

ITHEON MASTER SOFTWARE LICENCE AGREEMENT

1. DEFINITIONS

As used in an Agreement, the following terms shall have the meanings set forth below:

"Affiliate" means in relation to a Party, any existing or future person which directly or indirectly controls, is controlled by or is under common control with such Party;

"Agreement" means the contract for the provision of Licensed Products and related services pursuant to these Conditions including the Order and (unless the context otherwise requires) includes any additional terms and conditions agreed in writing between the Parties and attached to the Order;

"Application" means the application, if any, identified in an Order, and with which one or more of the Licensed Products are designed by the Company to be compatible with in a particular Operating Environment;

"Business Day" means a day which is not a Saturday, Sunday or a public holiday in England and Wales, or the country or countries in which the Licensee resides;

"Company" means Itheon Limited, registered as company number 02121732 at registered address Franklin Court, Priory Business Park, Bedford, MK44 3JZ;

"Conditions" means the terms and conditions set out in this document;

"Confidential Information" means the information identified in Clause 9;

"CPIH" means the general index for measuring consumer prices inflation which is published monthly in the United Kingdom by the Office for National Statistics;

"Data Protection Legislation" means (i) EU Regulation 2016/679 ("GDPR"), and any national laws and secondary legislation, including the UK Data Protection Act 2018, relating to the handling of Personal Data, as amended or updated from time to time and (ii) any successor legislation, as amended, consolidated, re-enacted or replaced from time to time;

"Documentation" means the current technical and user documentation available from the Company relating to the use of the Licensed Products and as may be modified from time-to-time to incorporate Enhancements and/or New Versions;

"Enhancements" means the updates, enhancements, modifications, new releases and corrective programming to the Licensed Products that are provided by the Company as part of Maintenance Services;

"End User" means either (i) a separate entity set out on the Order and recognised by the Parties as a client of the Licensee, and with which the Company has no direct contractual or other responsibilities under the Agreement, or (ii) where no separate entity is set out on the Order, the Personnel of the Licensee which may utilise the Licensed Products from time to time;

"Installation Device" means the server(s) or other device(s) on which the Licensed Products are installed and used under the Agreement;

"Installation Services" means the one-time professional and/or consultancy activities, if any, as outlined in an Order to be completed by the Company in order to ensure that the Licensed Products can be delivered, installed and maintained (where applicable) by the Company and used by the Licensee and/or End User;

"IPR" means all intellectual property rights, wherever in the world, howsoever arising and in whatever media, whether or not registered, including copyright, patents, trademarks, service marks, trade names, rights in databases, trade secrets, utility models, semiconductor rights, know-how, registered design, and all rights in the nature of unfair competition rights or rights to sue for passing off and any applications for protection or registration of these rights and all renewals and extensions thereof throughout the world;

"Licensee" means the (i) Licensee as named on the Order and (ii) its Affiliates (which may both also be referred to as the **"Licensee Group"**);

"Licensed Products" means all or any portion of the Licensed Rules and/or Licensed Software as specified in an Order together with related Documentation;

"Licensed Rules" means all or any portion of; (i) commercially available pre-configured packages of rules separately available from the Company to enable Licensed Software to more effectively support a particular Operating Environment; or (ii) such rules as defined and configured by the Company as a deliverable of Installation Services and then made available to the Licensee;

"Licensed Software" means all or any portion of the commercially available software products available from the Company. For the avoidance of doubt Licensed Software may not fully support a particular Operating Environment without the addition of separate Licensed Rules;

"Maintenance Services" means the services described in Clause 14;

"Maintenance Term" means, as applicable, either the initial term for Maintenance Services as set out in an Order or any twelve (12) month renewal period for the Maintenance Services following on from the initial term;

"New Version" means a significant update to one or more of the Licensed Products containing new features or functions as well as error corrections but does not include new software only available from the Company for an additional fee unless detailed in an Order.

"Operating Environment" means the hardware platform, operating system, and Application combinations (where applicable) that correspond to the Licensed Products and as specified in an Order.

"Order" shall mean a document authorised by the Licensee and accepted by the Company under these Conditions, providing details of the Licensed Products and related services to which the Licensee is entitled;

"Order Date" means the date on which the Agreement shall become effective as set out in the Order, or where no such date is specified, the date of signing of the Order by the Licensee;

"Party" means either the Company or the Licensee and **"Parties"** shall mean both of them;

"Personnel" means officers, directors, employees, workers and agents (including any persons hired as consultants or contract staff) engaged in the use and/or provision of the Services (or part thereof);

"Reseller" means the ordering and subsequent selling of the Licensed Products to third parties including an Affiliate (whether for profit or not) in the Licensee's own name and/or representing itself as an authorised dealer, distributor or manufacturer of the Licensed Products;

"Service Provider" means the use of the Licensed Products to provide services including data processing services for entities other than the Licensee, such as Affiliates, End Users and/or other third parties;

"Site" means the Licensee and/or End User location(s), if any, identified in an Order where the Licensed Products are authorised to be installed under the Agreement;

"Subscription Licence" means the arrangements under which the Licensee is only granted use by the Company to use the Licensed Products for an initial term as set out in the Order, and any renewal period for the Subscription Licence following on from the initial term;

"Support Guidelines" means the technical support guidelines for the Licensed Products as available from the Company on request and as may be modified by the Company from time-to-time;

"Warranty Period" means the ninety (90) day period following initial delivery of the Licensed Products by the Company.

For the purposes of these Conditions (i) reference to legislation is, except as otherwise specifically referenced, to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it; (ii) reference to a document or provision thereof is to that document or provision as amended, supplemented, replaced or novated; (iii) where the words "include", "includes", "including" or "in particular" (or similar derivatives) are used, they are deemed to be followed by the words "without limitation"; (iv) "will" and "shall" shall be interpreted as expressions of command, not merely expressions of future intent or expectation; (v) use of the singular imports the plural and vice versa; and (vi) headings are for purposes of reference only and will not in any way limit or affect the interpretation of any of the terms herein and references to any clause or paragraph in any document that forms part of the Agreement refer to the applicable clause or paragraph of that document, unless expressly stated otherwise, and 'person' includes any individual, firm, corporation wherever incorporated, trust, joint venture (whether or not having a separate legal existence), partnership, limited liability company, association (whether incorporated or not), or any other entity, or any governmental body or subdivision, agency, or authority. In the event of any inconsistency or conflict between the Conditions and the Order then the Order shall prevail over the Conditions.

