



Quote

Prepared Date 8/19/2019
Quote# 9838

Service Provider

School Loop Inc
401 Congress Avenue, Suite 2650
Austin TX 78701
United States

Quote Expires 8/31/2019
Billing Schedule 100% Net 30
Payment Terms Net 30
Term Start Date 7/1/2019
Term End Date 6/30/2020

Customer

Sylvan Union School District

Bill To

Sylvan Union School District
605 Sylvan Ave
Modesto California 95350
United States

End User

Sylvan Union School District

Ship To

Sylvan Union School District
605 Sylvan Ave
Modesto CA 95350
United States

Item	Qty	Item Description
SLS2.0 - Site License - Standard	1	SLS2 - Site License

Total Fees Due \$937.56

Special Terms

This Quote is governed by the terms and conditions previously agreed (the "Master Agreement").

The parties agree as follows:

- Customer agrees to pay the **Total Fees Due** in accordance with the **Billing Schedule** and **Payment Terms** indicated above. Invoices will be sent by electronic delivery unless Customer requests otherwise; in which case, additional fees will apply. Customer's obligations may not be canceled prior to expiration of the Term.
- The provisions of this Quote and the Master Agreement constitute the entire agreement between the parties regarding the subject matter hereof and supersede all proposals, prior agreements, oral or written, and all other communications with respect thereto. No terms and conditions on any purchase order or other document exchanged by the parties will be deemed to modify or amend this Quote and the Master Agreement.
- SUBJECT TO EARLY TERMINATION IN ACCORDANCE WITH THE MASTER AGREEMENT, THE TERM WILL AUTOMATICALLY RENEW FOR THE SAME TERM PERIOD AS THE TERM INDICATED ABOVE AT SERVICE PROVIDER'S THEN-CURRENT RATES, UNLESS CUSTOMER NOTIFIES SERVICE PROVIDER IN WRITING OF CUSTOMER'S INTENT NOT TO RENEW AT LEAST SIXTY (60) DAYS PRIOR TO THE EXPIRATION OF THE THEN-CURRENT TERM.
- At the direction and sole discretion of Service Provider, affiliates of Service Provider (the "Affiliates") may perform certain tasks related to Service Provider's obligations and rights under this Quote and the Master Agreement, including, but not limited to, invoicing, payment, technical support, project management and/or sales support. Customer hereby consents to the Affiliates' role. Customer further agrees and acknowledges that Service Provider and Customer are the only parties to this Quote and the Master Agreement, and that any action taken by Affiliates in connection with the performance of Service Provider's obligations under this Quote and the Master Agreement will not give rise to any cause of action against the Affiliates, regardless of the theory of recovery.



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- 5. The Customer will pay all import duties, levies or imposts, and all goods and services sales, use, value added or property taxes of any nature, assessed upon or with respect to the Agreement(s). If the Customer is required by law to make any deduction or to withhold from any sum payable to the Service Provider by the Customer hereunder, then the sum payable by the Customer upon which the deduction or withholding is based shall be increased to the extent necessary to ensure that, after such deduction or withholding, the Service Provider receives and retains, free from liability for such deduction or withholding, a net amount equal to the amount the Service Provider would have received and retained in the absence of such required deduction or withholding. If the Customer is required by law to make any such deduction or withholding, the Customer shall promptly effect payment thereof to the applicable tax authorities. The Customer shall also promptly provide the Service Provider with official tax receipts or other evidence issued by the applicable tax authorities sufficient to enable the Service Provider to support a claim (if applicable) for income tax credits in the Service Provider's applicable taxable country.
- 6. This Quote may be executed in counterparts, each of which will be deemed an original but all of which together constitute one and the same instrument. An electronic signature of such will constitute execution by such signatory.

BY AFFIXING THE SIGNATURE OF THE AUTHORIZED REPRESENTATIVE OF CUSTOMER TO THIS QUOTE, BY HAND OR ELECTRONICALLY, CUSTOMER IS AGREEING TO BE BOUND BY THE TERMS OF THIS **QUOTE** AND THE **MASTER AGREEMENT**.

<p>For Customer:</p> <p>CUSTOMER SIGNATURE</p>	<p>For Service Provider:</p> <p>SERVICE PROVIDER SIGNATURE</p>
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Does your company require a PO number indicated on the invoice?

- NO. PO IS NOT REQUIRED
- YES. PO IS REQUIRED. PO NUMBER (If PO is not yet available, please type "TO FOLLOW"):

Is the bill to address above correct or not?

- YES
- NO, Indicate the complete address:

Is the ship to address above correct or not?

- YES
- NO, Indicate the complete address:

Please provide the email address of the contact who needs to receive the invoice:

Please provide the email address of the accounts payable contact for Invoice Status Inquiry:

Software License Terms and Conditions

The following Software License Terms and Conditions (the "**License Agreement**") apply to the Quote entered into by and between the Customer (as identified on the Quote) and the Service Provider (as identified on the Quote).

This License Agreement sets forth the terms and conditions under which Customer may (i) use Service Provider's proprietary software that is specifically licensed to Customer pursuant to the Quote; and (ii) use the user documentation that Service Provider makes generally available in hard copy or electronic form to its general customer base in conjunction with the licensing of such software (the "**Documentation**").

For purposes of this License Agreement, the term "**Software**" means the software listed in an applicable Quote, the Documentation, and any Updates (as defined in the Maintenance and Support Terms Addendum attached to the Quote).

Customer acknowledges and agrees that it is not relying on any agreement, representation, statement, or warranty (whether or not in writing) made or given prior to the "**Term Start Date**" (as identified on the Quote), except as expressly provided herein with respect to the Software provided hereunder or any maintenance and support services under the applicable Quote.

By signing/agreeing to a Quote, each party acknowledges that it has read, understands, and agrees to the terms of this License Agreement.

1. LICENSE GRANT AND RIGHT OF USE

1.1. **Perpetual License Grant.** The following Section applies if Customer has purchased perpetual licenses. Any Software licensed hereunder shall be licensed pursuant to a separate Quote and shall be so licensed upon full payment of applicable fees hereunder. As specifically stated in the Quote, each such license will be a perpetual, worldwide, nonexclusive, and nontransferable license to use only the object code version of the Software, solely to perform those functions defined in the Documentation, and subject to all limitations and restrictions contained herein ("**Use**"). Web access for permitted third parties' Use will be defined in the applicable Quote if such access is to be permitted under this License Agreement. The Software may only be Used on the hardware and software components, including client machines, servers, and internetworking devices within Customer's internal computer network at Customer's location.

1.2. **Subscription Grant.** The following Section applies if Customer has purchased subscription licenses. Any Software licensed hereunder shall be licensed pursuant to a separate Quote. As specifically stated in the Quote, each such license shall be a fixed term, worldwide, nonexclusive, royalty free (upon full payment of subscription fees), and nontransferable license to use only the object code version of the Software, solely to perform those functions defined in the Documentation, and subject to all limitations and restrictions contained herein ("**Use**"). Web access for permitted third parties' Use will be defined in the applicable Quote if such access is to be permitted under this License Agreement. The Software may only be Used on the hardware and software components, including client machines, servers, and internetworking devices within Customer's internal computer network at Customer's location. The subscription license will expire upon expiration of the "**Subscription Plan Term**" (defined in the Quote) unless and until it is renewed as per the terms and conditions of renewal set forth in the Quote.

1.3. **License Type.** The license model for the Software is set forth in the Quote (or order form) and described in the Licensing Addendum attached to the Quote. Unless otherwise specifically stated in the Quote, the type of

license granted will either be a Named User License (as defined below) or a Site License (as defined below). A "**Named User License**" means that the Software licensed pursuant to the Quote may be Used by a limited number of individual users, each identified by a unique user id (the "**Named User**"), the maximum number of which is specified in the Quote. Customer may designate different Named Users at any time without notice to Service Provider so long as the permitted number of Named Users is not exceeded. A "**Site License**" means that the Software licensed pursuant to the Quote may be Used by an unlimited number of individual users, subject to the terms of this License Agreement and the scope of Use defined on the applicable Quote. Unless otherwise expressly permitted in the Quote and subject to [Section 1.4](#) below, Customer shall not permit any parent, subsidiaries, affiliated entities, or third parties to access the Software.

1.4. **Authorized Users.** Unless otherwise specifically provided in the Quote, "**Authorized Users**" are defined as:

1.4.1. employees of Customer;

1.4.2. a non-human operated device, or a process accessing the Software on behalf of the Customer;

1.4.3. third party individuals or non-human operated devices, or processes that are accessing the Software: (a) on behalf of Customer, or (b) are authorized by Customer and who do not compete with Service Provider ("**Third-Party Users**"). Third-Party Users may Use the Software only subject to [Section 6](#) (Confidentiality).

1.5. **Authorized Use.** Authorized Users may access and use the Software in the operating software environment specified in the applicable Quote (or order form); such environment is further described in the Licensing Addendum. Authorized Users shall not (i) access the Software to process, or permit to be processed, the data of any other party; or (ii) access the Software for service bureau or commercial time-sharing use. Unless otherwise expressly permitted in the Quote and subject to [Section 1.4](#) above, Customer shall not permit any subsidiaries, affiliated entities, or third parties to access the Software.

1.6. **Additional Restrictions.** In no event shall Customer disassemble, decompile, or reverse engineer the Software or Confidential Information (as defined in [Section 6](#)) or permit others to do so. Disassembling, decompiling and reverse engineering include, without limitation: (i) converting the Software from a machine-readable form into a human-readable form; (ii) disassembling or decompiling the Software by using any means or methods to translate machine-dependent or machine-independent object code into the original human- readable source code or any approximation thereof; (iii) examining the machine-readable object code that controls the Software's operation and creating the original source code or any approximation thereof by, for example, studying the Software's behavior in response to a variety of inputs; or (iv) performing any other activity related to the Software that could be construed to be reverse engineering, disassembling, or decompiling. To the extent any such activity may be permitted pursuant to written agreement, the results thereof will be deemed Confidential Information subject to the requirements of this License Agreement. Customer may use Service Provider's Confidential Information solely in connection with the Software and pursuant to the terms of this License Agreement.

