

## SUBSCRIPTION AND SERVICES AGREEMENT

This Subscription and Services Agreement (this "**Agreement**") is made by and between [\_\_\_\_], with an address of [\_\_\_\_] ("**Intellect**") and [\_\_\_\_] a company registered in [\_\_\_\_] under company number [\_\_\_\_] with its registered office at [\_\_\_\_] ("**Customer**").

This Agreement shall govern the provision of the Services and shall be effective between Intellect and Customer on the latest date signed below ("**Effective Date**").

### 1. DEFINITIONS.

"**Affiliate**" means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes hereof, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

"**Authorized Contractors**" means independent contractors, licensors or subcontractors.

"**Customer Applications**" means all software programs that Customer uses on the cloud platform comprising part of the Subscription Services. Subscription Services do not fall within the meaning of Customer Applications.

"**Customer Data**" means all data, records, files, images, graphics, audio, video, photographs, reports, forms and other content and material, in any format, that are submitted, stored, posted, displayed, transmitted or otherwise used with the Subscription Services.

"**Documentation**" means Intellect's product guides and other end user documentation for the Subscription Services available online and through the help feature of the Subscription Services, as may be updated by Intellect from time to time to reflect the then-current Subscription Services.

"**Order**" or "**Order Form**" means an ordering document or online order specifying the Services to be provided hereunder that is entered into between Intellect and Customer from time to time, including any addenda and supplements thereto. Customer Affiliates may purchase Services subject to this Agreement by executing Orders hereunder.

"**Professional Services**" means fee-based migration, implementation, training or consulting

services that Intellect performs as described in an Order or SOW, but excluding Support Services.

"**Services**" means the Subscription Services and Professional Services that Customer may purchase under an Order or SOW.

"**Statement of Work**" or "**SOW**" means a statement of work entered into and executed by the parties describing Professional Services to be provided by Intellect to Customer.

"**Subscription Services**" means the cloud platform made available by Intellect to Customer, the software made available by Intellect to Customer online via the applicable customer logins and/or associated Support Services, as ordered by Customer under an Order, as applicable.

"**Support Services**" means the level of support services purchased by Customer pursuant to an Order.

"**Subscription Term**" means the term of Subscription Services purchased by Customer which shall commence on the start date specified in the applicable Order and continue for the subscription term specified therein and any renewals thereto.

### 2. SUBSCRIPTION SERVICES

**2.1. Provision of Subscription Services.** Intellect will make the Subscription Services available to Customer pursuant to this Agreement, the Documentation and the relevant Order Form during the Subscription Term, solely for Customer's internal business purposes. Intellect's Affiliates and its Authorized Contractors may perform certain aspects of the Services provided that Intellect remain fully liable for the same and responsible for ensuring that any of Intellect's obligations under this Agreement performed by its Affiliates and its Authorized Contractors are carried out in accordance with this

Agreement. Customer's use of the Subscription Services includes the right to access all functionality available in the Subscription Services during the Subscription Term. So long as Intellect does not materially degrade the functionality as described in the Documentation, of the Subscription Services during the applicable Subscription Term (i) Intellect may modify the systems and environment used to provide the Subscription Services to reflect changes in technology, industry practices and patterns of system use, and (ii) update the Documentation accordingly. Subsequent updates, upgrades, enhancements to the Subscription Services made generally available to all subscribing customers will be made available to Customer at no additional charge, but the purchase of Subscription Services is not contingent on the delivery of any future functionality or features. New features, functionality or enhancements to the Subscription Services may be marketed separately by Intellect and may require the payment of additional fees. Intellect will determine, in its sole discretion, whether access to such new features, functionality or enhancements will require an additional fee.

### **3. SECURITY AND DATA PRIVACY**

**3.1. Security and Internal Controls.** Intellect shall (i) maintain a security framework of policies, procedures, and controls that includes administrative, physical, and technical safeguards for protection of the security and integrity of the Subscription Services in accordance with prevailing industry practices and standards, and appropriate and proportionate to the nature, scope, and context of the Customer Data and processing involved (ii) access and use the Customer Data solely to perform its obligations in accordance with the terms of this Agreement, and (iii) perform periodic testing by independent third party audit organizations.

