AND LICENSOR 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, LICENSOR 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 LICENSEE'S REQUIREMENTS. LICENSOR MAKES NO EXPRESS OR IMPLIED WARRANTIES, REPRESENTATIONS, GUARANTEES OR CONDITIONS WITH RESPECT TO ANY THIRD PARTY SOFTWARE OR THIRD PARTY SERVICES PROVIDED WITH OR AS PART OF THE SOFTWARE, HARDWARE OR RELATED SERVICES. LICENSOR'S LIMITED WARRANTIES DO NOT APPLY TO ANY SOFTWARE WHICH HAS BEEN MODIFIED OR ALTERED IN ANY MANNER BY ANYONE OTHER THAN LICENSOR 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 LICENSEE. 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 Licensor is able to limit Licensee's remedy for a breach of the Non-Excludable Provision, then the liability of Licensor for breach of the Non-Excludable Provision is limited to one or more of the following, at Licensor'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 Licensee's responsibility to determine whether the Software is suitable for Licensee'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 LICENSEE'S BREACH OF SECTION 2 (LICENSE RESTRICTIONS) AND ANY DISCLOSURE BY LICENSEE OF SOFTWARE OR DOCUMENTATION IN BREACH OF SECTION 14 (CONFIDENTIALITY), (ii) UNDER SECTION 15 (INDEMNIFICATION) OR (iii) FOR PERSONAL INJURY, DEATH, FRAUD OR FRAUDULENT MISREPRESENTATION:

(A) LICENSOR'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 LICENSEE TO LICENSOR 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 LICENSOR AND LICENSEE AND FORM A MATERIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES. LICENSOR'S PRICING REFLECTS THIS ALLOCATION OF RISK AND THE LIMITATION OF LIABILITY SPECIFIED HEREIN.

destroy or return to Licensor 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 Licensee in writing by a duly authorized officer.

18. Term and Termination

- (a) **Term.** The initial term of this Agreement will commence on the Effective Date and will continue thereafter for the period as set out in the Order Form(s) ("Initial Term") unless terminated earlier by Licensor or Licensee in accordance with the terms of this Agreement. This Agreement will automatically renew for additional one (1) year periods (or for periods of the length specified in the applicable Order Form) (each being a "Renewal Term" and, collectively, with the Initial Term, the "Term") unless either party provides the other party with ninety (90) days written notice prior to the conclusion of the Initial 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.
- (b) **Failure to Pay Annual Fee.** In the event that Licensee fails to pay the applicable annual fees when due, Licensor reserves the right to elect to take one of the following courses of action (without limiting Licensor's other available remedies): (i) notify Licensee that this Agreement will immediately expire (or has expired) effective as of the expiration of the then-current annual license period; or (ii) allow this Agreement to renew for another renewal period, in which event, the applicable annual license fees for such renewal period will continue to be payable; provided, however, that if Licensor does not affirmatively notify Licensee that alternative (i) or (ii) has been selected, then alternative (ii) will apply.
- (c) **Early Termination.** Licensee understands that Licensor has undertaken significant implementation and investment costs which are intended to be amortized over the Initial Term of this Agreement. In consideration of the costs and the pricing structure acknowledged and accepted in the Order Form(s), Licensee agrees to pay liquidated damages if Licensee elects early termination during the Initial Term. The liquidated damages for such early termination will be the value of the Fees for the remainder of the Initial Term, along with any outstanding fees for additional modules and services ordered but not yet paid for by Licensee since the date of this Agreement. These liquidated damages are due and payable in a lump sum on the date of termination of the Agreement. Licensee acknowledges that the actual damages likely to result from a breach of the Initial Term by Licensee are difficult to ascertain and that the foregoing liquidated damages are intended to represent estimated actual damages and are not intended as a penalty.
- (d) **Termination by Licensor.** Subject to Section 18(b) (Failure to Pay Annual Fee), Licensor has the right to terminate the license granted under this Agreement if Licensee 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 Licensee default under this Agreement if Licensee fails to pay any amount when due hereunder. Licensor may terminate this Agreement immediately if: (i) Licensee breaches Section 2 (License Restrictions); or (ii) Licensee becomes insolvent, a receiver, administrator, controller or a liquidator is appointed to Licensee, Licensee assigns any of its property for the benefit of creditors or any class of them or any proceedings have been commenced by or against Licensee under any bankruptcy, insolvency or similar laws.
- (e) **Termination by Licensee.** Licensee has the right to terminate this Agreement if Licensor is in default of any term or condition herein, and fails to cure such default within thirty (30) days after receipt of written notice of such default or if Licensor becomes insolvent or any proceedings are to be commenced by or against Licensor under any bankruptcy, insolvency or similar laws.
- (f) **Effect of Termination.** Upon termination of this Agreement for any reason, any and all amounts owed to Licensor pursuant to this Agreement will be immediately due and payable, and all license rights granted to Licensee 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, Licensee will cease using and will securely