1.7. **Source Code Escrow.** The following Section applies if Customer has purchased perpetual licenses. Provided a Quote so indicates, and subject to the terms of this Section, Service Provider shall place the source code to the licensed version of the Software in escrow with its preferred escrow agent pursuant to the Preferred Escrow Agreement (the "**Escrow Agreement** "). Service Provider's obligation to place versions of the Software in escrow shall be subject to: (i) execution by the escrow agent, Service Provider, and Customer of the Escrow Agreement; (ii) Customer's continued payment of the escrow fees pursuant to the Escrow Agreement; and (iii) Customer's continued payment and eligibility for maintenance and support services hereunder.

2. PAYMENT

2.1. **License Fees.** Unless otherwise provided in the Quote, Service Provider may invoice Customer for all license fees, other fees, and charges due thereunder immediately following the Quote Effective Date.

2.2. **Payment Due Date.** All invoices shall be payable by Customer in United States dollars and payment will be due thirty (30) days after the invoice date. Notwithstanding any provision to the contrary, any and all payments required to be made hereunder shall be timely made, and no payments to Service Provider will be withheld, delayed, reduced or refunded if Service Provider has fully performed its material obligations and its inability to meet any schedule or delivery requirements is caused by Customer's failure to provide certain of its facilities, computer resources, software programs, project management activities, personnel, and business information as are required to perform any of Service Provider's obligations hereunder. Invoices will be sent by electronic delivery unless Customer requests otherwise; in which case, additional fees will apply.

2.3. **Purchase Orders.** Customer may provide Service Provider with a valid purchase order, upon execution of a Quote. Notwithstanding anything to the contrary herein, purchase orders are to be used solely for Customer's

accounting purposes and any terms and conditions contained therein will be deemed null and void with respect to the parties' relationship and this License Agreement. Any such purchase order provided to Service Provider will in no way relieve Customer of any obligation entered into pursuant to this License Agreement including, but not limited to, its obligation to pay Service Provider in a timely fashion.

2.4. **Late Payment.** Any late payment will be subject to any costs of collection (including reasonable legal fees) and will bear interest at the rate of one and one-half percent (1.5%) per month (prorated for partial periods) or at the maximum rate permitted by law, whichever is less.

2.5. **Invoice Dispute Resolution.** Without limiting any rights or obligations under the License Agreement, including [Section 2.4](#) above, the following steps will be taken if an invoice becomes past due. Service Provider's accounts receivable and Customer's accounts payable representatives shall use all reasonable efforts to facilitate immediate payment of the invoice. In the event Service Provider does not receive a commitment for prompt payment, each party shall escalate the matter to Service Provider's Vice President of Sales or designated financial officer and Customer's Vice President (the "**Final Escalation**") for investigation and resolution. Notwithstanding anything to the contrary, the initial contact with Customer's Vice President pursuant to such Final Escalation will constitute "notice of default" pursuant to [Section 10.2](#).

2.6. **Taxes.** All amounts required to be paid hereunder do not include any amount for taxes or levy (including interest and penalties). Customer shall reimburse Service Provider and hold Service Provider harmless for all sales, use, VAT, excise, property, or other taxes or levies which Service Provider is required to collect or remit to applicable tax authorities. This provision does not apply to Service Provider's income or franchise taxes, or any taxes for which Customer is exempt, provided Customer has furnished Service Provider with a valid tax exemption certificate.

3. DELIVERY/VERIFICATION

3.1. **Delivery.** Unless otherwise specifically provided in the Quote, Service Provider shall deliver to Customer one master copy of the licensed Software (each a "**Master Copy**") solely for the purpose of allowing Customer to make one copy of the Master Copy for Use by each Authorized User. Customer's right to reproduce the Master Copy is limited to the "**Authorized Reproduction Location**", defined as the Customer's address on the applicable Quote. Customer assumes all responsibility for the quality of the copies made by Customer. For purposes of this License Agreement, delivery will be deemed complete when Service Provider physically delivers, or causes a third party to deliver, a Master Copy to Customer, or makes the Master Copy available to Customer for downloading from Service Provider's File Transfer Protocol ("**FTP**") site and has provided Customer with the appropriate authorization to access the FTP site. Service Provider will provide Customer with a license key that is required to activate and use the Software. The license key will be provided via email or other like method at Service Provider's discretion. The license key is used to ensure that the Software operates in accordance with the license granted to the Customer in this License Agreement. As such, the Software may contain

time-out devices, counter devices, or other similar devices intended to prevent the Software from being used beyond the bounds of the license. Customer consents to such activity and agrees not to disable, attempt to disable, or tamper with the license key system or any other such license enforcement technology.

- 3.2. **Archival and Backup Copies.** Subject to the restrictions set forth herein, Customer may make a reasonable number of copies of the Master Copy solely for archival purposes and backup use in accordance with Customer's standard backup processes in emergency situations.
- 3.3. **Marking.** Customer shall not delete any copyright notices, proprietary legends, any trademark and service mark attributions, any patent markings, and other indicia of ownership and confidential markings on all copies of the Software and any other Service Provider materials provided to Customer, in the content and format contained on the Master Copy and such Service Provider materials. Customer shall pay all duplication and distribution costs incurred by Customer in making copies of the Software, and shall also pay all custom duties and fees if applicable. Subject only to the license granted herein, all copies of the Software and any other Service Provider materials provided to Customer are the property of Service Provider or its third party licensors from whom Service Provider has obtained marketing rights (the "Third Party Service Providers").
- 3.4. **Records.** Customer shall keep and maintain complete and accurate records of each copy of the Software including any and all pertinent distribution information. If the license is a Named User License, Customer shall, upon Service Provider's request, provide reports to Service Provider specifying the cumulative total of copies, and all other reasonably pertinent distribution information. All reports are to be delivered to Service Provider within thirty (30) days of such request.
- 3.5. **Verification.** During the Term (as defined below) of this License Agreement and for a period of two (2) years following any termination or expiration of this License Agreement, Customer shall maintain written records related to the Use of the Software by Customer, as reasonably necessary to verify compliance with the licensing and usage terms of this License Agreement. Such records will be kept in accordance with Customer's records retention policy and records retention schedule applicable thereto. Not more than once annually, and with notice of not less than 20 business days, Service Provider may engage a third-party, which will be subject to a confidentiality obligation, to verify compliance ("Verification"). Verification will take place during normal business hours and in a manner that does not interfere unreasonably with Customer's operations. At Service Provider's option, Service Provider may request, and Customer hereby agrees to complete, a self-audit questionnaire relating to Customer's usage under the rights granted by Supplier to Customer in this Agreement. If Verification or self-audit reveals unlicensed use of the Software, Customer agrees to compensate Service Provider for such usage. All costs of the Verification will be borne by Service Provider, unless unlicensed usage of 5% or more is found ("Material Unlicensed Usage"). If Material Unlicensed Usage is found during Verification, Customer shall reimburse Service Provider for the actual costs associated with performance of the Verification. Service

Provider and any third-party involved in the Verification will use the information obtained in compliance review only to enforce Service Provider's rights and to determine Customer's compliance with the terms of the licenses granted in this License Agreement. By invoking the rights and procedures described in this [Section 3.5](#), Service Provider does not waive its rights to enforce other terms of this License Agreement, including, but not limited to, any intellectual property rights by other means as permitted by law.

4. FOREIGN NATIONALS AND THIRD PARTIES

- 4.1. **Foreign Nationals.** Customer acknowledges that Service Provider employs foreign nationals, and that these foreign national employees will work, on Service Provider's behalf, to perform its obligations and services hereunder.
- 4.2. **Third Parties.** Subject to the provisions of [Section 6](#), Service Provider will have the right to use third parties, including offshore entities who employ foreign nationals, as well as employees of Service Provider's Affiliates (as defined in [Section 6.1](#)) who may also be foreign nationals ("Subcontractors") in performance of Service Provider's obligations and services hereunder and, for purposes of this License Agreement any and all references to Service Provider or its employees shall be deemed to include such Subcontractors.

5. OWNERSHIP

- 5.1. **Reservation of Rights.** By signing the applicable Quote, Customer irrevocably acknowledges that, subject to the licenses granted herein, Customer has no ownership interest in the Software or Service Provider materials provided to Customer. Service Provider owns all right, title, and interest in such Software or Service Provider materials, subject to any limitations associated with intellectual property rights of third parties. Service Provider reserves all rights not specifically granted herein.
- 5.2. **Marks and Publicity.** Service Provider and Customer trademarks, trade names, service marks, and logos, whether or not registered ("Marks"), will be the sole and exclusive property of the respective owning party, whom owns all right, title and interest therein. Service Provider may: (i) use the Customer's name and/or logo within product literature, press release(s), social media, and other marketing materials; (ii) quote the Customer's statements in one or more press releases; and/or (iii) make such other use of the Customer's name and/or logo as may be agreed between the parties. Additionally, Service Provider may include Customer's name and/or logo within its list of customers for general promotional purposes. Service Provider shall comply with Customer's trademark use guidelines when they are communicated to the Service Provider in writing and Service Provider will use the Customer's Marks in a manner which is consistent with industry practice. Neither party grants to the other any title, interest or other right in any Marks except as provided in this Section.

6. CONFIDENTIALITY

- 6.1. **Definition.** All information which is defined as Confidential Information hereunder in tangible form will be marked as "Confidential" or the like or, if intangible (e.g. visually or orally disclosed), will be designated as being "Confidential"

at the time of disclosure and will be confirmed as such in writing within thirty (30) days of the initial disclosure.

“**Confidential Information**” may include all technical, product, business, financial, and other information regarding the business and software programs of either party, its customers, employees, investors, contractors, vendors and suppliers, including, but not limited to, programming techniques and methods, research and development, computer programs, documentation, marketing plans, customer identity, and business methods. Without limiting the generality of the foregoing, Confidential Information includes all information and materials disclosed orally or in any other form, regarding Service Provider’s software products or software product development, including, but not limited to, the configuration techniques, data classification techniques, user interface, applications programming interfaces, data modeling and management techniques, data structures, and other information of or relating to Service Provider’s software products or derived from testing or other use thereof. Confidential Information includes all such Confidential Information that may have been disclosed by either party to the other party, before or after the first Quote Term Start Date. Confidential Information includes information generally not publicly known, whether tangible or intangible and in whatever form or medium provided, as well as any information generated by a party that contains, reflects, or is derived from such information. For clarity, the term ‘Confidential Information’ does not include any personally identifiable information. Obligations with respect to personally identifiable information (if any) will be set forth in a separate written agreement between the parties. For the purpose of this entire Section 6, the term ‘Service Provider’ includes all its Affiliates. “**Affiliate**” under this License Agreement will mean any entity, directly or indirectly, controlled by or under common control with or controlling a party to this License Agreement.