2. DURATION

The Agreement shall commence on the Order Date and shall (subject to early termination in accordance with this Agreement) continue for the duration of the Licensee's right to use the Licensed Products as set out in the Order, and for the avoidance of doubt, includes the terms for any Maintenance Services provided for the Licensed Products, until terminated in accordance with the terms set out herein.

3. SCOPE OF AGREEMENT

- a) During the term of an Agreement, a Licensee may obtain and use the Licensed Products and (where applicable) Maintenance Services and/or Training Services from the Company pursuant to the terms and conditions of the Agreement.
- b) By executing an Order, the Licensee is agreeing to and shall be bound by the provisions of these Conditions and shall use and/or permit the use of the Licensed Products only in accordance with the terms of the Agreement.
- c) Each Order shall incorporate these Conditions by reference and shall give rise to a separate and distinct contract under these Conditions. Any event of default under an Order shall not be considered, in and of itself, an event of default under any other Order.
- d) The Licensee is responsible to any End User for all obligations and liability in respect of the Licensed Products and any related services when acting as a Reseller or Service Provider. Unless explicitly stated in these Conditions or specified on an Order, the Company is only obligated to the Licensee, and then only under the terms and conditions of the Agreement.

4. GRANT OF LICENSE

The Company hereby grants to each Licensee a non-exclusive, non-transferable, revocable, royalty-free Licence and right to use and/or permit the use of the Licensed Products in accordance with the terms of the Agreement. The Company represents that it has the right to grant to Licensee the rights granted hereunder. The grant of rights hereunder to the Licensed Products is not a sale of the Licensed Products or any portion thereof. The Company reserves all rights not expressly granted in these Conditions.

5. USE OF LICENSED PRODUCTS

- a) Subject to the terms of an Order, the Licensee may install and use the Licensed Products or permit such installation and use on servers or devices utilising the Operating Environment(s) set out in the Order. The Licensed Products shall, subject to the terms of the Order, only be used: (i) up to the quantities specified in the Order; (ii) on any specified Site(s); and (iii) by and for the benefit of the Licensee or End User. Unless permitted in an Order, the Licensee shall not use the Licensed Products as a Service Provider or Reseller.
- b) The Licensee may, as applicable, transfer or permit transfer of the Licensed Products to a different server or device or add Applications only upon the Company's prior written consent, which consent may be conditioned upon payment by Licensee of any applicable fees. Notwithstanding anything to the

contrary contained herein, the Licensee may, upon written notice to the Company, transfer, or permit transfer of the Licensed Products to a server or device that has the same Operating Environment as the prior server or device.

- c) The Site(s) may be changed by the Licensee to another location than that identified in an Order only upon the Company's prior written consent, which consent shall not be unreasonably delayed, denied or withheld, and may be conditioned upon payment by Licensee of any applicable fees.

- d) The Licensee shall not copy or permit the copying of Licensed Products or Documentation or any portion thereof, except to make one (1) disaster recovery copy of the Licensed Products. The Licensee shall ensure reproduction of all copyright, trademark, trade secret and other proprietary notices in such disaster recovery copy. The disaster recovery copy of the Licensed Products may only be used by the Licensee or End User if an Installation Device becomes inoperative and only on a back-up server or device with the same Operating Environment as the Installation Device(s). In no event may the Licensee or End User use the disaster recovery copy of the Licensed Products for normal use or testing concurrently with the use of the Licensed Products in normal use or testing.

- e) Subject to sub-clause f) and except as permitted by law, the Licensee shall not (and shall not allow any End User or third party) to reverse engineer or decompile disassemble or otherwise attempt to derive the source code of the Licensed Products or any portion thereof, or modify, alter or change the Licensed Products including for the avoidance of doubt, Licensed Rules. Any modifications, alterations or changes to the Licensed Products, unless authorised and/or performed by the Company, shall terminate the warranties provided herein and the Company may, at its sole discretion, terminate Maintenance Services for such Licensed Products.

- f) Where specified in an Order, and only where specified in an Order, the Licensee or End User may copy existing Licensed Rules (whether supplied by the Company or created by the Licensee) for the sole purpose of creating new or enhanced rules relating to Operating Environments for which the Licensed Products have been licensed under the terms of the Agreement. All such rules created by the Licensee or End User shall be deemed Modifications in accordance with Clause 12. The creation of rules for Operating Environments other than those relating to the Licensed Products and/or where the Licensee or End User is not authorised to create new rules shall terminate the warranties provided herein and the Company may, at

its sole discretion terminate the provision of Maintenance Services for the applicable Licensed Products.

g) The Licensee shall respect and not remove, obliterate, or cancel from view any copyright, trademark or confidentiality notice or legend appearing on the Licensed Products, related media, Documentation, or output generated by such Licensed Products, or any portion thereof.