**3.2. Data Privacy.** Where Customer's use of the Subscription Services includes the processing of Customer Data by Intellect that are subject to the General Data Protection Regulation (EU) 2016/679 ("GDPR"), such data processing by Intellect as data processor complies with the requirements of the aforementioned regulation. Intellect shall process personal data and personal information on behalf of and in accordance with Customer's written instructions consistent with this Agreement and as necessary to provide the Subscription Services and will reasonably cooperate with Customer in its efforts to respond to requests by data subjects to exercise

their rights under the GDPR and to otherwise comply with the GDPR.

**3.4. Compliance with Law.** Intellect will comply with all laws applicable to the provision of the Subscription Services, but not including any laws applicable to the Customer's industry that is not generally applicable to information technology services providers.

### **4. CUSTOMER OBLIGATIONS**

**4.1. Responsibilities.** Customer shall (i) access and use the Services in accordance with this Agreement, applicable laws and government regulations (ii) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify Intellect promptly of any such unauthorized access or use, and (iii) take commercially reasonable steps necessary to ensure the security and compliance of the Customer Applications.

**4.2. Customer Data.** Customer has and shall maintain all rights as are required to allow Intellect to provide the Subscription Services to Customer as set forth in this Agreement, including without limitation to send the Customer Data to Intellect pursuant to this Agreement and to allow Intellect to access, use, and store Customer Data to provide the Subscription Services pursuant to this Agreement. Customer is responsible for its legal and regulatory compliance in its use of any Subscription Services. If, in the course of providing Subscription Services, Intellect agrees in writing to process such Customer Data and Customer has subscribed to any applicable Subscription Services, Intellect shall process it only as permitted under this Agreement and in compliance with data protection legislation to which Intellect is subject as a service provider.

**4.3 Restrictions.** Customer shall not (a) license, sublicense, sell, resell, rent, lease, transfer, distribute or otherwise similarly exploit the Subscription Services; (b) use or permit others to use any security testing tools in order to probe, scan or attempt to penetrate or ascertain the security of the Subscription Services; (c) copy, create a derivative work of, reverse engineer, reverse assemble, disassemble, or decompile the Subscription Services or any part thereof or otherwise attempt to discover any source code or modify the Subscription Services; or (d) disclose any benchmark or performance tests of the Subscription Services.

## 5. PROFESSIONAL SERVICES

**5.1. Standard Professional Services.** A description of Intellect's standard Professional Services offerings, including training, and workshops, may be found in the Documentation. Standard Professional Services may be identified in an Order without the need for issuance of an SOW.

**5.2. Other Professional Services.** For any non-standard Professional Services, Intellect will provide Customer with Professional Services as set forth in the applicable SOW. Each SOW will include, at a minimum (i) a description of the Professional Services to be delivered to Customer; (ii) the scope of Professional Services; (iii) the schedule for the provision of such Professional Services; and (iv) the applicable fees and payment terms for such Professional Services, if not specified elsewhere.

**5.3. Change Orders.** Changes to an SOW or Order Form will require, and shall become effective only when, fully documented in a written change order (each a "**Change Order**") signed by duly authorized representatives of the parties prior to implementation of the changes. Such changes may include, for example, changes to the scope of work and any corresponding changes to the estimated fees and schedule. Change Orders shall be deemed part of, and subject to, this Agreement.