- 6.2. **Confidentiality of Software.** The following is deemed Service Provider Confidential Information with or without marking or written confirmation: (i) the Software and other related materials furnished by Service Provider; (ii) the oral and visual information relating to the Software and provided in Service Provider’s training classes; and (iii) Service Provider’s representation methods of modeled data.
- 6.3. **Exceptions.** Without granting any right or license, the obligations of the parties hereunder shall not apply to any material or information that: (i) is or becomes a part of the public domain through no act or omission by the receiving party; (ii) is independently developed by the receiving party without use of the disclosing party’s Confidential Information; (iii) is rightfully obtained from a third party without any obligation of confidentiality to the receiving party; or (iv) is already known by the receiving party without any obligation of confidentiality prior to obtaining the Confidential Information from the disclosing party. In addition, neither party will be liable for disclosure of Confidential Information if made in response to a valid order of a court or authorized agency of government, provided that notice is promptly given to the party whose Confidential Information is to be disclosed so that such party may seek a protective order and engage in other efforts to minimize the required disclosure. The parties shall cooperate fully in

seeking such protective order and in engaging in such other efforts.

- 6.4. **Ownership of Confidential Information.** Nothing in this License Agreement will be construed to convey any title or ownership rights to the Software or other Service Provider Confidential Information or to any patent, copyright, trademark, or trade secret embodied therein, or to grant any other right, title, or ownership interest in Service Provider Confidential Information to the Customer. Nothing in this License Agreement will be construed to convey any title or ownership rights to Customer’s Confidential Information or to any patent, copyright, trademark, or trade secret embodied therein, or to grant any other right, title, or ownership interest in the Customer Confidential Information to Service Provider. Neither party shall, in whole or in part, sell, lease, license, assign, transfer, or disclose the Confidential Information to any third party and shall not copy, reproduce, or distribute the Confidential Information except as expressly permitted in this License Agreement. Each party shall take every reasonable precaution, but no less than those precautions used to protect its own Confidential Information, to prevent the theft, disclosure, and the unauthorized copying, reproduction, or distribution of the Confidential Information.
- 6.5. **Non-Disclosure.** Each party agrees at all times to use all reasonable efforts, but in any case no less than the efforts that each party uses in the protection of its own Confidential Information of like value, to protect Confidential Information belonging to the other party. Each party agrees to restrict access to the other party’s Confidential Information only to those employees, who (i) require access in the course of their assigned duties and responsibilities, and (ii) have agreed in writing to be bound by provisions no less restrictive than those set forth in this Section 6. Notwithstanding anything contained hereunder and subject to the confidentiality obligations set forth under this Section 6, all references to Service Provider or its employees under this Section 6 will be deemed to include such employees of Affiliates and Subcontractors and Service Provider will ensure that its Subcontractors abide by the applicable terms of the License Agreement.
- 6.6. **Injunctive Relief.** Each party acknowledges that any unauthorized disclosure or use of the Confidential Information would cause the other party imminent irreparable injury and that such party will be entitled to, in addition to any other remedies available at law or in equity, temporary, preliminary, and permanent injunctive relief in the event the other party does not fulfill its obligations under this Section 6.
- 6.7. **Suggestions/Improvements to Software.** Notwithstanding this Section 6, unless otherwise expressly agreed in writing, all suggestions, solutions, improvements, corrections, and other contributions provided by Customer regarding the Software or other Service Provider materials provided to Customer will be owned by Service Provider, and Customer hereby agrees to assign any such rights to Service Provider. Nothing in this License Agreement or the applicable Quote will preclude Service Provider from using in any manner or for any purpose it deems necessary, the know-how, techniques, or procedures acquired or used by Service Provider in the performance of any services hereunder.

6.8. **Return of Confidential Information.** Upon the written request of disclosing party, receiving party shall return or destroy (and certify such destruction in a signed writing) all Confidential Information of disclosing party, including all copies thereof and materials incorporating such Confidential Information, whether in physical or electronic form. Each party may retain a copy of the other party's Confidential Information solely for archival purposes. To the extent that it is impracticable to return or destroy any Confidential Information, and with respect to any copies retained for archival purposes, receiving party shall continue to maintain the Confidential Information in accordance with this License Agreement. The confidentiality obligations set forth in this License Agreement will survive the termination of this License Agreement and remain in full force and effect until such Confidential Information, through no act or omission of receiving party, ceases to be Confidential Information as defined hereunder.

7. WARRANTY

7.1. **Software Warranty.** Service Provider warrants that for a period of ninety (90) days from the applicable Quote Effective Date (the "**Warranty Period**"), the Software will materially conform to the functional specifications set forth in the Documentation (the "**Specifications**"). Should the Software fail to materially conform to such Specifications during the Warranty Period, Customer shall promptly notify Service Provider in writing on or before the last day of the Warranty Period and identify with specificity the nonconformance. To the extent that the nonconformance exists in a current, unaltered release of the Software, Service Provider shall, at its option (and cost and expense), either (i) correct the nonconformance or, (ii) replace the nonconforming Software or, (iii) if neither of the foregoing options is commercially reasonable, terminate the license for the Software. Upon such termination of the license and Customer's return of the Software pursuant to Section 10 below, Service Provider will refund to Customer, as Customer's sole remedy for such Software, all license fees paid by Customer for such Software.

7.2. **Authorized Representative.** Customer and Service Provider warrant that each has the right to enter into this License Agreement and that the License Agreement and all Quotes executed hereunder will be executed by an authorized representative of each entity.

7.3. **Disclaimer of Warranties.** EXCEPT AS EXPRESSLY SET FORTH HEREIN AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SOFTWARE, DOCUMENTATION, CONFIDENTIAL INFORMATION AND ANY OTHER TECHNOLOGY OR MATERIALS PROVIDED BY SERVICE PROVIDER TO CUSTOMER ARE PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND. EXCEPT AS OTHERWISE STATED IN THIS LICENSE AGREEMENT, SERVICE PROVIDER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT.

7.4. **No Modifications.** Notwithstanding anything to the contrary in this Section 7, any and all warranties under this License Agreement are void if Customer has made changes to the Software or has permitted any changes to

be made other than by or with the express, written approval of Service Provider.

8. INFRINGEMENT

8.1. **Indemnity.** Service Provider will defend at its expense any cause of action brought against Customer, to the extent that such cause of action is based on a claim that the Software, as delivered by Service Provider to Customer, infringes a United States patent, copyright, or trade secret of a third party. Service Provider will pay those costs and damages finally awarded by a court of final jurisdiction (with no further appeals being possible) against Customer pursuant to any such claim or paid in settlement of any such claim if such settlement was approved in advance and in writing by Service Provider. Customer may retain its own counsel at Customer's own expense.

8.2. **Customer Obligations.** Service Provider will have no liability under this Section 8 unless:

8.2.1. Customer notifies Service Provider in writing immediately after Customer becomes aware of a claim or the possibility thereof; and

8.2.2. Service Provider has sole control of the settlement, compromise, negotiation, and defense of any such action; and

8.2.3. Customer cooperates, in good faith, in the defense of any such legal action.

8.3. **No Liability.** Service Provider will have no liability for any claim of infringement based on: (i) Software which has been modified by parties other than Service Provider; (ii) Customer's Use of the Software in conjunction with data where Use with such data gave rise to the infringement claim; or (iii) Customer's Use of the Software with non-Service Provider software or hardware, where Use with such other software or hardware gave rise to the infringement claim.

8.4. **Remedies.** Should the Software become, or in Service Provider's opinion is likely to become, the subject of a claim of infringement, Service Provider may, at its option: (i) obtain the right for Customer to continue using the Software; (ii) replace or modify the Software so it is no longer infringing or reduces the likelihood that it will be determined to be infringing; or (iii) if neither of the foregoing options is commercially reasonable, terminate the license for the Software. Upon such termination of the licenses and Customer's return of the Software pursuant to Section 10 below, Service Provider will refund to Customer, as Customer's sole remedy for such license termination, (i) with respect to perpetual licenses, all license fees paid by Customer for the terminated license, less an amount equal to one-thirty-sixth ($1/36^{\text{th}}$) of the license fees for each month or any portion thereof which has elapsed since the "**Term Start Date**" (as described in the Quote) of such terminated license or (ii) with respect to subscription licenses, the subscription fees paid by Customer for the terminated license for the past twelve (12) months. THIS SECTION 8 STATES THE ENTIRE LIABILITY OF SERVICE PROVIDER WITH RESPECT TO ANY CLAIM OF INFRINGEMENT REGARDING THE SOFTWARE.

9. LIMITATION OF LIABILITY

9.1. **Liability Cap.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL SERVICE

PROVIDER, SERVICE PROVIDER'S LICENSORS, AFFILIATES, OR SUBCONTRACTORS BE LIABLE UNDER ANY THEORY OF LIABILITY, WHETHER IN AN EQUITABLE, LEGAL, OR COMMON LAW ACTION ARISING HEREUNDER FOR CONTRACT, STRICT LIABILITY, INDEMNITY, TORT (INCLUDING NEGLIGENCE), ATTORNEYS FEES AND COSTS, OR OTHERWISE, FOR DAMAGES WHICH, IN THE AGGREGATE, EXCEED THE AMOUNT OF THE FEES PAID BY CUSTOMER FOR THE SOFTWARE OR SERVICES WHICH GAVE RISE TO SUCH DAMAGES DURING THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE FILING OF SUCH CLAIM.