6. ORDERS AND RENEWALS

a) Prior to the expiration of a Subscription Licence for any of the Licensed Products a Licensee may request to renew the Subscription Licence for an additional term at the Company's then current rates by executing a new Order incorporating the Company's then current terms and conditions. The Company may, in its sole discretion, decline to renew the Subscription Licence.

b) Each Order shall be subject to acceptance by the Company. The Company reserves the right to change the method for submitting Orders or the format of Orders on five (5) days written notice to the Licensee.

c) Unless otherwise agreed, all Licensed Products shall be shipped or emailed by the Company to the Licensee at the Licensee's address as set out in the relevant Order or such other email or physical address as the Licensee may notify in writing to the Company as its delivery address. Licensed Products are deemed shipped to the Licensee at the time of physical dispatch and/or emailing by the Company, reasonable evidence of which will be provided on written request from the Licensee. The Company will select the appropriate method of shipment at its discretion.

d) In the event of a need for international shipment of the Licensed Products, the Company will obtain all licenses required to export the Licensed Products from the country of origin. The Licensee will (i) obtain all licenses required to import the Products; (ii) clear the Products through customs promptly upon their arrival in the relevant country; and (iii) pay all shipping costs, customs duties and other charges assessed on such imports into the country, if applicable.

e) In addition to any other right or remedy, the Company may, at its option, refuse any Order placed by the Licensee, or any accepted Order or delay shipment thereof, if the Licensee is delinquent in any undisputed payments to the Company for the same Order and/or other contractual agreements or if the Licensee is otherwise in breach of these Conditions.

f) Upon receipt of an Order from the Licensee that complies with all requirements of these Conditions, the Company will, subject to Clause 6 e), make reasonable

efforts to fulfil an Order for Licensed Products and/or issue the requisite authorisation keys to the Licensee.

7. AUDIT RIGHTS

a) The Company shall have the right, upon reasonable notice to the Licensee, to conduct during regular business hours on Business Days an audit of the Licensee's use of the Licensed Products and/or use of the Licensed Products the Licensee has permitted. Any such audit shall consist solely of a review of the Licensee's compliance with the terms and conditions of the Agreement, including, if necessary, an examination of the Installation Devices. Such audits shall be conducted in such a way as to minimise interference with the Licensee's and/or any End User normal business operations and the Licensee shall provide all reasonable assistance to the Company during such audit including arranging the required physical and logical access to Sites and Installation Devices whether on Licensee or End User premises.

b) Audits shall be only be conducted a maximum of once (1) per year, unless the Licensee is found not to be in compliance with the Agreement, whereby the Company may conduct up to two (2) audits in the twelve (12) month period subsequent to such discovery of non-compliance. If any audit discloses an underpayment by the Licensee, however arisen, the Licensee shall promptly pay the Company the amount of the underpayment on receipt of a valid invoice from the Company, together with interest at a rate of three (3) per cent above the then current base rate of the Bank of England per month from the date on which such amount should have been due to the Company. If the underpayment amount is more than ten percent (10%) of the amount due for the relevant Order, the Licensee shall in addition pay the Company's reasonable costs and expenses for the audit in which the underpayment was discovered.

a) For the avoidance of doubt in the event the Licensee fails to organise and facilitate the reasonably requested access to the Sites and Installation Devices for any audit pursuant to this Clause 7, the Licensee may be deemed in material breach of an Agreement without prejudice to the right of either Party to determine that any other breach of the Agreement constitutes a material breach. In the event of such breach, the Company may at its sole discretion terminate the Agreement and/or any Order.

8. CHARGES

b) The Licensee shall pay to the Company the licence, maintenance, installation and training fees set out in an Order. The Licensee shall also pay to the Company any additional fees set out in an Order and any applicable sales, use, personal property, internet-

related or other taxes and government charges imposed on transactions hereunder, but exclusive of the Company's net income or corporate taxes. If, under applicable law, any amount due hereunder cannot be paid without a deduction or withholding, then the Licensee shall increase the amount due to the Company so that the net amount received by the Company after such deduction or withholding (and the payment of any other amount that must be deducted or withheld as a result of such increase) shall be equivalent to the full amount that the Company would have received had such amount or other payment not been subject to any deduction or withholding.

c) The Company shall as applicable, invoice the licence fees, and/or the first payment of the Subscription Licence and/or Maintenance Services fees on delivery of the Licensed Products. Subsequent payments of the Subscription Licence and/or Maintenance Services fees will become due in accordance with and as detailed in each Order.

d) Unless otherwise specified in an Order, invoices for Installation Services and Training Services shall be issued on commencement of the relevant services. Invoices for any incidental services or items authorised by the Licensee will be issued upon satisfactory completion of such incidental services or delivery of the relevant items (as applicable).

e) The Licensee shall pay the Company in accordance with the payment terms as set out in the Order and stated on each correctly rendered invoice (the "**Due Date**").

f) All undisputed amounts shall be paid without deduction, set off or prior demand and no payment shall be considered made until it is received by the Company. For the avoidance of doubt the Customer shall not be entitled to a refund in the event that it does not make use of the Licensed Products after delivery and/or related services.

g) Where the Licensee disputes an invoice and withholds payment (or part thereof), the nature and detail of the dispute shall be detailed in writing, and the Parties will act promptly and in good faith to resolve the matter. Payment for undisputed items on a disputed invoice shall be made in accordance with the normal payment terms for the invoice.

h) Subject to this sub-clause and only to be effective after the first anniversary of the Order Date, the Company shall be entitled from time to time to increase the fees for Subscription Licences and/or Maintenance Services by giving to the Licensee not less than ninety (90) days prior written notice. Such increase shall not exceed the percentage rate of CPIH at the date of notice being issued by the Company and

no more than one (1) increase in the fees for Subscription Licences and Maintenance Services pursuant to this sub-clause is permitted in any twelve (12) month period.

i) All fees are stated exclusive of value added tax ("VAT"), any similar sales tax and/or any tax that replaces such sales taxes. VAT shall be added to all sums invoiced under this Agreement at the rate prevailing at the date of the invoice in the country in which the Services are delivered and will be payable at the same time as the amount to which it relates.

j) If the Licensee fails to pay any undisputed payment within thirty (30) days of the Due Date for payment then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to suspend any further performance of Maintenance Services and charge the Licensee interest accrued daily (both before and after any judgement) on the amount unpaid at the rate of three (3) per cent per annum above the base rate of Barclays Bank plc from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

k) If the Licensee fails to pay any undisputed payment within sixty (60) days of the Due Date for payment then, without prejudice to any other right or remedy available to the Company, the Licensee shall be deemed in material breach of the Agreement and the Company shall have termination rights in accordance with Clause 19 a) (1), provided that this sub-clause shall apply only to the failure to pay a material undisputed amount owed.