## 6. FEES AND PAYMENT

**6.1. Fees.** Customer shall pay all fees specified in each Order and SOW and any applicable additional fees if Customer exceeds the allotted capacity or other applicable limits specified in the Order. Except as otherwise specified herein or in an Order or SOW (i) fees are payable in the currency mentioned in the applicable SOW, (ii) fees are based on Services purchased, regardless of usage, (iii) payment obligations are non-cancelable and fees paid are non-refundable, (iv) all Services shall be deemed accepted upon delivery, and (v) the Subscription Services purchased cannot be decreased during the relevant Subscription Term. Customer shall reimburse Intellect for reasonable out-of-pocket expenses incurred by Intellect in connection with its performance of Services. All amounts payable under this Agreement will be made without setoff or counterclaim, and without any deduction or withholding.

**6.2. Invoicing and Payment.** Unless otherwise specified in an Order, fees for Subscription Services

specified in an Order will be invoiced annually in advance, fees for overages will be calculated and invoiced monthly in arrears, and, unless otherwise set forth in an SOW, all fees and expenses for standard Professional Services as described in Section 5.1 shall be invoiced upon completion, and all fees and expenses for non-standard Professional Services as described in 5.2 will be invoiced monthly in arrears on a time and materials basis. Except as otherwise stated in the applicable Order or SOW, Customer agrees to pay all invoiced amounts within thirty (30) days of invoice date. If Customer fails to pay any amounts due under this Agreement by the due date, in addition to any other rights or remedies it may have under this Agreement or by matter of law (i) Intellect reserves the right to suspend the Subscription Services upon thirty (30) days' notice, until such amounts are paid in full, and (ii) Intellect will have the right to charge interest at a rate equal to the lesser of one and one-half percent (1.5%) per month or the maximum rate permitted by applicable law until Customer pays all amounts due; provided that Intellect will not exercise its right to charge interest if the applicable charges are under reasonable and good faith dispute and Customer is cooperating diligently to resolve the issue.

**6.3. Taxes.** Fees for Services exclude all sales, value added and other taxes and duties imposed with respect to the sale, delivery, or use of any product or Services covered hereby. Unless Customer provides a valid, signed certificate or letter of exemption for each respective jurisdiction of its tax-exempt status, Customer is responsible for payment of all taxes, levies, duties, assessments, including but not limited to value-added, sales, use or withholding taxes, assessed or collected by any governmental body (collectively, "**Taxes**") arising from Intellect's provision of the Services hereunder, except any taxes assessed on Intellect's net income. If Intellect is required to directly pay or collect Taxes related to Customer's use or receipt of the Services hereunder.

## 7. PROPRIETARY RIGHTS

**7.1. Subscription Services.** Except for the rights expressly granted under this Agreement, Intellect and its licensors retain all right, title and interest in and to the Subscription Services and Documentation, including all related intellectual property rights therein. Intellect reserves all rights in and to the Subscription Services and Documentation not expressly granted to Customer under this Agreement. Customer will not delete or in any manner alter the

copyright, trademark, and other proprietary notices of Intellect.

**7.2. Customer Data and Customer Applications.** As between Customer and Intellect, Customer is and will remain the sole and exclusive owner of all right, title and interest to all Customer Data and Customer Applications, including any intellectual property rights therein. Customer hereby grants Intellect, its Affiliates and applicable Authorized Contractors all necessary rights to host, use, process, store, display and transmit Customer Data and Customer Applications solely as necessary for Intellect to provide the Services in accordance with this Agreement. Subject to the limited licenses granted herein, Intellect acquires no right, title or interest from Customer or Customer licensors hereunder in or to Customer Data and Customer Applications, including any intellectual property rights therein. Customer reserves all rights in and to the Customer Data that are not expressly granted to Intellect pursuant to this Agreement.

## **8. CONFIDENTIALITY**

**8.1. Definition of Confidential Information.** "Confidential Information" means all confidential or proprietary information of a party ("**Disclosing Party**") disclosed to the other party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or reasonably should be understood to be confidential given the nature of information and the circumstances of disclosure. Without limiting the coverage of these confidentiality obligations, the parties acknowledge and agree that Confidential Information of each party shall include the terms and conditions of this Agreement (including pricing and other terms set forth in all Order Forms and/or SOWs hereunder), related benchmark or similar test results, other technology and technical information, security information, security audit reports, and business and marketing plans, except that Intellect may reference and use Customer's name, logos and the nature of the Services provided hereunder in Intellect's business development and marketing efforts.