9.2. **Disclaimer of Damages.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL SERVICE PROVIDER, SERVICE PROVIDER'S LICENSORS, AFFILIATES, OR SUBCONTRACTORS BE LIABLE UNDER ANY THEORY OF LIABILITY, WHETHER IN AN EQUITABLE, LEGAL, OR COMMON LAW ACTION ARISING HEREUNDER FOR CONTRACT, STRICT LIABILITY, INDEMNITY, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, FOR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND AND HOWEVER CAUSED INCLUDING, BUT NOT LIMITED TO, ATTORNEYS FEES AND COSTS, BUSINESS INTERRUPTION OR LOSS OF PROFITS, BUSINESS OPPORTUNITIES, OR GOODWILL ARISING HEREUNDER.

9.3. THE FOREGOING LIMITATIONS APPLY EVEN IF NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGE, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.

10. TERM AND TERMINATION

10.1. **Term.** The term of this License Agreement will continue for the license term set forth in the Quote (the "Term") unless terminated as provided herein.

10.2. **Termination by Service Provider.** This License Agreement and any license under an applicable Quote hereunder may be terminated by Service Provider: (i) if Customer fails to make any payments due hereunder within fifteen (15) days after Service Provider delivers notice of default to Customer; (ii) by giving prior written notice to Customer if Customer fails to perform any material obligation required of it hereunder, and such failure is not cured within thirty (30) days from Customer's receipt of Service Provider's notice to cure such non-performance of material obligation; or (iii) if Customer files a petition for bankruptcy or insolvency, has an involuntary petition filed against it, commences an action providing for relief under bankruptcy laws, files for the appointment of a receiver, or is adjudicated a bankrupt concern.

10.3. **Termination by Customer.** This License Agreement may be terminated by Customer by giving prior written notice to Service Provider if Service Provider fails to perform any material obligation required of it hereunder, and such failure is not cured within thirty (30) days from Service Provider's receipt of Customer's notice to cure such non-performance of material obligation. Such notice will describe, in detail, Service Provider's alleged non-performance and will describe, in detail, the steps Customer believes Service

Provider must take to remedy such alleged non-performance.

10.4. **Termination of Perpetual Licenses.** The following Section applies if Customer has purchased perpetual licenses. Upon termination of this License Agreement or any license hereunder, Customer's rights to the affected Software, Service Provider Confidential Information and other Service Provider materials (collectively "Materials") will cease. Customer shall immediately stop using such Materials and shall return such Materials to Service Provider, or destroy all copies thereof (except for the copies retained for archival purposes as described in [Section 6.8](#)). In addition, Customer shall provide Service Provider with written certification signed by an officer of Customer, that all copies of the Materials have been returned or destroyed and that no copies have been retained by Customer. Following termination, any use of the Materials by Customer will be an infringement and/or misappropriation of Service Provider's proprietary rights in the Materials. Upon termination of this License Agreement by Customer, Service Provider will have no further obligation or liability hereunder and all fees due under the License Agreement will become due and payable to Service Provider immediately upon such termination.

10.5. **Termination of Subscriptions.** The following Section applies if Customer has purchased subscription licenses. Upon expiration of the Term set forth in the Quote or upon termination of this License Agreement or any license hereunder, Customer's rights to the affected Software, Service Provider Confidential Information, and other Service Provider materials (collectively "Materials") will cease. Customer shall immediately stop using such Materials and shall return such Materials to Service Provider, or destroy all copies thereof (except for the copies retained for archival purposes as described in [Section 6.8](#)). In addition, Customer shall provide Service Provider with written certification signed by an officer of Customer, that all copies of the Materials have been returned or destroyed and that no copies have been retained by Customer. Following termination, any use of the Materials by Customer will be an infringement and/or misappropriation of Service Provider's proprietary rights in the Materials. Upon termination of this License Agreement by Customer, Service Provider will have no further obligation or liability hereunder and all fees due under the License Agreement will become due and payable to Service Provider immediately upon such termination.

10.6. **Other Remedies.** Termination of this License Agreement or any license created hereunder will not limit either party from pursuing other remedies available to it, including injunctive relief, nor will such termination relieve Customer's obligation to pay all fees that have accrued or are otherwise owed by Customer under this License Agreement including, but not limited to, any Quote.

11. CUSTOMER'S FACILITIES

To the extent required by Service Provider, Customer will, upon request, promptly make available to Service Provider certain of its facilities, computer resources, software programs, networks, personnel, and business information as are required to perform any obligation hereunder. Service Provider agrees to comply with Customer's rules and regulations regarding safety, security, and conduct,

provided Service Provider has been made aware of such rules and regulations in writing.

12. MISCELLANEOUS

12.1. **Import/Export.** The Software, its related technology and services, and Customer's Use of the Software and its related technology and services are subject to U.S. export control and sanctions laws and regulations, including, but not limited to, the Export Administration Regulations, 15 C.F.R. Parts 730-774 (the "**EAR**"), and sanctions imposed or administered by the Department of the Treasury, Office of Foreign Assets Control ("**OFAC**"), and the Department of State and may be subject to export or import regulations in other countries. Customer warrants and certifies that: (i) Customer is not a citizen, national, permanent resident of, or incorporated or organized to do business in, and is not under the control of the governments of Cuba, Iran, North Korea, Sudan or Syria, or any country to which the United States embargoes goods; (ii) Customer is eligible under U.S. law to receive exports of the Software, in that it is not included on any list of sanctioned or ineligible parties maintained by the U.S. government, including, but not limited to, OFAC's lists of Specially Designated Nationals and Blocked Persons ("**SDN List**"), U.S. Department of Commerce's Table of Denial Orders, the Entity List, or the Unverified List; (iii) Customer will not sell, export, re-export, transfer, use, or enable the use of the Software, its related technology and services, or any other items that may be provided by Service Provider, directly or indirectly: (a) to or for end-use in or by the countries listed in (i) above or any citizens, nationals or permanent residents of such countries; (b) to or for end-use by any person or entity determined by any U.S. government agency to be ineligible to receive exports, including but not limited to persons and entities designated on the lists described in (ii) above; and

(c) to or for end-uses prohibited by U.S. export or sanctions laws and regulations, including, but not limited to, activities involving the proliferation of chemical, biological or nuclear weapons, weapons of mass destruction or the missiles capable of delivering such weapons and their related technology.

12.2. **Compliance with Laws.** Both parties agree to comply with all applicable laws, regulations, and ordinances relating to such party's performance under this License Agreement.

12.3. **Assignment.** Customer may not assign this License Agreement or transfer any license created hereunder, by operation of law, change of control or otherwise ("**Assign**") without the prior written consent of Service Provider. Notwithstanding the language of this [Section 12.3](#), however, Customer may Assign this License Agreement to any person, firm or corporation which, through merger, acquisition by or of Customer or otherwise, succeeds to all or substantially all of Customer's business, provided (i) Customer provides Service Provider with thirty (30) days prior written notice; (ii) the assignee does not compete directly or indirectly with Service Provider; (iii) Customer and any assignee are current in all license fees, maintenance and support services fees, and all other fees hereunder to Service Provider; (iv) any such assignee agrees in writing to be bound by the terms and conditions of this License Agreement and applicable Quote; and (v) if Customer is the acquired party and the license is not a Named User License (a Site License, *etc.*), the licenses and

rights of Customer under this License Agreement will apply to, and may be exercised only in connection with, the operations of Customer as they exist on the date of the acquisition, and the Software and Confidential Information of Service Provider may be made available only to Customer personnel working in such operations. Any purported assignment of this License Agreement, or any license or rights in violation of this Section will be deemed void.

12.4. **Survival.** The provisions set forth in [Sections 2, 3.3, 3.4, 3.5, 5, 6, 7.4, 9, 10.4, 10.5, and 12](#) of this License Agreement will survive termination or expiration of this License Agreement and any applicable license hereunder.

12.5. **Notices.** Any notice required under this License Agreement will be given in writing and will be deemed effective upon delivery to the party addressed. All notices will be sent to the applicable address specified on the Quote or to such other address as the parties may designate in writing. Unless otherwise specified, all notices to Service Provider will be sent to the attention of the Contracts Manager. Any notice of material breach by Customer to Service Provider hereunder, will include a detailed description of any alleged breach and a description of the steps that Customer understands must be taken by Service Provider to resolve the failure. Service Provider shall have thirty (30) days from Service Provider's receipt of such notice to complete the cure.

12.6. **Technical Data.** Customer shall not provide to Service Provider any "Technical Data" as that term is defined in the International Traffic in Arms Regulations ("**ITAR**") at 22 CFR 120.10. Customer shall certify that all information provided to Service Provider has been reviewed and scrubbed so that all Technical Data and other sensitive information relevant to Customer's ITAR regulated projects has been removed and the information provided is only relevant to bug reports on Service Provider products.

12.7. **Force Majeure.** Service Provider will not be liable to Customer for any delay or failure of Service Provider to perform its obligations hereunder if such delay or failure arises from any cause or causes beyond the reasonable control of Service Provider. Such causes will include, but are not limited to, acts of God, floods, fires, loss of electricity or other utilities, or delays by Customer in providing required resources or support or performing any other requirements hereunder.

12.8. **Conflict.** In the event of a conflict between the terms and conditions of this License Agreement and a Quote, the terms and conditions of the Quote will prevail over the License Agreement.

12.9. **Restricted Rights.** Use of the Software by or for the United States Government is conditioned upon the United States Government agreeing that the Software is subject to "**Restricted Rights**" as provided under the provisions set forth in FAR 52.227-19. Customer shall be responsible for ensuring that this provision is included in all agreements with the United States Government and that the Software, when delivered to the United States Government, is correctly marked as required by applicable United States Government regulations governing such Restricted Rights as of such delivery.

12.10. **Entire Agreement.** This License Agreement together with the documents listed in the applicable Quote constitutes the entire agreement between the parties regarding the subject matter hereof and supersedes all proposals and prior discussions and writings between the parties with respect thereto. All terms respecting the subject matter of the License Agreement and contained in purchase orders, invoices, acknowledgments, shipping instructions, or other forms exchanged between the parties will be void and of no effect.

12.11. **Modifications.** The parties agree that this License Agreement cannot be altered, amended or modified, except by a writing signed by an authorized representative of each party.