9. CONFIDENTIALITY

a) During the term of an Agreement, the Company, and Licensee may have access to Confidential Information of the other Party. Confidential Information shall include, but is not limited to: (i) all Licensed Products, Enhancements and New Versions; (ii) the Agreement, Documentation, and Support Guidelines; (iii) customer and prospect lists, existing agreements with vendors and business partners; (iv) pricing proposals, financial and other business information, data and plans; (v) research and development information; (vi) formulas, methods, know-how, processes, designs, performance tests, product evaluations, computer software, bug fixes, reported problems with the Licensed Products; and (vii) any other information identified in writing as confidential or information that the receiving Party knew or reasonably should have known was confidential.

b) Confidential Information shall be used solely for each Party's performance under the Agreement and

the exercise of its rights hereunder and shall not be disclosed to any third party without the written permission of the disclosing Party. Each Party shall take reasonable precautions, at least equivalent to the precautions it takes to protect its own Confidential Information, to maintain the Confidential Information of the other Party disclosed hereunder in strict confidence.

c) Confidential Information shall not include any information that the receiving Party can establish: (i) is or subsequently becomes publicly available through no act or omission of the receiving Party; (ii) was in the receiving Party's lawful possession prior to disclosure of such information under the Agreement; (iii) is subsequently disclosed to the receiving Party by a third party who is not in breach of an obligation of confidentiality; (iv) is independently developed by the receiving Party without the use or benefit of the Confidential Information; or (v) is required to be disclosed under a court order or a valid subpoena, provided that the receiving Party (where legally permitted) promptly notifies the disclosing Party and provides the disclosing Party with an opportunity to seek an appropriate protective order. In no event, shall the Licensed Products be excluded from treatment as Confidential Information under this Clause 9 c).

d) The Parties acknowledge that failure to comply with the provisions of this Clause 9 may result in irreparable harm to the other Party for which a remedy at law would be inadequate, and therefore, in the event of the breach, or threatened breach by a Party of its obligations under this Clause 9, the non-breaching Party shall be entitled to equitable relief in the form of specific performance and/or an injunction, without the posting of any bond, for any such actual or threatened breach, in addition to the exercise of any other remedies at law or in equity.

10. DATA PROTECTION

a) Both Parties shall comply with the Data Protection Legislation in so far as it is relevant in respect of the provision and use of the Licensed Products and related services. For the purposes of the Agreement, the terms Data Controller, Data Processor, Personal Data, and Processing shall be as defined in the Data Protection Legislation.

b) The Parties acknowledge that the Licensee is a Data Controller and that the Company is not considered a Data Processor in providing the Licensed Products and related services. The Company further acknowledges that it has not been given any authority by the Licensee to make any attempt to access any data on the Installation Devices and confirms that it shall not do so.

c) The Customer acknowledges that Company does not require access to, use of, or other rights to the data on the Installation Devices in order to provide the Licensed Products and deliver the related services and its obligations in accordance with the terms of this Agreement.

d) The Parties further acknowledge that it may be necessary to exchange Personal Data relating to their respective Personnel, and/or the End User(s) in order to receive the benefit of or deliver (as applicable) the Licensed Products and related services. Where a Party receives any such Personal Data from the other Party it does so as Data Controller and shall ensure that it fully complies with the Data Protection Legislation.

11. LICENSEE OBLIGATIONS

a) The Licensee and/or any End User shall be solely responsible for the Installation Devices, operating system and related software and any data or files, other than the Licensed Products provided by the Company, including maintaining a back-up copy of Licensee's and/or End User's data or files and the Licensed Products. The Licensee shall also be responsible for ensuring only trained and qualified Personnel utilise the Licensed Products and shall promptly notify the Company of any unauthorised use of the Licensed Products of which it becomes aware.

b) The Licensee shall comply with all laws, rules, and regulations regarding the use of the Licensed Products. Licensee shall also comply, at its cost and expense, with all applicable laws, rules and regulations regarding (where applicable) the importing and exporting of the Licensed Products, including the payment of any related duties or assessments imposed on the Licensed Products. The Licensee shall indemnify, defend and hold the Company harmless from all claims, damages, losses, costs and expenses arising out of or related to Licensee's and/or End User's breach of this Clause 11 b).

12. PROPRIETARY INFORMATION

a) The Company (or its licensors) retains ownership of all IPR and know-how in and relating to the Licensed Products. The Licensed Products, the Documentation and other proprietary information provided by the Company to the Licensee hereunder contain and constitute trade secrets, information, and data proprietary to and copyrighted by the Company. Neither the Licensee nor its Personnel shall knowingly use or allow such information or data to be disclosed to third parties or duplicated except as expressly allowed in the Agreement. The Licensee shall not make or permit any customisations, enhancements, improvements, translations, derivative works, or other

modifications of the Licensed Products (collectively, “**Modifications**”). Modifications shall not include separate works created or designed by the Licensee to better integrate or leverage the Licensed Products with the Licensee’s and/or End User’s deployed technologies.

b) Any Modifications to the Licensed Products made by the Licensee and/or End User without prior written approval by the Company shall be deemed to be works made for hire and shall belong to the Company and the Company shall have all right, title and intellectual property interest to such work. Where an End User is detailed in an Order the Licensee shall ensure the End User is made aware of the provisions of this Clause 12 and shall not enter into any formal agreements with any End User that are in conflict with the terms herein.

c) The Licensee retains ownership of all its own IPR, including in works created by the Licensee in connection with the Licensee’s own user interface to the Licensed Products, or the Licensee’s own reporting system which for the avoidance of doubt are deemed not to be Modifications.