**8.2. Exceptions.** Confidential Information shall not include information that (i) is or becomes publicly available without a breach of any obligation owed to the Disclosing Party, (ii) is already known to the Receiving Party at the time of its disclosure by the Disclosing Party, without a breach of any obligation owed to the Disclosing Party, (iii) following its

disclosure to the Receiving Party, is received by the Receiving Party from a third party without breach of any obligation owed to Disclosing Party, or (iv) is independently developed by Receiving Party without reference to or use of the Disclosing Party's Confidential Information.

**8.3. Protection of Confidential Information.** The Receiving Party shall use the same degree of care used to protect the confidentiality of its own Confidential Information of like kind (but in no event less than reasonable care), and, except with Disclosing Party's written consent, shall (i) not use any Confidential Information of Disclosing Party for any purpose outside the scope of this Agreement and (ii) limit access to Confidential Information of Disclosing Party to those of its and its Authorized Contractors, Affiliates' employees, contractors and agents who need such access for purposes consistent with this Agreement and who have a duty or obligation of confidentiality no less stringent than that set forth herein.

**8.4. Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent required by applicable law, regulation or legal process, provided that the Receiving Party (i) provides prompt written notice to the extent legally permitted, (ii) provides reasonable assistance, at Disclosing Party's cost, in the event the Disclosing Party wishes to oppose the disclosure, and (iii) limits disclosure to that required by law, regulation or legal process.

## **9. REPRESENTATIONS, WARRANTIES AND DISCLAIMERS**

**9.1. Intellect Representations & Warranties.** Intellect represents and warrants that (i) Intellect has the legal authority to enter into this Agreement, (ii) the Subscription Services will materially conform with the relevant Documentation, (iii) the functionality and security of the Subscription Services will be maintained and not be materially decreased during a Subscription Term, and (iv) Professional Services will be performed in a competent and workmanlike manner consistent with generally accepted industry standards.

**9.2. Remedies.** For any failure of any Subscription Services or Professional Services, as applicable, to conform to their respective warranties, Intellect's liability and Customer's sole and exclusive remedy shall be for Intellect, in the case of a breach of the warranty set forth in Section 9.1 (ii), (iii), and/or (iv),

to use commercially reasonable efforts to correct such failure within a reasonable period; or, in the case of a breach of the warranty set forth in Section 9.1 (iv) to promptly re-perform the affected Professional Services.

### **9.3. Customer Representations & Warranties.**

Customer represents and warrants that (i) it has the legal authority to enter into this Agreement, and (ii) it will use the Services in accordance with the terms and conditions set forth in this Agreement and in compliance with all applicable laws, rules and regulations.

**9.4. Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, INTELLECT MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, ORAL OR WRITTEN, STATUTORY OR OTHERWISE, AND INTELLECT HEREBY DISCLAIMS ALL IMPLIED WARRANTIES AND CONDITIONS, INCLUDING, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, OR ANY WARRANTY WITH RESPECT TO THE QUALITY, PERFORMANCE, ACCURACY OR FUNCTIONALITY OF THE SERVICES OR THAT THE SERVICES ARE OR WILL BE ERROR FREE OR WILL ACCOMPLISH ANY PARTICULAR RESULT.