12.12. **Nonsolicitation.** During the Term of this License Agreement and for a period of two (2) years thereafter, Customer agrees not to hire, solicit, nor attempt to solicit the services of any employee or Subcontractor of Service Provider without the prior written consent of Service Provider. Customer further agrees not to hire, solicit, nor attempt to solicit, the services of any former employee or Subcontractor of Service Provider for a period of one (1) year from such former employee's or Subcontractor's last date of service with Service Provider. Violation of this provision will entitle Service Provider to liquidated damages against Customer equal to two hundred percent (200%) of the solicited person's gross annual compensation.

12.13. **Headings.** Headings are for reference purposes only, have no substantive effect, and will not enter into the interpretation hereof.

12.14. **No Waiver.** No failure or delay in enforcing any right or exercising any remedy will be deemed a waiver of any right or remedy.

12.15. **Severability and Reformation.** Each provision of this License Agreement is a separately enforceable provision. If any provision of this License Agreement is determined to be or becomes unenforceable or illegal, such provision will be reformed to the minimum extent necessary in order for this License Agreement to remain in effect in accordance with its terms as modified by such reformation.

12.16. **Independent Contractor.** Service Provider is an independent contractor and nothing in this License Agreement will be deemed to make Service Provider an agent, employee, partner, or joint venturer of Customer. Neither party will have any authority to bind, commit, or otherwise obligate the other party in any manner whatsoever.

12.17. **Governing Law; Venue.** The laws of the State of Texas, USA govern the interpretation of this License Agreement, regardless of conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods (1980) and the Uniform Computer Information Transactions Act (UCITA) are hereby excluded in their entirety from application to this License Agreement. The parties agree that the federal and state courts located in Travis County,

Texas, USA will have exclusive jurisdiction for any dispute arising under, out of, or relating to this License Agreement. Mediation will be held in Austin, Texas, USA.

12.18. **Dispute Resolution.**

Negotiations. Where there is a dispute, controversy, or claim arising under, out of or relating to this License Agreement, the aggrieved party shall notify the other party in writing of the nature of such dispute with as much detail as possible about the alleged deficient performance of the other party. A representative from senior management of each of the parties shall meet in person or communicate by telephone within five (5) business days of the date of the written notification in order to reach an agreement about the nature of the alleged deficiency and the corrective action to be taken by the respective parties.

Mediation. Any dispute, controversy, or claim arising under, out of, or relating to this License Agreement and any subsequent amendments of this License Agreement, including its formation, validity, binding effect, interpretation, performance, breach, or termination, as well as non-contractual claims, and any claims with respect to the validity of this mediation agreement (hereinafter the "Dispute"), shall be submitted to mediation in accordance with the then-current WIPO Mediation Rules. The language to be used in the mediation will be English.

Opportunity to Cure. Notwithstanding anything contained hereunder, Customer agrees and acknowledges that no dispute resolution or litigation will be pursued by Customer for any breach of this License Agreement until and unless Service Provider has had an opportunity to cure any alleged breach. Customer agrees to provide Service Provider with a detailed description of any alleged failure and a description of the steps that Customer understands must be taken by Service Provider to resolve the failure. Service Provider shall have sixty (60) days from Service Provider's receipt of Customer's notice to complete the cure.

Injunctive Relief. The parties agree that it will not be inconsistent with their duty to mediate to seek injunctive or other interim relief from a competent court. The parties, in addition to all other available remedies, will each have the right to initiate an action in any court of competent jurisdiction in order to request injunctive or other interim relief with respect to a violation of intellectual property rights or confidentiality obligations. The choice of venue does not prevent a party from seeking injunctive or any interim relief in any appropriate jurisdiction.

12.19. **Country-Specific Terms.** The country-specific provisions described in the Country-Specific Terms Addendum (if any) replace or supplement the equivalent provisions above as noted therein where the Customer is located in one of the countries identified in the Country-Specific Terms Addendum and in any case where the law of the jurisdiction listed in the Country-Specific Terms Addendum gets applied.

The following licensing terms and conditions (the “**Addendum**”) apply to the Quote entered into by and between the Customer (as identified on the Quote) and the Service Provider (as identified on the Quote). Capitalized terms used but not defined in this document have the meanings assigned to them elsewhere in the agreement. To the extent there are any inconsistencies between the terms of this Addendum and the terms of any document this Addendum is attached to, this Addendum will prevail, except with respect to the Quote.

1. Definitions. The following terms have the meanings given to them below.

- 1.1. “**Annual Order Lines**” means the total number of order lines processed by the Software during a 12-month period. Customer may not exceed the licensed number of Annual Order Lines during any 12-month period unless Customer acquires additional Annual Order Line licenses from the Service Provider.
- 1.2. “**Business Module**” means the configuration for the data, user interface, reports, and business logic elements used in the Software in question as deployed by Customer. Each deployment of Software with a separately configured business module requires a separate license, but Customer may deploy validly licensed Software without limitation as to number of services deployed. For greater certainty, the term “business module” refers to the above technical configuration issue and does not imply a reference to or limitations on use of the Software in any of the business lines conducted by Customer.
- 1.3. “**Concurrent User**” means the maximum number of Users which may access the Software or Third Party Software at any one time. Each simultaneous “log on” from a separate CPU shall be deemed a Concurrent User. Concurrent User licenses are assigned temporarily to a user for the duration of their active session. Once that individual ends the active session, the license may be used by another individual and the previous user is no longer licensed to access the Software. Notwithstanding the above and for clarity, the number of Concurrent Users accessing both the Production or Non-Production copy and any test copies of the Software may not exceed the total number of Concurrent Users licensed. Use of software or hardware that reduces the number of devices directly accessing or utilizing the Software on a particular server (sometimes called “multiplexing” or “pooling” software or hardware) does not reduce the number of user licenses required for the Software. A user license is required for each distinct input to the multiplexing or pooling software or the hardware “front end.”
- 1.4. “**Content Only**” means a license to access content that the Service Provider shall provide to the Customer via a web feed for the countries or regions and at the frequency stated in the Quote. For clarity, a Content Only license does not give the Customer the right to use or access the Software.
- 1.5. “**Core**” means a processor of a computer processing unit as allocated by Customer and is made up of an independent processor combined onto a single integrated circuit or silicon chip, in both virtualized and/or non-virtualized environment, and regardless of whether used in a Production, Production Backup, or Non-Production environment. If run in a virtualized environment, then one logical processor will be counted as one Core. Logical processor counting must count to peak virtual processor count provisioned at any time during license period.
- 1.6. “**Certified Platform**” means the combination of a computer hardware version, operating system version, communications system version, windowing management system version and database system version on which the Software operates and for which the product will provide support services as set forth herein.
- 1.7. “**CPU**” means any single processing unit of any model, size, power or level, including, but not limited to, a personal computer, laptop or portable computer, virtual machine, server, central processing unit or attached processor or multi-processor complex, irrespective of the number of processors, using one or more operating systems, including its associated peripheral units.
- 1.8. “**Disaster Recovery**” means a license to the Software acquired and deployed for internal purposes to be used as part of a Customer business contingency plan when essential systems are not available for a period long enough to have a significant impact on the business.
- 1.9. “**Incented Personnel**” means 1) Customer’s sales representatives and staff who are located in the United States and are paid by Customer, in whole or in part, on a commission or similar incentive basis, including their managers and other supervisory personnel, and 2) Customer’s employees, contingent workers, and permitted contractors who have a business need to use the Software (as defined below) for administration, implementation, and internal support purposes.
- 1.10. “**Instance**” means a single installation of the Software running on an operating system. For clarity, if the Software has been loaded into memory multiple times, then the number of Software licenses required in such circumstances will directly correspond to the number of times the Software has been loaded.
- 1.11. “**Java Virtual Machine**” means a Java operating program that sits on top of a computer’s operating system and runs a single copy of the Software. For clarity, if the Software has been loaded into the Java Virtual Machine multiple times, then the number of Software licenses required in such circumstances will directly correspond to the number of times the Software has been loaded.