d) Subject to this Clause 12 and only to the extent that copyright title to any Modifications may not, by operation of law, vest in the Company, or such Modifications may not be considered works made for hire, all right, title and interest therein are hereby and with no further action of the Licensee required, irrevocably assigned to the Company. The copyright to all such Modifications shall belong exclusively to the Company, with the Company having the right to obtain and to hold in its own name or the name of its nominee all copyrights and any extensions and renewals thereof. The Licensee agrees to give the Company and any person designated by the Company any reasonable assistance, at the Company’s expense, to perfect the copyright as set out in this Clause 12 d) and to assign or to facilitate assignment of such rights to any Affiliate of the Company, including without limitation by executing and delivering all such instruments and documents as the Company may deem necessary or desirable in connection therewith. The Licensee shall ensure that it has sufficient contractual agreements with its Personnel, partners, Resellers, End Users, and independent contractors to ensure that the copyright to the Modifications may be assigned to the Company. The Company shall have no obligation to support any customisations, extensions or Modifications made to the Licensed Products by any third party unless otherwise agreed by the Company in writing.

e) The Parties acknowledge that failure to comply with the provisions of this Clause 12 may result in

irreparable harm to the other Party for which a remedy at law would be inadequate, and therefore, in the event of the breach, or threatened breach by a Party of its obligations under this Clause 12, the non-breaching Party shall be entitled to equitable relief in the form of specific performance and/or an injunction, without the posting of any bond, for any such actual or threatened breach, in addition to the exercise of any other remedies at law or in equity.

13. RIGHTS INFRINGEMENT

a) The Company shall indemnify and defend the Licensee against any action brought against the Licensee to the extent that it is based claim that the Licensed Products infringe or misappropriate any IPR, copyright, trade secret or trademark of any third party, providing the Company shall have exclusive control of the defence and can defend at its own expense, any claim or litigation to which this indemnity relates. The Company shall pay all losses, damages and costs finally awarded against the Licensee in such action, provided that the Company is notified in writing of the existence of such claim against the Licensee within fifteen (15) days of the Licensee’s first learning of the same and provided that the Company is given full authority to control the defence, costs and settlement of the claim, and that the Company receives reasonable cooperation and assistance from the Licensee. The Company will not be obligated to defend or otherwise indemnify the Licensee in any lawsuit or as to any claim which arises from or relates to any combination of the Licensed Products with another product not supplied by the Company, or if such claim is based upon a use of one or more of the Licensed Products for a purpose for which it was not designed, or if the Licensed Products have been materially modified by the Licensee, or if the Licensee has not installed any available Enhancements or New Version as directed by the Company prior to any claim which can be reasonably demonstrated by the Company as mitigating the basis for such claim. Subject to the provision of the Licensee’s reasonable assistance to the Company in accordance with this sub-clause a) the Licensee shall be given the opportunity to review any and all pleadings, document, statement, and settlement term or provision which in any way relates to, affects, or binds the Licensee prior to its service or use in connection with the claim or suit.

b) In addition to the foregoing indemnification obligations and in the event of an IPR infringement or misappropriation claim, or upon notice of a potential claim, the Company shall have the right to: (i) replace the Licensed Products with functionally equivalent software; (ii) modify such Licensed Products while retaining substantively equivalent functionality; (iii) procure at no cost to the Licensee the right to continue

to use such Licensed Products; or (iv) if the foregoing is not commercially reasonable at the sole discretion of the Company, direct the Licensee to terminate use of such Licensed Products. If the Company directs the Licensee to terminate use of such Licensed Products (or a permanent injunction is issued against such use), the Licensee shall immediately terminate such use and shall be responsible for terminating such use by any End User. If the Licensee's right to use or permit the use of the Licensed Products is terminated pursuant to this sub-clause b), the Licensee's remedies, in addition to the indemnification set out herein, shall be limited to the right to terminate the Agreement and receive a pro rata refund of the licence fees previously paid for such Licensed Products based on a term of sixty (60) months following execution of an Order. The Company's obligation to provide a pro rata refund under this sub-clause b), shall not extend to any release of the Licensed Products for which infringement could have been avoided by Licensee's deployment and installation of any Enhancements or New Version of the Licensed Products, provided the Company delivered any Enhancements or New Version to the Licensee and notified the Licensee of the need to install such Enhancements or New Version.

c) The Licensee shall defend and indemnify the Company against all claims, judgments, awards, costs, expenses, damages and liabilities (including reasonable legal fees) of whatsoever kind and nature that may be asserted, granted or imposed against the Company directly or indirectly arising from or in connection with (i) any claim from any third party based on the Licensee's use or permitted use or possession of the Licensed Products including where the Licensee is acting as a Service Provider; (ii) any claims that any software (other than the Licensed Products) used by the Licensee and not provided by the Company infringes any third party IPR; (iii) any misrepresentation made by the Licensee regarding the Company or the Licensed Products, except where such misrepresentation can be demonstrated to have been expressly contained in Documentation or other written information provided by the Company; and (v) any other claims, judgments, awards, costs, expenses, damages and liabilities (including reasonable legal fees) of whatsoever kind and nature that may be asserted, granted or imposed by any Personnel, Reseller or independent contractor that cannot be claimed by the Licensee under the terms of the Agreement. Subject to the provision of the Company's reasonable assistance to the Licensee, the Company shall be given the opportunity to review and approve any and all pleadings, document, statement, and settlement term or provision which in any way relates to, affects, or

binds the Company prior to its service or use in connection with the claim or suit.