## **10. MUTUAL INDEMNIFICATION**

**10.1. Indemnification by Intellect.** Intellect shall indemnify, defend and hold Customer harmless from and against any judgments, settlements, costs and fees reasonably incurred (including reasonable attorney's fees) resulting from any claim, demand, suit, or proceeding made or brought against Customer by a third party alleging that the use of the Subscription Services hereunder infringes or misappropriates the valid intellectual property rights of a third party (a "**Claim Against Customer**"); provided that Customer (a) gives Intellect written notice of the Claim Against Customer within 10 days of becoming aware of the Claim Against Customer; (b) give Intellect sole control of the defense and settlement of the Claim Against Customer (provided that Intellect may not settle any Claim Against Customer unless the settlement unconditionally releases Customer of all liability); and (c) provides to Intellect all reasonable assistance, at Intellect's sole expense. In the event of a Claim Against Customer, or if Intellect reasonably believes the Subscription Services may infringe or misappropriate, Intellect may in Intellect's sole discretion and at no cost to

Customer (i) modify the Subscription Services so that they no longer infringe or misappropriate (ii) obtain a license for Customer's continued use of Subscription Services in accordance with this Agreement, or (iii) terminate Customer's subscriptions for such Subscription Services and promptly refund to Customer any prepaid fees covering the remainder of the term of such subscriptions after the effective date of termination. Notwithstanding the foregoing, Intellect shall have no obligation to indemnify, defend, or hold Customer harmless from any Claim Against Customer to the extent it arises from (i) Customer Data or Customer Applications, (ii) use by Customer after 7 days of written notice by Intellect to discontinue use of all or a portion of the Subscription Services, (iii) or use of Services by Customer in combination with equipment or software not supplied by Intellect where the Service itself would not be infringing, (iv) or Customer's breach of this Agreement.

**10.2. Indemnification by Customer.** Customer shall indemnify, defend and hold Intellect harmless from and against any judgments, settlements, costs and fees reasonably incurred (including reasonable attorney's fees) resulting from any claim, demand, suit or proceeding made or brought against Intellect by a third party alleging that Customer Data or Customer Application or any third party software under the control and custody of the Customer which may interface with Intellect Services violates applicable law or a third party's rights (a "**Claim Against Intellect**"); provided that Intellect (a) promptly gives Customer written notice of the Claim Against Intellect; (b) gives Customer sole control of the defense and settlement of the Claim Against Intellect (provided that Customer may not settle any Claim Against Intellect unless the settlement unconditionally releases Intellect of all liability); and (c) provides to Customer all reasonable assistance, at Customer's expense. Notwithstanding the foregoing, Customer shall have no obligation to indemnify, defend, or hold Intellect harmless from any Claim Against Intellect to the extent it arises from provision of the Services in breach of the warranties set forth in Section 9.1(i) and (ii).

**10.3. Exclusive Remedy.** This Section 10 states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of claim described in this Section.

## **11. LIMITATION OF LIABILITY**

**11.1. Limitation of Liability.** IN NO EVENT SHALL INTELLECT'S TOTAL AGGREGATE LIABILITY RELATING TO THIS AGREEMENT (WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER THEORY OF LIABILITY) EXCEED THE AMOUNT PAID OR PAYABLE BY CUSTOMER FOR THOSE SERVICES GIVING RISE TO SUCH CLAIM UNDER THE APPLICABLE ORDER FORM AND/OR SOW IN THE SIX (6) MONTHS PRECEDING THE APPLICABLE INCIDENT.

**11.2. Exclusion of Consequential and Related Damages.** NEITHER PARTY SHALL HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR REVENUES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER WILL NOT APPLY TO (i) FRAUD; (ii) GROSS NEGLIGENCE OR (iii) THE EXTENT PROHIBITED BY LAW.

## **12. TERM AND TERMINATION**

**12.1. Term of Agreement.** This Agreement commences on the Effective Date and continues until otherwise terminated, by written agreement of the parties, in accordance with Section 12.3 or upon the expiration of the last Subscription Term or renewal thereof.

**12.2. Renewal of Subscription Services.** Except as otherwise specified in the applicable Order, the Subscription Services shall automatically renew for successive one-year periods, unless and until terminated by either party in accordance herewith or unless either party provides written notice of non-renewal to the other party at least sixty (60) days prior to the end of the then-current Subscription Term. Intellect may increase pricing applicable to the renewal of any then-current Subscription Term by providing Customer with notice thereof, including by email, at least seventy-five (75) days prior to the end of such term, and in such an event the then-current Subscription Term shall not automatically renew until and unless such increase in pricing is accepted by Customer in writing.