- 1.12. **“Managed Device”** means any single physical hardware device licensed to access the Software from the Customer’s premises including, but not limited to a gateway device, LAN-side end device, a router, a set-top box or a VoIP device.
 - 1.13. **“Named User”** means a person authorized on behalf of the Customer to access and use the Software. The Customer must be able to identify and count each Named User. A Named User does not need to be registered to use the Software in order to be counted as such. A license may be transferred from one Named User to another provided that the original Named User no longer uses or is no longer permitted to access the Software.
 - 1.14. **“Non-Production”** means a Software license acquired and deployed for internal purposes to be used in the following environments: development, system testing, integration testing, user acceptance testing, performance testing, staging, quality assurance, or pre- and post-production. If Customer obtained a Non-Production Software license, then such licenses may never be used in a Production (as defined below) environment.
 - 1.15. **“Production”** means a Software license acquired and deployed for internal purposes to be used in a live usage environment for operational business and/or revenue generating purposes.
 - 1.16. **“Production Backup”** means a Software license acquired and deployed for internal purposes to be used in a manner that makes it ready and available to be moved into Production at any time and includes: Disaster Recovery, Continuous Availability Architecture® (“CAA”), high-availability, and hot-standby, warm-standby, or cold-standby.
 - 1.17. **“Server Seats”** means the number of authorized servers on which the Software may be installed and used.
 - 1.18. **“Site”** means, as applicable, either (i) a single sub-entity created with a domain name customization, or (ii) the physical location and the hardware/operating system environment on which the Software may be installed and used as stated in the Quote.
 - 1.19. **“Software”** means the application(s) listed in the Quote.
 - 1.20. **“Transaction”** means the number of the types of transactions listed in the Quote that Customer may complete during the term specified therein. In the event Customer exceeds the allotted transaction volume at any time during the term, the Service Provider will invoice Customer at an agreed rate for each additional transaction over the allotted amount.
 - 1.21. **“User”** means a single individual authorized to use the Software in any role including administrators, developers, and end-user operators.
2. **License Models.** Unless otherwise stated in the Quote, the license models for the Software are as follows (each a “License Unit”):
- 2.1. if the Software is **Aurea® Actional®, Aurea® DataXtend® Semantic Integrator™, Aurea® Savvion®, Aurea® Sonic®, or Aurea® Sonic® Remote Add-On**, then the Software is licensed on a (a) per Core, (b) per Instance, or (c) per Java Virtual Machine basis, where the total number of Cores, Instances, or Java Virtual Machines cannot exceed the number of licenses purchased by the Customer;
 - 2.2. if the Software is **Aurea® Actional® Interceptor SDK**, then the Software is licensed on an unlimited basis and Customer may develop, deploy, and utilize the Software in and across all of its systems and infrastructure. NOTWITHSTANDING ANYTHING TO THE CONTRARY, AUREA ACTIONAL INTERCEPTOR SDK IS PROVIDED “AS IS” WITHOUT WARRANTY OF ANY KIND. SERVICE PROVIDER MAKES NO WARRANTIES WITH RESPECT TO AUREA ACTIONAL INTERCEPTOR SDK, EXPRESS, IMPLIED, OR ARISING BY CUSTOM OR TRADE USAGE, AND SPECIFICALLY MAKES NO WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE OR NONINFRINGEMENT;
 - 2.3. if the Software is **Distribution Channel Management™ (“DCM”)**, then the Software is licensed on a per Incented Personnel basis for those whose information will be processed using DCM and who will have access to and use DCM web-based applications. Customer may install the Software on as many servers as Customer deems is reasonably necessary to effectively process Customer’s data for the number of Incented Personnel licensed hereunder;
 - 2.4. if the Software is **Insurance Process Management**, then the Software is licensed as stated in the Quote;
 - 2.5. if the Software is **Aurea® Collaborative Enterprise**, then the Software is licensed on a per Named User basis, where the total number of Named Users cannot exceed the number of licenses purchased by the Customer. Notwithstanding anything to the contrary, with respect to **Aurea® Collaborative Enterprise**, Service Provider adheres to the I.A.P.P (Agence pour la Protection des Programmes) with whom Service Provider regularly deposits the source code of its Software and its various updates. The Customer may have access to the source code of the Software under the Perpetual License Agreement or the Subscription Agreement only in the case of a final bankruptcy judgement of Service Provider;
 - 2.6. if the Software is **Aurea® CRM, update.seven, update.CRM, or CRM.pad**, then the Software is licensed on a per User basis; where the total number of Users cannot exceed the number of licenses purchased by the Customer;
 - 2.7. if the Software is **NextDocs Compliance Platform, NextDocs SOP/Training Module, NextDocs eTMF Module, NextDocs Trial Exchange Module, NextDocs Regulatory Module, NextDocs SOP Module, NextDocs Audit Module, NextDocs CAPA Module, NextDocs Deviations/Non-Conformance Module, or NextDocs Complaints Module** then the Software is licensed on a (a) per Server Seats, or (b) per User basis, where the total number of Server Seats or Users cannot exceed the number of licenses purchased by the Customer. Users have either (a) full author/administrator access or (b) read-only access;

- 2.8. if the Software is **Aurea® CX Monitor, Aurea® CX Process, Aurea® CX Messenger, Aurea® CX Messenger Remote Add-On**, then the Software is licensed on a (a) per Core, (b) per Instance, or (c) per Java Virtual Machine basis, where the total number of Cores, Instances, or Java Virtual Machines cannot exceed the number of licenses purchased by the Customer;
- 2.9. if the Software is **Aurea® CX Studio** then the Software is licensed as stated in the Quote;
- 2.10. if the Software is **Aurea® CX Process Communications Order Management Template**, then the Software is licensed on a (a) per Core, (b) per Instance, or (c) per Java Virtual Machine basis, where the total number of Cores, Instances, or Java Virtual Machines cannot exceed the number of licenses purchased by the Customer;
- 2.11. if the Software is **Acorn Performance Analyzer** or **Acorn Shared Services Manager**, then the Software is licensed on a CPU basis where the total number of CPUs cannot exceed the number of licenses purchased by the Customer;
- 2.12. if the Software is **ObjectStore®**, then the Software is licensed on a (a) per CPU, or (b) per Named User, basis, where the total number of CPUs or Named Users, cannot exceed the number of licenses purchased by the Customer.
- 2.13. if the Software is **Corizon** or **RavenFlow**, then the Software is licensed on a Named User basis, where the total number of Named Users cannot exceed the number of licenses purchased by the Customer;
- 2.14. if the Software is **Ignite Content Delivery System**, then the Software is licensed on a per device basis; where the total number of devices cannot exceed the number of licenses purchased by the Customer;
- 2.15. if the Software is **Versata® BRMS**, then the Software is licensed on a (a) per Server Seats, or (b) per User basis, where the total number of Server Seats or Users cannot exceed the number of licenses purchased by the Customer;
- 2.16. if the Software is **NuView Core HRMS, NuView Talent Management, and NuView CORT Payroll** then Software is licensed on a per User basis; where the total number of Users cannot exceed the number of licenses purchased by the Customer. Users have either (a) full author/administrator access or (b) read-only access;
- 2.17. if the Software is **Gensym® G2™**, then Software is licensed on a (a) per Named User, or (b) per Site basis, where the total number of Named Users or Sites cannot exceed the licenses purchased by the Customer;
- 2.18. if the Software is **StillSecure®** or **Still Access®** then the Software is licensed on a (a) per CPU, or (b) per Site basis, where the total number of CPUs or Sites cannot exceed the licenses purchased by the Customer; and
- 2.19. if the Software is **TenFold**, then the Software is licensed on a per Certified Platform basis where the total number of Certified Platforms cannot exceed the licenses purchased by the Customer.
- 2.20. if the Software is **Computron** and the Software is licensed on a (a) per Concurrent User, (b), per Named User or (c) per Server Seat basis then the total number of Concurrent Users, Named Users or Server Seats cannot exceed the licenses purchased by the Customer;
- 2.21. if the Software is **Computron** and the Software is licensed on a (a) Business Module basis then the Software is licensed as stated in the Quote;
- 2.22. if the Software is **CoreTrac** and the Software is licensed on a (a) Business Module basis then the Software is licensed as stated in the Quote;
- 2.23. if the Software is **GoMembers** and the Software is licensed on a (a) per Concurrent User or (b) per Named User basis then the total number of Concurrent Users or Named Users cannot exceed the licenses purchased by the Customer;
- 2.24. if the Software is **GoMembers** and the Software is licensed on a (a) Business Module basis then the Software is licensed as stated in the Quote;
- 2.25. if the Software is **IMI** and the Software is licensed on a (a) per Annual Order Line or (b) per Concurrent User basis then the total number of Annual Order Lines or Concurrent Users cannot exceed the licenses purchased by the Customer;
- 2.26. if the Software is **IMI** and the Software is licensed on a (a) Business Module basis then the Software is licensed as stated in the Quote;
- 2.27. if the Software is **Knova**, then the Software is licensed on a (a) per Core or (b) per Named User basis where the total number of Cores or Named Users cannot exceed the licenses purchased by the Customer;
- 2.28. if the Software is **MarketFirst** and the Software is licensed on a (a) per Server Seat or (b) per Named User basis then the total number of Server Seats or Named Users cannot exceed the licenses purchased by the Customer;
- 2.29. if the Software is **Onyx** and the Software is licensed on a (a) per Named User or (b) per Concurrent User basis then the total number of Named Users or Concurrent Users cannot exceed the licenses purchased by the Customer;
- 2.30. if the Software is **Pivotal** and the Software is licensed on a (a) per Server Seat or (b) per Named User basis then the total number of Server Seats or Named Users cannot exceed the licenses purchased by the Customer;
- 2.31. if the Software is **Saratoga** and the Software is licensed on a (a) per Server Seat, (b) per Named User or (c) per Concurrent User basis then the total number of Server Seats, Named Users or Concurrent Users cannot exceed the licenses purchased by the Customer;