14. MAINTENANCE SERVICES

a) Maintenance Services shall consist of: (i) reasonable amounts of telephone support ("**Telephone Support**") to assist the Licensee with the use of the Licensed Products; (ii) Enhancements and New Versions provided to Licensees of the Licensed Products who have paid for Maintenance Services; and (iii) the correction of errors or non-conformities with the Licensed Products in accordance with the Support Guidelines ("**Corrective Support**").

b) The Licensee shall initially receive Maintenance Services for the Licensed Products for the Maintenance Term set forth in an Order for the fees set out therein. Following such initial Maintenance Term, the Licensee may elect to purchase additional Maintenance Terms at the Company's then current rates by executing a new Order incorporating the Company's then current terms and conditions. If a Licensee has a Subscription Licence to the Licensed Products, the Licensee must also renew the Subscription Licence in order to purchase and obtain additional Maintenance Services.

c) Unless agreed in writing by the Parties beforehand the Company may at its sole discretion levy additional fees for the provision of Maintenance Services covering any rules created by the Licensee or End User, such fees to be due from the date at which the Licensee or End User commenced use of such rules. The Company may also require reasonable amendments to such rules prior to the provision of Maintenance Services. If the Licensee requests the Company completes any amendments the Licensee shall pay the Company for its professional services at the Company's then prevailing rates plus reasonable expenses. Following commencement by the Company of Maintenance Services pursuant to this sub-clause c) all rules shall be subject to the terms applicable to Licensed Rules as detailed in the Agreement.

d) If the Company is unable to correct a reported error or non-conformity that is classified in the Support Guidelines as an emergency or serious problem within thirty (30) days following notice from the Licensee or such additional period of time as reasonably agreed by the Parties in writing, the Licensee may terminate Maintenance Services for such Licensed Products. If the Licensee terminates Maintenance Services in accordance with this sub-clause d), the Licensee shall, as its sole and exclusive remedy, receive a pro-rata refund of the fees paid for Maintenance Services for the balance of the existing Maintenance Term as specified in the relevant Order.. If the Company provides services at the Licensee's request to correct a

suspected error and such error is non-existent, unrelated to the Licensed Products, a result of Licensee's failure to fulfil its obligations under the Agreement, or a result of an unauthorised change to the Licensed Products, the Licensee shall pay the Company for professional services at the Company's then prevailing rates plus reasonable expenses.

e) Subject to the Support Guidelines and where specified on an Order, the Licensee or End User may copy existing Licensed Rules and create bespoke rules, and the Company shall provide reasonable advice and support during normal business hours on Business Days for assistance in the creation of new rules. Where the Licensee requests the Company's assistance to complete the creation or modification of new rules and/or the resolution of errors the Licensee shall pay the Company for professional services at the Company's then prevailing rates plus reasonable expenses.

f) In the event the Licensee requires Modifications to Licensed Rules to provide compatibility with a specific release or version of an Application the Licensee may either (i) request and deploy the applicable New Version of the Licensed Rules where available; (ii) where a New Version is not currently available request the Company provide such New Version as part of the Maintenance Services, the date of availability to be at the discretion of the Company; or (iii) where a New Version is not currently available the Licensee may pay the Company for professional services at the Company's then prevailing rates plus reasonable expenses to create such New Version to a mutually agreed date.

g) The Company may terminate Maintenance Services for one or all of the Licensed Products upon a minimum of thirty (30) days written notice to the Licensee prior to the end of any Maintenance Term or upon ninety (90) days written notice to the Licensee for any superseded versions of the Licensed Products or if the Licensed Products are licensed for use on an Operating Environment that is no longer supported by the Company.

h) If the Licensee terminates or declines to renew Maintenance Services for the Licensed Products and subsequently elects to renew Maintenance Services, the Licensee shall pay to the Company the applicable fees for the total period since termination of expiration of the previous Maintenance Term and for the subsequent twelve (12) month renewal period (or other period as may be specified on the Order).

i) The Company may at its sole discretion immediately terminate Maintenance Services in the event the Licensee uses, permits, or attempts to use or

permit the Licensed Product in a way that is contrary to the Agreement including but not limited to deploying and/or using Licensed Products in an Operating Environment not specified on a relevant Order.

j) The Licensed Products, Documentation, Maintenance Services, and other services including Installation Services and Training Services for the Licensed Products shall be provided, written and otherwise delivered in English. Unless otherwise agreed to by the Parties, all Telephone Support shall also be provided in English.

15. INSTALLATION SERVICES

a) The Company shall perform Installation Services for the Licensed Products where set forth in an Order for the fees set forth therein. The Licensee may elect to purchase additional professional services at the Company's then prevailing rates plus reasonable expenses.

b) Unless otherwise agreed to by the Parties, Installation Services shall be provided at a single Licensee or End User location in the United Kingdom that has connectivity to the Site(s). The Licensee shall be responsible for organising and providing appropriate facilities to the Company Personnel including workspace, together with the necessary access and connectivity to the Licensee and/or End User infrastructure including the Site(s) and Installation Devices.

c) The Licensee shall be responsible for supporting the Installation Services including by; (i) participating in the planning and scheduling process; (ii) providing appropriately skilled and authorised Personnel to assist the Company where required; (iii) supplying reasonable information relating to the Operating Environment(s) and Licensee and/or End User business operations; and (iv) completing any network, Installation Device and/or other Operating Environment changes required to allow operation of the Licensed Products

16. TRAINING SERVICES

a) In consideration of the fees for training where set out in an Order, the Licensee may attend the training identified therein (the "**Training Services**"). The Licensee must attend all training courses prior to the expiration date set out in the Order. If the Licensee fails to have relevant Personnel attend any training class prior to such expiration date, the Company will not provide the Licensee with a refund of fees.

b) Training Services shall be provided, unless otherwise agreed to by the Parties, at one of the Company's regional offices in the United Kingdom and shall be provided in English. The Licensee and/or End User shall (as applicable) be solely responsible for all

expenses incurred in attending such training. If an Order provides for training at the Licensee's or End User's facility, the Licensee shall be responsible for organising and providing appropriate facilities and to pay for all reasonable travel related expenses incurred by the Company including subsistence and accommodation where agreed in writing prior to the training class.