**12.3. Termination.** A party may terminate this Agreement (or, at such party's option, the individual

Order Forms or SOWs affected by the applicable breach), for cause (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such same 30 day period, or (ii) automatically if the other party becomes the subject of a petition in bankruptcy or other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. In no event shall any termination relieve Customer of the obligation to pay all fees payable to Intellect for the Subscription Services term.

**12.4. Data Portability and Deletion.** Upon request made by Customer within 15 days of termination or expiration of the Subscription Services, Intellect will make Customer Data and Customer Applications available to Customer for export or download as provided in the Documentation. At the end of such 15 day period, Intellect will delete or otherwise render inaccessible any Customer Data and Customer Applications, unless legally prohibited. Intellect has no obligation to retain the Customer Data for Customer purposes after this 15 day post termination period.

**12.5. Survival.** Section 7 (Proprietary Rights), 8 (Confidentiality), 9.4 (Disclaimer), 10 (Mutual Indemnification), 11 (Limitation of Liability), 13 (Notices, Governing Law and Jurisdiction) and 14 (General Provisions) and any other rights and obligations of the parties hereunder that by their nature are reasonably intended to survive termination or expiration, shall survive any termination or expiration of this Agreement.

## **13. NOTICES, GOVERNING LAW AND JURISDICTION**

**13.1. Manner of Giving Notice.** Except as otherwise specified in this Agreement, all legal notices of default, breach or termination ("**Legal Notices**") hereunder shall be in writing and shall be deemed to have been given upon (i) personal delivery, (ii) the fifth business day after being sent by certified mail return receipt requested, or (iii) the first business day after sending by a generally recognized international guaranteed overnight delivery service. Each party shall send all Legal Notices to the other party at the address set forth in the applicable Order Form or SOW, as such party may update such information from time to time, with, in the case of notices sent by Customer, a copy sent to the Intellect Legal Department at the address first set forth above. Billing-related notices to Customer will be

addressed to the relevant billing contact designated by Customer on the applicable Order.

**13.2. Governing Law and Jurisdiction.** If Customer is entering into this Agreement from the UK or a European Union member country, then this Agreement is governed by the laws of England and subject to the exclusive jurisdiction of the courts of England and Wales. If Customer is entering into this Agreement from the US, then this Agreement is governed by the laws of the State of New Jersey and subject to the exclusive jurisdiction of the federal or state courts of the State of New Jersey. Otherwise, this Agreement shall be governed and construed in accordance with the laws of India, excluding its conflicts of law rules. Any civil action or legal proceeding arising out of or relating to this Agreement shall be brought in the courts of record of Chennai, India. Each party consents to the jurisdiction of such court in any such civil action or legal proceeding and waives any objection to the laying of venue of any such civil action or legal proceeding in such court. Notwithstanding the foregoing, the parties acknowledge that any unauthorized disclosure of Confidential Information or any actual or alleged infringement of such party's or third party's intellectual property rights might cause the other party to suffer irreparable harm for which damages would be an inadequate remedy and that, in such event, the aggrieved party may seek, in addition to any other available remedies, injunctive and other equitable relief in any state, federal, or national court of competent jurisdiction, without bond and without the necessity of showing actual monetary damages. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act do not apply to the Agreement. Each party hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.

## **14. GENERAL PROVISIONS**

**14.1. Import and Export Compliance.** Each party shall comply with all applicable import, re-import, export and re-export control laws, treaties, agreements, and regulations. Export controls may include, but are not limited to, those of the Export Administration Regulations of the U.S. Department of Commerce (EAR), the Department of State International Traffic in Arms Regulations (ITAR), and country-specific economic sanctions programs implemented by the Office of Foreign Assets Control

(OFAC), which may restrict or require licenses for the export of Items from the United States and their re-export from other countries. Each party represents that it is not named on any U.S. government denied-party list. Customer shall not permit users to access or use Services in a U.S.-embargoed country or in violation of any U.S. export law or regulation.