- 2.32. if the Software is **Service Gateway** and the Software is licensed on a (a) per Managed Device basis then the total number of Managed Devices cannot exceed the licenses purchased by the Customer;
- 2.33. if the Software is **SupportSoft** and the Software is licensed on a (a) per Named User or (b) per CPU basis then the total number of Named Users or CPUs cannot exceed the licenses purchased by the Customer;
- 2.34. if the Software is **Verdiem** and the Software is licensed on a (a) per CPU basis then the total number of CPUs cannot exceed the licenses purchased by the Customer;
- 2.35. if the Software is **Skyvera Social** or **Skyvera Smart Routines** then the Software is licensed on a per User basis, where the total number of Users cannot exceed the licenses purchased by the Customer. In addition to the reporting obligations under the agreement, once per year, at least ninety (90) days prior to the expiration of the annual term, the Customer shall deliver to Service Provider the 'Active User Report' output generated by the Software as screenshot, that reflects Customer's then-current level of use of the Software;
- 2.36. if the Software is **Bonzai Intranet**, then the Software is licensed on a per User basis, where the total number of Users cannot exceed the licenses purchased by the Customer.
- 3. License Environment.** Unless otherwise stated in the Quote, the Software is licensed according to the following environments:
- 3.1. **Production and Production Backup.** The sum of License Units for Production and Production Backup must not exceed the maximum number of License Units set forth in the Quote.
- 3.2. **Non-Production.** If Customer ordered or obtained the Software for Non-Production use, then the Software is subject to the additional restriction that it may not be deployed for Production or Production Backup Use. The number of License Units for Non-Production is unlimited provided that: (i) Licensee has purchased the Software on a subscription license basis, or (ii) Licensee has purchased Production and Production Backup Software licenses and such licenses are not terminated pursuant to the Perpetual License Agreement or the Subscription Agreement.
- 3.3. If no license environment is stated in the Quote then the Software is licensed for Production and Production Backup.
- 4. Additional License Types.** If stated in the Quote, the Software may be provided to the Customer for any of the following purposes:
- 4.1. if the Software is provided for evaluation purposes ("**Evaluation Software**"), then the Software may be used by Customer solely for evaluation of the Software applications, and not in conjunction with the development or deployment of such Software applications. Evaluation includes the use of the Software in performance benchmarking. Service Provider updates the Software regularly and benchmarking data for the Software is subject to change. Benchmark tests on prior versions of the Software may yield results that are not reflective of the performance of the current version of the Software. CUSTOMER UNDERSTANDS AND ACKNOWLEDGES THAT THE EVALUATION SOFTWARE CONTAINS A DISABLING DEVICE THAT WILL AUTOMATICALLY DISABLE THE EVALUATION SOFTWARE THIRTY (30) CALENDAR DAYS FROM INSTALLATION OR AS OTHERWISE AGREED IN WRITING BY THE PARTIES. NOTWITHSTANDING ANYTHING TO THE CONTRARY, EVALUATION SOFTWARE IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. SERVICE PROVIDER MAKES NO WARRANTIES WITH RESPECT TO THE EVALUATION SOFTWARE, EXPRESS, IMPLIED, OR ARISING BY CUSTOM OR TRADE USAGE, AND SPECIFICALLY MAKES NO WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE OR NONINFRINGEMENT;
- 4.2. if **digital certificates** are included with the Software, the certificates are intended as samples only, and are prohibited for use in development, deployment, or Production;
- 4.3. If the Software is provided for development purposes ("**Developer License**") then Customer's access and use of the Software is limited to internal application development and support purposes only. If the license is for components of the Software only, then such right is limited to such components. A Developer License may not be transferred; or
- 4.4. If the Software is provided for testing and staging purposes ("**Testing and Staging License**") then the Customer has the right to use the Software for internal quality assurance testing purposes only and Customer may not deploy the Software in a Production environment. A Testing and Staging License may not be transferred.
- 5. Third-Party Components.** The Software may contain or be accompanied by certain third-party components created and separately licensed to Customer by third parties. CONSEQUENTLY, SERVICE PROVIDER'S PROVISION OF THIRD-PARTY COMPONENTS TO CUSTOMER IS ON "AS IS" BASIS WITHOUT WARRANTY FROM SERVICE PROVIDER OF ANY KIND. SERVICE PROVIDER DISCLAIMS ALL WARRANTIES AND INDEMNITIES WITH RESPECT TO THE THIRD-PARTY COMPONENTS, EXPRESS OR IMPLIED, AND ASSUMES NO LIABILITY WITH RESPECT TO THE THIRD-PARTY COMPONENTS. These components, if any, may be identified in, and subject to, special license terms and conditions set forth in the "notices.txt" file accompanying the Software ("**Special Notices**"). The Special Notices include important licensing and warranty information and disclaimers. In the event of a conflict between the Special Notices and the other portions of the Perpetual License Agreement or the Subscription Agreement, the Special Notices will take precedence, but solely with respect to the third-party component(s) to which the Special Notice relates.
- 6. Patent Notices.** Customer is hereby placed on notice that the Software, Software updates, their related technology and services may be covered by one or more United States ("**US**") and non-US patents. A listing that associates patented and

patent-pending products included in the Software, Software updates, their related technology and services with one or more patent numbers available for Customer's and the general public's access at: www.aurea.com/legal/ or www.ignitetech.com/legal (hereinafter, the "**Patent Notice**") and any successor or related locations designated by Service Provider. The association of products-to-patent numbers in the Patent Notice may not be an exclusive listing of associations, and other unlisted patents or pending patents may also be associated with the Software. Likewise, the patents or pending patents may also be associated with unlisted products. Customer agrees to regularly review the products-to-patent number(s) association at the Patent Notice to check for updates.

7. Qlik Products Additional Terms. The following terms and conditions apply to the Qlik Products (defined below).

7.1. Definitions. The following terms have the meanings given to them below.

7.1.1. "**Advanced User**" is a User that is permitted to author sheets, objects, reports and charts based on the pre-existing dataset provided by Service Provider based on the Software.

7.1.2. "**User**" means an employee of the Customer.

7.1.3. "**Viewer User**" is a User that is limited to viewing the data and other information as displayed via the Software, but not to (a) create any application, sheet, report or visualizations, and (b) update or share any data, in any Software.

7.2. Qlik Products License Models. Unless otherwise stated in the Quote, the license models for the Software are as follows:

7.2.1. If the Software is **Aurea® Platform Analytics Powered by Qlik®** the Software is licensed on a (a) per Advanced User or (b) per Viewer User basis, where the total number of Advanced Users or Viewer Users cannot exceed the number of licenses purchased by the Customer.

7.3. Qlik Products Terms.

7.3.1. Customer acknowledges that the Software contains or incorporates proprietary software owned by QlikTech Inc. and its affiliates ("**Qlik Products**"). Customer is expressly prohibited from using the Qlik Products in any way other than integrated with the data structures of the Software. Customer has no license or any other right to the Qlik Products, and may under no circumstances whatsoever use the Qlik Products independently or separated from the Software. Qlik and its affiliates are third party beneficiaries of this Addendum and may enforce the applicable terms and conditions of this Addendum.

7.3.2. Customer may only use the Qlik Products for its own internal purposes in accordance with the terms of this Addendum. Customer shall not, directly or indirectly: (a) sell, rent, sublicense, publish, display, loan, distribute or lease the Qlik Products; (b) transfer to any other person or entity any of its rights to use the Qlik Products except as expressly permitted hereunder; (c) reverse engineer, decompile, disassemble, modify, translate, make any attempt to discover the source code of the Qlik Products or underlying ideas or algorithms of the Qlik Products or any Software contained therein, or create derivative works from the Qlik Products unless explicitly permitted by applicable and mandatory law; (d) remove, delete or modify any copyright notices or any other proprietary notices or legends on, in or from the Qlik Products; or (e) use the Qlik Products in any manner not authorized by this Addendum.

7.3.3. Qlik and its affiliates, or their respective suppliers or licensors where applicable, own and retain all right, title and interest in and to the Qlik Products, and their respective patents, trademarks (registered or unregistered), trade names, service marks, logos, designs, copyrights, trade secrets and confidential information. Customer does not acquire any right, title or interest in or to the Qlik Products or any intellectual property rights contained therein.

7.3.4. Customer agrees to (a) comply with all applicable local, state, national and foreign laws and regulations in connection with Customer's use of the Qlik Products, including those related to data privacy, copyright, export control and the transmission of technical or personal data; and (b) use reasonable security precautions for providing access to the Qlik Products by its employees or other individuals to whom Customer provides access and to prevent unauthorized access to use of the Qlik Products. Customer is fully responsible for all data it introduces into the Qlik Products, including but not limited to adequate protection and backup, and none of Service Provider, Qlik or their respective affiliates shall have any obligation or liability with respect thereto.

7.3.5. Individual software components, each of which has its own copyright and its own applicable license conditions ("**Third Party Software**") may be distributed, embedded, or bundled with the Qlik Products. Such Third Party Software is separately licensed by its copyright holder. No representations, warranties or other commitments of any kind are made regarding such Third Party Software.

7.3.6. This Addendum, and Customer's rights to access/use the Qlik Products, shall be immediately terminated upon Customer's breach of any of the terms of this Addendum.

7.3.7. Service Provider grants the Customer a non-exclusive, non-transferable, revocable and non-assignable license to use each Qlik Product only in accordance with the terms of this Addendum. For clarity, the terms of the Perpetual License Agreement or Subscription Agreement, as modified by this Addendum will govern the use of the Qlik Products.

7.3.8. The Customer shall ensure that (a) any copy of the Qlik Product is produced only in accordance with the terms of the Addendum and for the Customer's own benefit, (b) any such copy is clearly marked subject to copyright and

confidentiality restrictions, and (c) a written list is maintained of the number of copies and place of storage. The Customer shall discontinue use and destroy or return all copies of the Qlik Products upon termination of the Addendum. Further, the Service Provider shall reserve the right to conduct audits at the Customer's premises to ascertain whether the Customer's use of the Qlik Products complies with the provisions of this Addendum.

- 7.3.9. If Customer engages a third party hosting provider to host the Software on Customer's behalf, Customer shall be responsible for such third party hosting provider's compliance with these terms. Further, such third party hosting provider shall be restricted to hosting the Software only on Customer's behalf and may not use the Software for any other purpose.

Maintenance and Support Addendum

The following maintenance and support terms and conditions (this “**Addendum**”) apply to the Quote entered into by and between the Customer (as identified on the Quote) and the Service Provider (as identified on the Quote). This document sets forth the terms and conditions by which Service Provider will provide maintenance and support services to Customer. To the extent there are any inconsistencies between the terms of this Addendum and the terms of any document this Addendum is attached to, this Addendum will prevail, except with respect to the Quote.

1. DEFINITIONS

- 1.1. “**Basic/Standard Support**” means the basic/standard support level of Maintenance and Support as set out in Section 3.
- 1.2. “**Gold Support**” means the gold support level of Maintenance and Support as set out in Section 4.
- 1.3. “**Issue**” means a failure of the Software to substantially conform to the functional specifications set forth in the Documentation (as defined in the “**License Agreement**” entered into between Customer and Service Provider).
- 1.4. “**Maintenance and Support**” means the maintenance and support services to be provided by the Service Provider to the Customer in accordance with this Addendum.
- 1.5. “**Major Release**” means, unless otherwise specified by Service Provider for a particular product, a release in which the version number to the left of the first decimal point increases (e.g., 2.1 to 3.1).
- 1.6. “**Minor Release**” means, unless otherwise specified by Service Provider for a particular product, a release of the Software in which the version number to the right of the first decimal point increases (e.g., 2.1 to 2.2).
- 1.7. “**Platinum Program/Support**” means the platinum program/support level of Maintenance and Support as set out in Section 5.
- 1.8. “**Software**” means the certain software program(s) identified in the Quote.
- 1.9. “**Support Level**” means the specific level of Maintenance and Support (Basic/Standard Support, Gold Support (if available), or Platinum Program/Support) that has been selected by the Customer on the Quote.
- 1.10. “**Term**” has the same meaning as defined in the Quote.
- 1.11. “**Updates**” means service packs, patches, hot fixes, or workarounds for a particular version of the Software. “Updates”, includes Minor Releases but excludes any Major Releases or other releases of the Software or any other products that Service Provider, in its sole discretion, licenses separately for an additional fee. Major Releases will be provided according to the Support Level the Customer purchases from Service Provider. All Updates and Major Releases are licensed to Customer and subject to the terms and conditions of the License Agreement. If there is no such agreement, then the terms accompanying the Software will govern.
- 1.12. “**Workaround**” means a modification or “patch” for a particular version of the Software, which may be of a temporary or interim nature, used to help cure or avoid an Issue.