17. WARRANTIES AND DISCLAIMERS

a) The Licensee warrants that it will make all reasonable endeavours to ensure that any End User utilising the Licensing Products also comply with the terms of the Agreement including Clauses 5, 9, 11, and 19.

b) The Company warrants that during the Warranty Period, the Licensed Products shall perform all material functions set out in the Documentation for such Licensed Products and shall otherwise operate in substantial accordance with such Documentation. If during the Warranty Period the Licensed Products fail to comply with this warranty, the Licensee shall notify the Company in writing of any alleged errors or non-conformities with the Licensed Products. The Company shall, thereafter, have thirty (30) days or such additional period of time as reasonably agreed by the Parties in writing to correct such errors or non-conformities in accordance with the Support Guidelines. If the Company is unable to timely correct such errors or non-conformities, the Licensee may elect to terminate the licence to such Licensed Products. If Licensee terminates the licence to such Licensed Products during the Warranty Period in accordance with this Clause 17, the Licensee shall, as its exclusive remedy, receive a refund of all fees previously paid for such Licensed Products.

c) If it is determined that the Licensed Products do not perform as warranted, the Company's only responsibility will be to use reasonable efforts, consistent with industry standards, to cure the defect in accordance with sub-clause b). The Company does not represent that the Licensed Products are error free or will satisfy all of the Licensee's requirements.

d) Except for the express warranties set forth in these Conditions, the Licensed Products and related services are provided "as is" and to the maximum extent permitted under applicable law, all other warranties, conditions and representations, whether express or implied, verbal, statutory or otherwise, and whether arising under these Conditions or otherwise are hereby excluded, including but not limited to, any warranty of satisfactory quality, fitness for a particular purpose, course of dealing, course of performance or usage in trade.

e) The Licensed Products may contain a disabling device to prevent use beyond the term of a Subscription Licence or in excess of any volume restrictions as set out in an order.

18. LIABILITIES

a) The Parties accept that nothing in the Agreement limits or excludes any liability for: (i) fraud or fraudulent misrepresentation (ii) death or personal injury resulting from their negligent acts or omissions in connection with the Agreement; (iii) a Party's indemnification obligations pursuant to Clause 13 ; or (iv) any liability which cannot by applicable law be limited or excluded.

b) Subject to sub-clause a) the liability of the Company under the Agreement in respect of each event or series of connected events shall not exceed the aggregate of the fees paid by the Licensee to the Company under an Order.

c) Notwithstanding anything else contained in these Conditions, neither Party shall be liable to the other for loss of profits or contracts or other indirect or consequential loss whether arising from negligence, breach of contract or howsoever (including loss or damage suffered by the other Party as a result of an action brought by a third party) even if such loss was reasonably foreseeable or a Party had been advised of the possibility of the other Party incurring the same.

d) The Company shall not be liable for any claims arising from the operation of the Licensed Products other than on the Operating Environment(s) identified in an Order, nor shall the Company be liable for any claims, losses, or damages caused by acts of abuse or misuse of the Licensed Products by the Licensee or any End User. In addition, the Company shall not be liable for any loss or damage by the Licensee or any third party in connection with or arising out of the interruption or loss of use of the Licensed Products or the loss or corruption of the Licensee's or End User's (as applicable), software, programs, or data, except to the extent such is caused by any omission or negligence on behalf of the Company.

e) For the avoidance of doubt the Licensee is responsible to the End Users for all obligations and liability in respect of the performance, and/or availability of the Licensed Products and related services, or their non-performance and non-availability. Unless explicitly stated in this Agreement the Company is only obligated to the Licensee for the provision and performance of the Licensed Products and related services and then only under the terms and conditions of this Agreement.

19. TERMINATION

a) Notwithstanding anything else contained herein, the Agreement may be terminated by either Party forthwith on giving notice in writing to the other Party if the other Party:

- (1) commits any material breach of any term of the Agreement (other than any failure by the Licensee to make any payment hereunder in which event the provisions of Clause 8 above shall apply) and (in the case of a material breach capable of being remedied) shall have failed, within thirty (30) days after the receipt of a request in writing from the other Party so to do, to remedy the material breach (such request to contain a warning of such Party's intention to terminate). For the avoidance of doubt, and subject to Clause 8 k) the failure by the Licensee to pay any material amount of any undisputed sums due under this Agreement shall be considered a breach of a material obligation; or
- (2) shall have a receiver or administrative receiver appointed over it or over any part of its undertaking or assets or shall pass a resolution for winding-up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a Court of competent jurisdiction shall make an order to that effect, or if the other Party shall become subject to an administration order or shall enter into any voluntary arrangement with its creditors or shall cease or threaten to cease to carry on business.

b) For the avoidance of doubt a breach of Party's obligations under Clauses 21 and 22 shall be deemed a material breach not capable of remedy and the non-breaching Party may terminate the Agreement in writing with immediate effect.

c) If the Company terminates the Agreement pursuant to this Clause 19, no amount paid to the Company hereunder shall be refunded. The remedies set out herein shall be cumulative with respect to any other remedies which the Company may have under an Agreement or otherwise.

d) Subject to: (i) all outstanding payments to the Company being made by the Licensee; and (ii) written certification from the Licensee that the Licensee and End User have complied with sub-clause f), the Licensee shall have the right to terminate any relevant Order if the End User ceases business, files for bankruptcy or becomes bankrupt or insolvent. If the Licensee terminates an Order (or part thereof) pursuant to this sub-clause d), no amount paid to the Company hereunder shall be refunded and the Licensee

obligations in respect of the Agreement and all other parts of the Order shall remain unchanged.

e) Upon the expiration or termination of an Agreement, the Parties shall cooperate in good faith to terminate relations in an orderly manner. Notwithstanding anything to the contrary herein, the Licensee shall pay all fees and charges that have accrued up to the date of the termination within thirty (30) days of the termination.

f) Upon expiration of a Subscription Licence to any of the Licensed Products (unless such Subscription Licence is renewed) or termination of the Licence to any of the Licensed Products, the Licensee shall immediately cease use of the applicable Licensed Products and purge its system and records of such Licensed Products, including, without limitation, any copies thereof and shall ensure any End User undertakes the same. Upon termination of an Agreement, the Licensee shall immediately cease use of the Licensed Products and purge its system and records of the Licensed Products, including, without limitation, any copies thereof, and shall ensure any End User undertakes the same.

g) Upon expiration or termination of an Agreement, each Party shall promptly return all the other Party's Confidential Information together with a certified statement by a duly authorised officer of the returning Party stating that all such Confidential Information been returned or destroyed except (i) where Confidential Information is required to be retained for compliance with applicable law; and (ii) for copies stored in commercially reasonable disaster recovery or back up media and provided that the receiving Party's obligations under the Agreement will continue for as long as any Information is so retained.

h) Any termination of the Agreement howsoever occasioned shall not affect any accrued rights or liabilities of either Party nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

20. FORCE MAJEURE.

a) Neither Party hereto shall be liable for any breach of its obligations hereunder resulting from causes beyond its reasonable control including acts of God, riots, war or armed conflict, acts of terrorism, acts of government authorities, fire, flood, hurricane, tornado, or earthquake, pandemics, or disaster, force majeure declaration of suppliers, strikes, lockout or other form of industrial action (other than of its own Personnel), wrecks or delays in transportation, embargoes, container shortages, inability to obtain

supplies and raw materials requirements or regulations of any civil or military authority.

b) Each of the Parties hereto agrees to give notice forthwith in writing to the other upon becoming aware of an event of force majeure and such notice shall contain details of the circumstances giving rise to the event of force majeure. The Party affected by the force majeure event shall use reasonable endeavours to mitigate any effects of the force majeure event.

c) A Party cannot claim relief if the event of force majeure is attributable to that Party's wilful act, neglect, or failure to take reasonable precautions against the relevant event and provided it is not an event that the relevant Party would reasonably be expected to manage via its business continuity or disaster recovery planning in accordance with good industry practice.

21. ANTI-BRIBERY

a) Both parties agree to comply with all applicable laws, regulations, legally binding codes and sanctions relating to anti-bribery and anti-corruption ("**Anti-Bribery Law**").

b) In the event that a Party is found not to comply with Anti-Bribery Law or has reasonable grounds for suspecting the other Party of not being in compliance it shall as soon as reasonably practicable, notify the other Party in writing of the particulars of such non-compliance and/or suspicions.

22. MODERN SLAVERY

a) Both Parties shall comply with all applicable laws, statutes, regulations legally binding codes and sanctions relating to the modern slavery and human trafficking (the "**Slavery Rules**") and the Company shall comply with any reasonable written request received from the Licensee for the purposes of any annual reporting requirements under the Slavery Rules.

b) In the event that a Party is found not to comply with the Slavery Rules or has reasonable grounds for suspecting the other Party of not being in compliance, it shall as soon as reasonably practicable, notify the other Party in writing of the particulars of such non-compliance and/or suspicions.

23. NOTICES

All notices which are required to be given hereunder shall be in writing and shall be sent to the address of the recipient set out in the Order or such other address as the recipient may designate by notice given in accordance with the provisions of this Clause 23. Any such notice shall be deemed to have been served if by hand when delivered, if by first class post forty-eight (48) hours after posting.

24. PUBLICITY

Subject to the Licensee's consent, which shall not be unreasonably withheld, delayed, or denied, the Company may prepare a press release and case study regarding Licensee's use of the Licensed Products. Except as provided herein, neither Party shall use the name and/or trademarks of the other Party in publicity releases or similar activity without the consent of the other Party, provided, however, the Company may include the Licensee's name in any client list.

25. GENERAL

a) This Agreement sets out the entire agreement and understanding between the Parties in respect of the subject matter of this Agreement and supersedes all prior arrangements or understandings, whether oral or written, between the Parties relating to the subject matter hereof.

b) The Parties acknowledge that they have entered into this Agreement in reliance only upon the representations, warranties and promises specifically contained or incorporated in this Agreement and, save as expressly set out in this Agreement, neither Party shall have any liability in respect of any other representation, warranty or promise made prior to the date of this Agreement unless it was made fraudulently.

c) Neither Party shall assign the Agreement without the prior written consent of the other Party, such consent not to be unreasonably withheld or delayed.

d) No failure or delay by either Party in exercising any of its rights under the Agreement shall be deemed to be a waiver of that right, and no waiver by the Company of any breach of the Agreement by the Licensee shall be considered as a waiver of any subsequent breach of the same or any other provision.

e) The Company is a member of the group of companies and accordingly the Company may perform any of its obligations or exercise any of its rights hereunder by itself or through any other member of its group, provided that any act or omission of any such other member shall be deemed to be the act or omission of the Company.

f) The Company shall provide, and the Licensee shall accept the Licensed Products and related services subject to the terms of the Agreement, which shall govern the use of Licensed Products and related services to the exclusion of any other terms and conditions.

g) For the avoidance of doubt where the Customer requires the Company to issue invoices against a

written Customer requisition ("**Purchase Order**") and there is any ambiguity and/or conflict between the terms of a Purchase Order and this Agreement, the terms of this Agreement shall prevail. The Customer shall within fifteen (15) Business Days from a request by the Company provide the applicable Purchase Order number relevant to the Services to be included on any invoice submitted by the Company.

h) No variation to the Conditions or the Agreement shall be binding unless agreed in writing between the authorised representatives of the Licensee and the Company.

i) The Parties acknowledge that no rights or benefits are expressly conferred upon or implied as conferred upon any other person or third party under the Agreement, however, the Company acknowledges that this Agreement and the Services are for the benefit of the members of the Customer Group and agrees that each member of the Customer Group shall be entitled

to enforce the terms of this Agreement in its own right. For the avoidance of doubt only a member of the Customer Group that directly suffers under this Agreement shall be entitled to make a claim against the Company.

j) Notwithstanding that the whole or any part of any provision of the Agreement may prove to be illegal or unenforceable the other provisions of the Agreement and the remainder of the provision in question shall remain in full force and effect.

k) The Agreement shall be governed by the laws of England and Wales and the Parties hereby consent to the exclusive jurisdiction of the courts of England and Wales. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to the Agreement.