19. Audit

During the Term, Licensee shall maintain complete and accurate books, records, policies, and procedures (collectively "Books and Records") sufficient to confirm Licensee's compliance with these Terms and Conditions and the Order Form(s), including without limitation compliance with Permitted Use, and payment of Fees to Licensor. During the Term and for a period of one (1) year thereafter, Licensee shall permit Licensor (or an independent representative engaged by Licensor), upon thirty (30) days prior written notice, to audit (each an "Audit") Licensee's Books and Records and deployment of the Software to the extent reasonably necessary to verify Licensee's compliance with the terms, conditions, and restrictions of this Agreement, at such times during Licensee's regular business hours as Licensor may reasonably request. Licensor 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, Licensee shall promptly pay Licensor 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 Licensee shall reimburse Licensor for Licensor's reasonable and customary audit expenses. The rights and obligations set forth in this Section 19 shall survive termination or expiration of the 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 favor 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 Licensee, and will be determined as follows:

Licensee 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.	New York City, New York
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	The laws of England and	England and Wales

Licensee Country of Incorporation:	Governing Law:	Courts Having Jurisdiction:
Europe, the Middle East or Africa	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 choice 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 in an effort 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. Licensee shall select an arbitrator from a list of three (3) arbitrators to be provided by Licensor to Licensee, each of which shall be skilled in the legal and business aspects of the software 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 Licensee:

Licensee 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.

- (a) **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. Licensee shall not permit access or use of the Software 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.
- (b) **Anti-Corruption.** Licensee has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Licensor'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 Licensee learns of any violation of the above restriction, Licensee will use reasonable efforts to promptly notify Licensor.
- (c) **Modifications.** This Agreement may not be modified except in writing signed by both parties.
- (d) **Subcontractors.** Licensor reserves the right to make use of subcontractors to provide services and to use such means as Licensor, in its sole discretion, considers appropriate. Licensor's use of subcontractors shall not relieve it of its obligations under this Agreement.
- (e) **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 Licensor and Licensee. Licensor and its personnel, agents, Licensors, and Licensor's Authorized Representatives, are acting as independent contractors and not as employees or agents of Licensee. 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.
- (f) **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 terms "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.
- (g) **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.
- (h) **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.
- (i) **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 Licensor shall be sent to the address shown in the introductory paragraph of this Agreement addressed to Licensor's signatory of this Agreement. Notices to Licensee shall be sent to the address shown in the introductory paragraph of this Agreement addressed to Licensee's signatory of this Agreement. Each party may modify its recipient of notices by providing notice pursuant to this Agreement.
- (j) **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.

- (k) **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. 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.
- (l) **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.
- (m) **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

24. Definitions and Interpretation.

The definitions and rules of interpretation in this Section shall apply to this Agreement.

- (a) The following capitalized terms shall have the meanings ascribed to them in this section:

“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; Software 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, Licensees, pricing and finances; Licensee data contained in the Software 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 Input”	Suggestions, enhancement requests, recommendations or other feedback provided by Licensee, its employees, contractors and agents relating to the operation or functionality of 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.
“Documentation”	Licensor-supplied related hard-copy or electronically reproducible technical and user documents associated and provided with the Software.
“Error”	Reproducible error of the Software which prevents the use of the Software as described in the specifications set forth in the Documentation.
“Fees”	License fees, implementation and training fees, annual license and maintenance fees, amounts payable in respect of Hardware and all other fees due hereunder.
“Go-Live Date”	The date on which Licensee first uses the Software to process its daily business relative to the functions that the Software automates.

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.

- (n) **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.

“Hardware”	Hardware products produced by third party manufacturers which Licensor buys from such manufacturers or distributors for resale to its licensees (to the extent available), including, but not limited computer hardware and point of sale devices.
“Initial Term”	Has the meaning set out in Section 18(a).
“Licensee Indemnified Parties”	Licensee and its Affiliates and any of their respective officers, directors, employees, agents, successors and permitted assigns.
“Licensee Sites”	The physical location or address where Licensee utilizes the Software for the Permitted Use, as set out on the applicable Order Form(s).
“Licensor Indemnified Parties”	Licensor and its Affiliates and any of their respective officers, directors, employees, agents, successors and permitted assigns.
“Licensor Authorized Representatives”	Licensor’s authorized representatives who, by written authorization from Licensor, may have authorization to sell, install, or provide training in respect of the Software.
“New Product”	Any new feature, module or enhancement to the Software that Licensor markets and licenses for additional fees separately from Updates.
“Order Form”	A separate document provided by Licensor, agreed to by the parties to, and governed by, this Agreement, by which Licensee 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 Software or particular 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 Licensee Sites.
“Products”	Has the meaning set out in Section 13.
“Software”	The (i) machine-readable instructions and data, (ii) components, files, and modules, (iii) audio-visual content (such as images, text, recordings or pictures) and (iv) related licensed materials, such as activation keys, as applicable, as further described in the Order Form(s), as well as any Updates.
“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 Software and/or Hardware, imposed upon the Fees or otherwise arising out of, or in connection with, the transactions contemplated by this Agreement.
“Term”	Has the meaning set out in Section 18(a).
“Third Party Materials”	Any software, hardware, data, or other materials or products not provided by Licensor.
“Third Party Software”	Software owned by third party producers which Licensor distributes or resells to its licensees.
“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 Software for the Permitted Use, as authorized pursuant to an Order Form, as applicable.
“Workstation”	A personal computer or device providing equivalent functionality which is capable of executing the Software and which is linked to a computer network from which the Software is accessible, as authorized pursuant to an Order Form, as applicable.

- (b) Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- (c) Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- (d) 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.
- (e) Any words following the terms including, include, in particular, 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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