2. MAINTENANCE AND SUPPORT SERVICES

In consideration of the Customer’s payment of the applicable fees related to the Support Level, Service Provider agrees to provide the Support Level of Maintenance and Support selected by the Customer on the Quote, for the duration of the Term, and solely for the Software.

3. BASIC/STANDARD SUPPORT

- 3.1. **Basic/Standard Support.** Basic/Standard Support includes the program features that Service Provider makes generally available to its Basic/Standard Support customer base during the applicable Term as follows:
 - 3.1.1. **Annual Software Maintenance.** Service Provider shall use commercially reasonable efforts to maintain the Software so that it operates without Issues.
 - 3.1.2. **Updates.** Service Provider shall supply Customer with Updates for the Software that are released to the general customer base during the Term. Such Updates will be provided to Customer at no additional charge, other than any applicable shipping charges. Updates may be delivered via physical media or made available electronically, at Service Provider’s discretion.
 - 3.1.3. **“Support” Defined.** The term “**Support**” consists of assistance to customers via the Internet with respect to use of the Software and to resolve Issues. Support cases are tracked and managed through access to the Customer support portal. Support will be available during Service Provider’s business hours, Monday through Friday, excluding local holidays.
 - 3.1.4. **Submission of Issues for Resolution.** Customer shall submit to Service Provider via the Customer support portal and provide all relevant data requested, including, but not limited to: (a) Customer contact information; (b) Software

version; and (c) a complete description of the Issue and Customer software environment. Customer shall also provide access to the Customer software environment so the Issue may be replicated.

3.1.5. **Problem Definition.** Customer shall provide to Service Provider: (a) error messages and indications that Customer received when the Issue occurred; (b) description of what the user was doing when the Issue occurred; (c) steps Customer has taken to reproduce the Issue; (d) steps Customer took to solve the Issue; and (e) any relevant log files.

3.2. **Severity Classification and Response Time Goals.** Issues are classified according to severity of impact on the use of the Software, according to the chart below. All disputes regarding severity classification will be resolved by Service Provider in its sole discretion.

Basic/Standard Support Response Time Goals

Severity	Impact	Response Time Goal
1	Production system is down, impacting all applications and associated business systems. No Workaround exists.	4 business hours (by phone or via the Customer Support Portal)
2	Production system performance is degraded, but operational; Issue affects essential functions and no Workaround exists; or Issue is blocking critical systems tests or deliverables.	1 business day
3	General product questions relating to development, feature issues, or Documentation.	2 business days

4. GOLD SUPPORT

4.1. **Gold Support.** Gold Support includes the features that Service Provider makes generally available to its Gold Support customer base during the applicable term.

4.2. **Electing Gold Support.** Basic/Standard Support Customers may upgrade to Gold Support (if Gold Support is offered by Service Provider to its customer base) at any time provided that Customer pays additional fees indicated on the applicable Quote. Such fees may be prorated if the upgrade is made any time during then-current Term. However, Customer may only downgrade from Gold Support to Basic/Standard Support at the time of renewal. To downgrade from Gold Support to Basic/Standard Support, Customer must provide written notice to Service Provider at least sixty (60) days prior to the expiration of the then-current Term. Upon such downgrade, Customer shall pay Service Provider's then-current fees for Basic/Standard Support.

4.3. **Severity Classification and Response Time Goals.** Issues are classified according to severity of impact on the use of the Software, according to the chart below. All disputes regarding severity classification will be resolved by Service Provider in its sole discretion.

Gold Support Response Time Goals

Severity	Impact	Response Time Goal
1	Production system is down, impacting all applications and associated business systems. No Workaround exists.	4 business hours (by phone or via the Customer Support Portal)
2	Production system performance is degraded, but operational; Issue affects essential functions and no Workaround exists; or Issue is blocking critical systems tests or deliverables.	1 business day
3	General product questions relating to development, feature issues, or Documentation.	2 business days

5. PLATINUM PROGRAM/SUPPORT

- 5.1. **Platinum Program/Support.** Platinum Program/Support includes the features that Service Provider makes generally available to its Platinum Program/Support customer base during the applicable term.
- 5.2. **Electing Platinum Program/Support.** Customer may upgrade to the Platinum Program/Support at any time provided that Customer pays additional associated fees indicated on the applicable Quote. Such fees may be prorated if the upgrade is made any time during the then-current Term. However, Customer may only downgrade from Platinum Program/Support to Gold Support (if available) or Basic/Standard Support at the time of renewal. To downgrade from the Platinum Program/Support to Gold Support (if available) or Basic/Standard Support, Customer must provide written notice to Service Provider at least sixty (60) days prior to the expiration of the then-current Term. Such notice must specify whether the downgrade is to Gold Support (if available) or Basic/Standard Support and Customer shall pay Service Provider's then-current fees for that level of Support.
- 5.3. **Severity Classification and Response Time Goals.** Issues are classified according to severity of impact on the use of the Application, according to the chart below. All disputes regarding severity classification will be resolved by Service Provider in its sole discretion.

Platinum Program/Support Response Time Goals

Severity	Impact	Response Time Goal
1	Production system is down, impacting all applications and associated business systems. No Workaround exists.	immediate (by phone or voicemail) 1 hour (via the Customer Support Portal)
2	Production system performance is degraded, but operational; Issue affects essential functions and no Workaround exists; or Issue is blocking critical systems tests or deliverables.	4 hours
3	General product questions relating to development, feature issues, or documentation.	next business day

6. ADDITIONAL PROFESSIONAL SERVICES

- 6.1. **Scope.** Customer may purchase supplemental professional services for an additional fee. Fees related to such services will be described in a statement of work signed by both parties. If no fee is stated, then services will be provided at Service Provider's standard rate for equivalent services in effect at the time the statement of work is executed. For clarity, if any services are explicitly included in the Support Level selected by Customer, then such services do not require payment of an additional fee.
 - 6.1.1. **On-Site Services.** Customer may purchase on-site support services.
 - 6.1.2. **Training.** Customer may purchase training services with respect to the Software.
 - 6.1.3. **Consulting.** Customer may purchase consulting services related to defects caused by issues other than the Software.
- 6.2. **Out of Pocket Expenses.** Customer shall pay all reasonable out-of-pocket expenses incurred by Service Provider, including costs for meals, lodging, and travel related to these additional services.

7. OBLIGATIONS OF CUSTOMER

- 7.1. **Support Contact.** All communications relating to Maintenance and Support will be supervised, coordinated, and undertaken by no more than two (2) designated contact persons per Customer work-shift who will act as a point of contact between Customer and Service Provider. Each contact must possess or, at Customer's expense, acquire the necessary expertise and training to diagnose and resolve Issues with direction by Service Provider.
- 7.2. **Pre-Call Procedures.** Prior to requesting support from Service Provider, Customer shall comply with all published operating and troubleshooting procedures for the Software. If such efforts are unsuccessful in eliminating the Issue, Customer shall then promptly notify Service Provider of the Issue. Customer shall confirm that the following conditions are true before contacting Service Provider for support:
 - 7.2.1. **Reproduction.** If possible, the situation giving rise to the Issue is reproducible in a single supported Software;
 - 7.2.2. **Support Representative.** The Customer contact has the technical knowledge regarding the Software, any other software or hardware systems involved, and in the facts and circumstances surrounding the Issue;
 - 7.2.3. **Access.** The entire system, including all software and hardware, is available to the Customer contact without limit during any communication with Service Provider support personnel; and

- 7.2.4. **Availability.** If requested and required, Customer must make available to Service Provider a technical representative during support hours of coverage for all Issues. Service Provider reserves the right to suspend all work relating to any Issues during periods for which the Customer does not provide access to a technical representative or requested data to continue to work on the Issue.
- 7.3. **Remote Connection.** If appropriate, Customer will cooperate with Service Provider to allow and enable Service Provider to perform support services via remote connection using standard, commercially available remote control software. Customer will be solely responsible for instituting and maintaining proper security safeguards to protect Customer's systems and data.
- 7.4. **New Releases.** Customer acknowledges and agrees that Software releases provided by Service Provider pursuant to this Addendum may, in Service Provider's sole discretion, require additional training of Customer's personnel. Such training will be performed in accordance with [Section 6](#).
- 7.5. **Disclaimer.** Service Provider will not be responsible for providing Maintenance and Support, Updates, or any other maintenance and support to the extent that Issues arise because Customer: (a) misuses, improperly uses, misconfigures, alters, or damages the Software; (b) uses the Software with any hardware or software not recommended by Service Provider; (c) uses the Software at any unauthorized location; (d) fails to install an Update to the Software if such Update would have resolved the Issue; or (e) otherwise uses the Software in a manner not in accordance with the License Agreement.
- 8. LIMITATIONS ON MAINTENANCE AND SUPPORT SERVICES**
- 8.1. **Non-Compliance Problems.** If Customer notifies Service Provider of a problem and Service Provider correctly determines that the problem is due to Customer's incorrect or improper use of the Software or failure to comply with the terms of this Addendum or the License Agreement (as opposed to an Issue with the Software), the resolution of such problem is not covered by Maintenance and Support. However, Service Provider may provide consulting services to correct the problem pursuant to [Section 6](#).
- 8.2. **Release Support Period.** Service Provider will support a release of the Software if such release (i) was made generally available during the previous twenty-four (24) months; and (ii) is no more than one Major Release behind the most current release of the Software. Other versions of the Software will not be supported unless Service Provider and Customer mutually agree otherwise in writing.
- 8.3. **Third Party Products.** Maintenance and Support does not cover the operation or use of third-party hardware or software or Software modified by any party other than Service Provider or used in any manner in violation of the License Agreement or inconsistent with the Documentation.
- 8.4. **Data.** Customer is encouraged to backup data often and to always do so prior to installing any Update. Service Provider will have no responsibility for loss of or damage to Customer's data, regardless of the cause of any such loss or damage.