**14.2. Anti-Corruption.** Neither party has received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of the other party's employees or agents in connection with this Agreement. If a party learns of any violation of the above restriction, such party will use reasonable efforts to promptly notify the other party.

**14.4. Subscription Service Analyses.** Intellect may (i) compile statistical and other information related to the performance, operation and use of the Subscription Services, and (ii) use, and share data from the Subscription Services environment in aggregated form for security and operations management, to create statistical analyses, and for research and development purposes (clauses i and ii are collectively referred to as 'Subscription Service Analyses'). Subscription Service Analyses will not incorporate any information, including Customer Data, in a form that could serve to identify Customer or an individual and shall at all times be anonymized. Intellect retains all intellectual property rights in Subscription Service Analyses. Customer represents that it has, and warrants that it shall maintain, all rights as required to allow Intellect to compile, use, store, and retain aggregated Customer Data, including without limitation in combination with other Intellect customers' data, for internal or marketing uses (provided that no such marketing use shall include any information that can identify Customer or its customers) and all such data shall be anonymized.

**14.5. Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a franchise, joint venture, agency, fiduciary or employment relationship between the parties.

**14.6. Non-Solicitation.** Customer agrees that during the term of each Order Form and/or SOW and for twelve (12) months thereafter, it will not recruit or otherwise solicit for employment any person employed by Intellect who participated in the performance of Services under the applicable Order Form and/or SOW. Nothing in this clause shall be construed to prohibit individual Intellect employees from responding to public employment

advertisements, postings or job fairs of Customer, provided such response is not prompted by Customer intentionally circumventing the restrictions of this Section.

**14.7. No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.

**14.8. Public Relations.** Customer hereby grants to Intellect and its affiliates the right to use Customer's name and logo in Intellect's publicity, press releases, and/or promotions of Intellect Software and on Intellect's web sites to indicate as a Customer. . Customer agrees to allow Intellect to issue press releases announcing that Customer has become a customer of Intellect or its affiliates, subject to prior approval. However, this restriction shall not prevent Intellect from intimating about the execution of this Agreement to the stock exchanges. Further, Customer agrees to cooperate in the preparation of "success stories" and media statements, subject to the prior written approval.

**14.9. Waiver.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right.

**14.10. Force Majeure.** Neither party shall be liable under this Agreement for delays or failures to perform the Services or this Agreement due to causes beyond its reasonable control. Such delays include, but are not limited to, fire, natural catastrophe, government legislation, acts, orders, or regulation, strikes or labor difficulties, to the extent not occasioned by the fault or negligence of the delayed party. Any such excuse for delay shall last only as long as the event remains beyond the reasonable control of the delayed party. The delayed party shall use its best efforts to minimize the delays caused by any such event beyond its reasonable control. If the force majeure event continues for

more than thirty (30) calendar days, then either party may terminate the Agreement upon written notice to the other party.

**14.11. Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

**14.12. Assignment.** Neither party may assign its rights and obligations hereunder, either in whole or in part, whether by operation of law or otherwise, without the prior written consent of the other party. Intellect may assign this Agreement or have its Affiliates sign SOWs under this Agreement with prior notice to the Customer .

**14.13. Entire Agreement.** This Agreement constitutes the entire agreement between the parties as it relates to the subject matter and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning or relating to the same. Except as otherwise provided herein, no modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by both parties. To the extent of any conflict or inconsistency between the provisions of this Agreement, the Documentation, any Order Form or SOW, the terms of such Order Form or SOW shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in a PO, payment system, other order documentation or otherwise (excluding Order Forms and/or SOWs) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year last set forth below.

FOR INTELLECT	FOR CUSTOMER
Authorized Signatory Name and Title:	Authorized Signatory Name and Title:
Signature:	Signature:



Date:	Date: