

Last Modified: February 14<sup>th</sup>, 2025

**IMPORTANT – PLEASE READ CAREFULLY:** THIS DOCUMENT (“**AGREEMENT**”) GOVERNS YOUR ACCESS TO AND USE OF THE SOFTWARE AND RELATED SERVICES PROVIDED BY QUORUM SOFTWARE BUSINESS SOLUTIONS INC. OR ITS APPLICABLE AFFILIATE (“**QUORUM**”, “**VENDOR**,” “**LICENSOR**”, “**WE**,” OR “**OUR**”). BY EXECUTING AN ORDERING DOCUMENT OR EQUIVALENT AGREEMENT THAT INCORPORATES THIS AGREEMENT, YOU (“**CUSTOMER**,” “**LICENSEE**”, “**YOU**,” OR “**YOUR**”) AGREE TO BE BOUND BY THESE TERMS. EACH ORDERING DOCUMENT SPECIFIES THE SOFTWARE, SERVICES, AND APPLICABLE FEES ASSOCIATED WITH YOUR ORDER AND THIS AGREEMENT BECOMES EFFECTIVE ONLY IN CONNECTION WITH A VALID ORDERING DOCUMENT. IF YOU ARE ENTERING INTO THE ORDERING DOCUMENT, OR EQUIVALENT AGREEMENT THAT INCORPORATES THIS AGREEMENT, ON BEHALF OF A LEGAL ENTITY, YOU REPRESENT AND WARRANT THAT YOU ARE AUTHORIZED TO ACT ON BEHALF OF AND LEGALLY BIND THAT ENTITY TO THIS AGREEMENT.

This Agreement is entered into between the Vendor and Customer identified in the applicable Ordering Document. Vendor and Customer are individually referred to as a “**Party**” and collectively as the “**Parties**”. The effective date of this Agreement (“**Effective Date**”) is the earliest of the following: (1) the date you first install, use, or access the ordered Software, whether obtained directly from Vendor or through an authorized agent or reseller; (2) the date mutually agreed upon in the Ordering Document; or (3) unless otherwise specified, the date the Ordering Document is last signed by the Parties. The Orders and any associated documents, including attachments or hyperlinks referenced in this Agreement or an Order, are incorporated into and form part of this Agreement.

If the Software or related Services are purchased through an authorized agent, reseller, or an enterprise software app store, this Agreement applies upon execution of a valid Ordering Document that identifies the end-user Customer. Authorized agents or resellers are required to: (i) ensure the accuracy of the Ordering Document, including the scope of Software and Services; (ii) provide this Agreement to the end-user Customer; and (iii) obtain the end-user Customer’s acceptance of this Agreement prior to their access or use of the Software and related Services. Agents and resellers are not authorized to make any commitments or representations on Vendor’s behalf. To the extent of the terms and conditions of this Agreement, Vendor shall be a third-party beneficiary of related agreement(s) between the end-user Customer and the agent or reseller. This Agreement is solely between Vendor and the Customer and Vendor’s obligations are contingent upon the Customer’s payment of applicable fees. Unless otherwise agreed between the Parties, any use of the Software and related Services without prior acceptance of this Agreement is prohibited.

## 1 Definitions

“**Affiliate**” means any legal entity that, directly or indirectly, controls, is controlled by, or is under common control with a Party, provided that Vendor’s Affiliates are limited to entities controlled, directly or indirectly, by Q&A Ultimate Parent, L.P. Control means ownership of more than 50% of (i) the equity or (ii) rights to elect or appoint directors or equivalent roles.

“**Applicable Law**” means any applicable law, regulation, order, policy, license, registration, permit, or standard having the effect of law.

“**Confidential Information**” means any information communicated to one Party by the other Party in connection with this Agreement, whether before or after the Effective Date, which the receiving Party should reasonably understand to be confidential or proprietary given the nature of the information or the circumstances of its disclosure.

“**Customer Data**” means data (i) provided by Customer or any authorized User to Vendor, including business and technical information and Personal Data, and (ii) hosted or processed by any member of the Vendor Group under an Order, including Output (as defined in [Section 3.5](#)).

“**Customer Group**” means Customer, its Affiliates, and their respective directors, officers, and employees.

“**Data Processing Addendum**” or “**DPA**” means the terms and conditions regarding protection of Personal Data agreed to and described in this Agreement, an exhibit attached to this Agreement or included or referred to in an Order.

“**Deliverables**” means any items that Vendor agrees in an Order to make available or deliver to Customer in connection with Professional Services.

“**Documentation**” means the technical documentation relating to the operation and use of the licensed Software, as updated from time to time.

“**Fees**” means the fees set forth in this Agreement and/or an Order.

“**Intellectual Property**” means, whether registered in any jurisdiction and including the right to apply for the registration of such rights including all renewals and extensions, any copyright, trademarks, all rights in relation to inventions (including patents), circuit layouts, designs, related business, product and domain names, trade secrets, service marks and all other intellectual property or proprietary rights.

“**License**” means the usage rights to the Software made available to Customer for the Subscription Term pursuant to an Order. A License will include access during the Subscription Term to new releases of the licensed Software for repairs, enhancements, or new features that Vendor generally makes available free of additional charge to all licensees of the Software.

“**Licensed Materials**” means the Software, Documentation, and Deliverables.

“**Order**” or “**Ordering Document**” means a mutually agreed document, such as an order form, license schedule, order confirmation, statement of work, or similar document that specifies the License(s) and/or Service(s) to be provided by the Vendor. Unless otherwise agreed, the Order is prepared using the Vendor’s most recent Order form version.

“**Personal Data**” means any information that can be used directly or indirectly, alone or in combination with other information, to identify an individual.

“**Professional Services**” means the one-time implementation, migration, training, and other services that Vendor provides pursuant to an Order and as described in a statement of work attached thereto, including the Product Listing where relevant.

“**Product Listing**” means the description of Software and related information listed in an enterprise software app store, if applicable, and offered by Vendor or its authorized reseller, including Services and Vendor’s policies and procedures incorporated or referenced therein.

“**Recurring Services**” means (a) the standard recurring services that Vendor provides during

the Subscription Term (i) to provide support in case of Software incidents, (ii) for remote access to the Software, and/or (iii) to keep Software current, or (b) other packaged recurring services, in each case, as described in or referred to in the Order, including the Product Listing where applicable, the support policy and/or cloud standards. Unless otherwise agreed, onsite Services are not included and subject to a separate Order for Professional Services.

“**SaaS Subscription**” means a License for remote access to Software, including associated Recurring Services, described in the Order.

“**Sanctioned Person**” means any person or entity: (a) located within, ordinarily resident in or organized or incorporated under the laws of a country or territory subject to comprehensive sanctions under applicable Trade Control Laws (collectively “**Sanctioned Countries**”); (b) designated on a Sanctions List; and (c) owned or controlled by or acting on behalf of or for the benefit of a person or entity designated on a Sanctions List.

“**Sanctions List**” means: (a) the Specially Designated Nationals and Blocked Persons list maintained by OFAC (“**SDN List**”); (b) the United Nations Security Council Consolidated Sanction List; (c) the Consolidated List of Persons, Groups and Entities subject to European Union Financial Sanctions; (d) the Consolidated List of Financial Sanctions Targets and the Investment Ban List maintained by Her Majesty’s Treasury of the United Kingdom; and/or (e) any other similar list of the same or a similar nature maintained by a relevant authority, each as amended, supplemented or substituted from time to time.

“**Self-Hosted Subscription**” means a License for installation of Software on Customer-hosted systems, including associated Recurring Services, described in the Order.

“**Services**” means Professional Services and Recurring Services.

“**Software**” means Vendor’s software modules and add-ons selected and described in the Order and associated Documentation, including

the Product Listing where applicable.

**"Subscription Term"** means the period of the SaaS Subscription or Self-Hosted Subscription as specified in this Agreement and the applicable Order.

**"System Data"** means data and data elements collected by the Vendor Group that are used to generate logs or statistics for performance, availability, integrity, security, and development of Vendor Technology, excluding any portion thereof that includes any of Customer Group's Confidential Information or identifies Customer or any individual Users.

**"Termination Assistance Period"** means a period designated by Customer, commencing upon termination or expiration of the Agreement and/or an Order and continuing for up to 90-days thereafter, during which period Vendor will provide the Termination Assistance Services in accordance with the terms and conditions of this Agreement.

**"Termination Assistance Services"** means (a) the License(s) and Services purchased by Customer immediately prior to termination or expiration, to the extent Customer requests such for the Termination Assistance Period and subject to payment of Fees therefor, and (b) Vendor's reasonable cooperation with Customer or another service provider designated by Customer in the migration of Customer Data stored on the Vendor Technology to Customer or another service provider designated by Customer. Unless otherwise agreed, such data migration will be performed via secure means as a copy in csv format on nonproprietary "as is" basis with any additional assistance being subject to Vendor's then-current rates.

**"Trade Control Laws"** means all applicable export control and economic sanctions laws and regulations including the Export Administration Regulations ("EAR"), EU and UK controls on dual-use items, and economic sanctions programs that are or may be maintained by the United Nations, United States, European Union or its member states or the United Kingdom.

**"User"** means an active log-in or concurrent active log-in or concurrent user of the Software or any authorized person accessing or using the Documentation.

**"Vendor Group"** means Vendor, its Affiliates, and their respective directors, officers, and employees.

**"Vendor Technology"** means the Licensed Materials, methodologies, tools, hardware, designs, algorithms, templates, software programs and codes (in source and object code formats), software environment(s), data, architectures, class libraries, processes, technologies, documentation, systems, development platforms and objects, whether existing as of the Effective Date or arising from updates, upgrades, improvements, configurations, extensions and/or further developments thereof, whether performed under this Agreement or otherwise, including derivative works and related technical or end user manuals as well as Intellectual Property and Confidential Information relating to the foregoing.

## 2 Ordering Process

### 2.1 Orders

The Parties may agree upon Orders for License(s) and related Services, including through Vendor's authorized agents and

resellers.

### 2.2 Orders by Party Affiliates

A Party's Affiliate may enter into Orders under this Agreement, in which case the party to the Order will be solely responsible for its obligations under the applicable Order and, for purposes of such Order: (a) the Customer Affiliate party shall be deemed to be the "Customer" and have (and will be solely responsible for) all rights and obligations of Customer hereunder, and (b) the Vendor Affiliate party shall be deemed to be the "Vendor" and have (and will be solely responsible for) all rights and obligations of Vendor hereunder, in each case, to the extent applicable to such Order.

## 3 License Grants

### 3.1 Self-Hosted Subscriptions

To the extent the Order specifies a Self-Hosted Subscription: (a) Vendor grants to Customer for the Subscription Term a non-exclusive, non-transferable, non-sublicensable, indivisible license to deploy, operate and use the object code version of the Software in the Customer's computing environment and to allow its Users to access and use the Software, as so deployed, solely in accordance with the terms of this Agreement and applicable usage metrics including volumes specified in the Order and Recurring Services results; and (b) Vendor shall deliver to Customer one copy of such object code and Customer may reproduce a reasonable number of copies for back-up and archival purposes. Software subject to a Self-Hosted Subscription may be accessed and/or used only: (i) in a single production instance on a server owned or controlled by Customer or a contractor described in [Section 3.7 \(Permitted Users\)](#), or (ii) on other such servers solely for testing, development, or failover, in each case in accordance with the applicable Order. Each Self-Hosted Subscription includes access during the Subscription Term to support in accordance with the base and/or selected higher standard Recurring Services level defined in the Order.

### 3.2 SaaS Subscriptions

To the extent the Order specifies a SaaS Subscription, Vendor grants to Customer for the Subscription Term a non-exclusive, non-transferable, non-sublicensable, indivisible right to permit Users to access and use the Software via the SaaS Subscription, solely in accordance with the terms of this Agreement and applicable usage metrics, including volumes specified in the Order and Recurring Services results. Each SaaS Subscription includes availability, version updates, and support during the Subscription Term in accordance with the Recurring Services levels defined in the Order.

### 3.3 Documentation

Vendor shall deliver to Customer one copy of the applicable Documentation or give access to an electronic repository and/or online user guide where it can be found. Customer may reproduce a reasonable number of copies of the Documentation for use with the Software.

### 3.4 Deliverables

Vendor grants to Customer a non-exclusive, non-transferable, non-sublicensable, indivisible license to use the Deliverables, solely for Customer's internal use in support of the underlying License(s) related to the Professional Services and/or any other applicable usage metrics and volumes specified in the Order, until the earlier of (a) termination or expiration of the applicable Subscription Term and (b) any other date specified in the Order.

### 3.5 Output

Customer and its authorized Users are entitled, in accordance with the underlying License and the applicable usage metrics and volumes specified in the Order: (a) to generate output from the Software using the User functionalities of the Software ("Output") during the Subscription Term, and (b) after the Subscription Term, to continue to use such generated Output, subject to the terms and conditions of this Agreement, to the extent that such Output does not incorporate any Vendor Technology and can be displayed without access to any Vendor Technology. The latter limited perpetual right includes the right to modify, further develop, and distribute such Output in support of the granted use rights. Customer will have no obligation to refer to Vendor when utilizing the Output in accordance with this [Section 3.5](#).

### 3.6 APIs

Vendor may make available to Customer open APIs to achieve interoperability between the Software and any other software applications or technology, which Customer may use where applicable, subject to Vendor's then-current Fees (if any) for such APIs. The number of API calls that Customer is permitted to make during any given period may be limited and subject to change.

### 3.7 Permitted Users

Customer may designate as Users its own employees, employees of its Affiliates if authorized in an Order, or employees of its contractors, in each case, solely: (a) if such employees require access to the Licensed Materials in order to accomplish the licensed use described in this [Section 3 \(License Grants\)](#), (b) if such employees are acting on behalf of Customer, (c) to the extent necessary for Customer to exercise its rights under the applicable Order and fulfill its obligations under this Agreement and such Order, in each case, within the parameters of the granted usage metrics (including number of Users or permitted operations such as certain physical assets, projects, or sites) specified in the Order, and (d) with respect to any non-Affiliate third party, if such third party is not a Vendor Competitor. **"Vendor Competitor"** means an entity that is regularly engaged in the business of developing and marketing software in the energy IT solutions marketplace that provides the same or similar functions as the licensed Software. Any sublicense granted pursuant to this [Section 3.7](#) will be subject to all obligations applicable to Customer under this Agreement.

### 3.8 Responsibility for Users

Customer shall ensure that (a) access to and use of the Licensed Materials is limited solely to the extent strictly necessary for Users' performance of tasks in support of the licensed use, and (b) Users honor the terms and conditions of this Agreement including all usage restrictions, Intellectual Property rights, and confidentiality conditions that apply to the licensed use. Customer will be liable for all acts and omissions of Users and third parties (including any permitted sublicensees) that gain access to Vendor Technology directly or indirectly through Customer, its Affiliates, or any User, and such acts and omissions will be deemed acts and omissions of Customer.

### 3.9 Acceptable Use

Customer agrees to comply with the Quorum Acceptable Use Policy ("AUP") available at <https://www.quorumsoftware.com/documents/> as it may be updated or relocated from time to

time.

### 3.10 Duty to Protect Licensed Materials

Customer commits to protect the Licensed Materials against unauthorized use and agrees that the locations and servers on which it stores or from which it accesses (or has engaged or permitted any third party to store or access) any Licensed Material will have adequate security to prevent the unauthorized access to or use of the Licensed Materials.

### 3.11 Restrictions

If the Software is licensed based on usage metrics such as the number and types of Users or equipment, licensed territories, and/or operations, the license is limited to (i) the specified number and types of Users or equipment, (ii) usage by or in conjunction with the specified Users or equipment, (iii) usage for the benefit of the defined operations, and (iv) the agreed territories and volumes. Customer shall not, and shall ensure that Users do not: (a) use Vendor Technology with external programs to bypass usage restrictions; (b) lease, rent, loan, distribute, sublicense, or provide third-party services (such as outsourcing or data processing) using Vendor Technology; (c) assign, transfer, or dispose of any Vendor Technology to third parties; (d) remove or alter any copyright, trademark, or proprietary markings on Vendor Technology; (e) use Licensed Material unlawfully or without proper permission for Intellectual Property rights and entitlements; (f) copy, except as authorized in [Sections 3.1 \(Self-Hosted Subscriptions\)](#) or [3.3 \(Documentation\)](#), decompile, reverse engineer, or attempt to discover the source code of Vendor Technology; (g) access Vendor Technology to develop competing products or services; (h) use Vendor Technology to create, send, store, or run harmful code, or disrupt its security or operation; (i) access or disable Vendor or third-party data, software, or networks without authorization; or (j) except as allowed under [Section 3 \(License Grants\)](#), modify, adapt, enhance, or create derivative works of Vendor Technology. Customer assigns to Vendor all rights to modifications, adaptations, enhancements, and derivative works based on Vendor Technology created by or on behalf of Customer or any User.

### 3.12 Audit Right

Upon reasonable prior notice to Customer, Vendor or its reputable auditing firm representatives may inspect Customer's and its Affiliates' respective records, systems, and materials as reasonably necessary to verify use of the Licensed Materials is within the parameters specified in this Agreement. Prompt adjustments shall be made by Customer as directed by Vendor in accordance with this Agreement to compensate for any errors or breach discovered by such audit, such as underpayment of the applicable Fees. Additionally, if Customer has underpaid Vendor by more than 10% of the total amount owed hereunder, the reasonable cost of the audit shall be borne by Customer.

### 3.13 Third-Party Materials

The Licensed Materials or Services may include third-party materials and Customer may be required to license such materials in connection therewith. To the extent third-party materials (including open-source software) are provided as part of the Licensed Materials and/or Services, Customer agrees (a) to comply with all additional terms and conditions with respect thereto that are passed through and identified (whether in the Documentation, an Order, or a

"Read Me", "About", or a similarly named file link); and (b) to use such third-party materials solely (i) for the duration of the Subscription Term for the applicable Licensed Material and (ii) as embedded in the functionality of the Licensed Material and (iii) in accordance with this Agreement. Customer is solely responsible for obtaining the right to use, and Vendor has no responsibility, liability, or obligation with respect to, third-party materials not provided by Vendor as part of a License or the Services.

### 3.14 Vendor Technology

As between Vendor and Customer, all Vendor Technology remains the exclusive property of Vendor. Except for rights expressly granted to Customer hereunder, Vendor reserves and shall retain all right, title, and interest in, to and under the Vendor Technology. If Customer provides any recommendations, proposals, suggestions, or ideas about the Vendor Technology, Vendor is entitled to incorporate such feedback into its offerings without any obligation of compensation to Customer and without any limitations. If Vendor chooses to offer new functionality, such new functionality may be offered either as a new version of Software that is included in an existing License or as separately licensable Software and/or Services for a separate Fee, in each case, in Vendor's sole discretion.

## 4 Subscriptions

### 4.1 Interruptions

Vendor can temporarily interrupt SaaS Subscriptions for planned maintenance and as may be further specified in the Order or this Agreement, including without prejudice to any other provisions, without prior notice where the circumstances require emergency intervention or more expeditious procedures to solve security threats, danger for the entire network, and/or danger for people or property. Vendor will provide notice and updates of all service interruptions in a timely manner.

### 4.2 Changes

The Software, Documentation and standard Recurring Services may be updated or modified from time to time. However, their fundamental nature or core functionality will not materially change during an ongoing annual or committed Subscription Term, except as permitted under this Agreement or specified in the Order. Vendor will provide notice and will make reasonable efforts to communicate updates through available means, such as product road maps, update bulletins, or similar channels.

## 5 Services

### 5.1 Generally

Vendor will provide the Services materially in accordance with the terms of the Order. Unless otherwise agreed in an Order, the schedule for any Services and/or any Deliverables is an estimate of the anticipated progress and not a commitment to start or complete any Services and/or Deliverables by a specific date. Vendor is not responsible for Customer's or Users' equipment or for software needed to access the Licensed Materials. Vendor is an independent contractor, and members of the Vendor Group are not employees, agents, or representatives of the Customer Group or of the Vendor's agents or resellers. Except as otherwise agreed, nothing in this Agreement grants any right of physical access or physical possession of Vendor Technology used for providing any Services. Customer is responsible for maintaining its own technical environment for accessing the Licensed Materials and keeping

usernames, passwords, and any other access details confidential.

### 5.2 Subcontractors

Vendor may engage subcontractors, including its Affiliates, to perform Vendor's obligations hereunder. Except as otherwise agreed, Vendor is not relieved from any obligation or liability under this Agreement because of Vendor's use of others to perform on its behalf. Customer understands and agrees that for SaaS Subscription(s), the Software may be hosted on third-party computing resources.

### 5.3 Customer Materials and Cooperation

Customer hereby grants Vendor a license to use all data and other materials delivered by Customer to Vendor to facilitate the Services and/or Deliverables ("**Customer Materials**") free of charge as required to perform Vendor's obligations under this Agreement. Customer represents and warrants that Vendor's use of Customer Materials will not infringe or misappropriate any intellectual property or proprietary right of any third party. Customer shall without undue delay provide such materials, data, information, supplies, cooperation, and facilities (including sufficient office space at the location specified in the Order that includes Internet access, office equipment, telephones, and other amenities as necessary to perform any onsite Professional Services), as well as access to Customer personnel (collectively, "**Cooperation**"), as reasonably necessary for the performance of Services or provision of Deliverables. Furthermore, Customer acknowledges that (i) Vendor shall be entitled to rely on the sufficiency and accuracy of the Cooperation, (ii) Customer's timely provision thereof as reasonably requested by Vendor may be essential to performance of Services and/or provision of Deliverables, (iii) Vendor will not be liable for any delay or deficiency in providing Services or Deliverables if such delay or deficiency results from Customer's failure to provide Cooperation, and (iv) delays or deficiencies in providing Cooperation may require an adjustment to the schedule and/or Fees for the Services and/or Deliverables consistent with the scope and duration of the delay or deficiency.

### 5.4 Scope Changes

It is acknowledged that changes to the scope of Professional Services and non-standard Recurring Services, including adjustments to quantity, quality, delivery timelines, or execution methods, must be mutually agreed upon by the Parties. Upon the Customer's written request for a change, the Vendor will respond within a reasonable time with a change order outlining the feasibility, cost implications, and impact on the delivery schedule. No changes will be implemented until the change order is signed by both Parties.

## 6 Customer Data

### 6.1 Access and Use Restrictions

Customer owns all rights, title, and interests in the Customer Data. Customer is responsible for the legality, reliability, integrity, accuracy, consistency, and quality of the data that it enters into, or derives from the use of, the Software or any other Vendor Technology or Services. Without limiting the foregoing, Customer is responsible for identifying and implementing retention periods for Customer Data and Output that comply with Customer's legal and contractual obligations, including, if the Software permits Customer to set retention periods, by



implementing the applicable retention periods within the Software, subject to Vendor's deletion obligations under Section 6.3 (*Exit Assistance*) and Vendor's obligations under Applicable Law with respect to Personal Data. Vendor shall not access or use Customer Data except as necessary to perform its obligations hereunder.

## 6.2 System Data

Vendor may monitor Customer's use of the Vendor Technology and Services and collect, compile, and use System Data to the extent and in the manner permitted under Applicable Law and required for processing Order(s) and deliveries thereunder or improving the Software and Services. Upon reasonable request by Customer and unless readily available to Customer or restricted by Applicable Laws, Vendor agrees to provide Customer with access to logging data related to valid SaaS Subscription(s) and associated Customer Data.

## 6.3 Exit Assistance

Upon Customer's request, Vendor will provide Termination Assistance Services. If this Agreement is terminated by Vendor for cause, Vendor's obligations under this Section 6.3 are subject to Customer paying to Vendor, when due, all outstanding invoices. Unless otherwise agreed and except when Vendor's legal obligations prevent, at termination or, where applicable, at the end of the Termination Assistance Period, Vendor will delete Customer Data related to the terminated Order.

## 7 Term and Termination

### 7.1 Term

This Agreement begins on the Effective Date and will remain active until the Subscription and/or Services in the applicable Order are completed, unless either Party terminates it earlier as outlined in this Agreement. Unless specified otherwise in an Order, (i) the initial Subscription Term begins on the effective date of the Order and ends on the third anniversary thereof, and (ii) the Subscription Term and/or Recurring Services will automatically renew for successive one-year terms unless either Party provides a notice of non-renewal at least 90 days before the current term ends. Unless agreed otherwise, each Professional Services Order takes effect upon mutual signature by both Parties and remains active until the Services are completed or the term expires.

### 7.2 Termination for Cause

A Party may terminate this Agreement and any affected Order if the other Party: (a) is in material breach of this Agreement or such Order (including material breach by Customer of a provision relating to Vendor's Confidential Information or Intellectual Property) and fails to cure that breach within 30 days after its receipt of written notice of the other Party's intention to terminate; or (b) becomes subject to insolvency proceedings and such proceedings are not dismissed within 90 days.

### 7.3 Termination for Force Majeure

Neither Party is liable for delays or failure to perform due to events beyond its reasonable control ("**Force Majeure Event**"), except for payment obligations. Force Majeure Events include: (a) natural disasters (e.g. earthquakes, floods, storms), (b) acts of war (whether declared or undeclared), terrorism, riots, or civil disturbances, (c) governmental actions preventing performance, (d) strikes or labor disputes, (e) pandemics, (f) cybersecurity attacks, and (g) macroeconomic conditions. If a

Force Majeure Event prevents Vendor from performing a substantial portion of the Subscription(s) or Services for over 30 days, either may terminate the affected Order(s) if the event materially diminishes the benefit of the Order. Termination is Customer's exclusive remedy for such events. Vendor will maintain reasonable business continuity and disaster recovery plans at its own cost.

### 7.4 Termination for End-of-Life

Vendor will provide 12 months' notice to Customer if Vendor elects to discontinue its offerings of any Software or Service that is provided to Customer under an existing Order. Unless Vendor thereafter elects to terminate the Order for such discontinued Software or Services, Vendor may extend the same on an annual basis with or without additional Fee(s) and, where such Software or Services are extended, Vendor will continue to use commercially reasonable efforts to maintain and ensure availability of such Software and Services, but with no uptime guarantee and without any commitment to create or test related bug fixes, patches, or enhancements.

### 7.5 Effects of Termination or Expiration

All provisions of this Agreement which by their nature reasonably should survive termination or expiration hereof, including Sections 3.14 (*Vendor Technology*), 8.5 (*Warranties Are Limited*), 13 (*Limitation of Liability*), and 14 (*Confidential Information*), shall survive such termination or expiration. Termination or expiration of one Order will not affect other Orders. Upon termination or expiration of any Order, Customer, its Affiliates, and all Users must immediately cease using the relevant Licensed Materials and Customer shall promptly pay Vendor all unpaid balances incurred as of such termination. Except as expressly set forth herein, termination of this Agreement or any Order shall not entitle Customer to any refund of Fees or other amounts paid. If this Agreement expires while one or more Orders remain in effect, then this Agreement will continue solely for purposes of each such Order until such Order expires or is terminated.

## 8 Warranties

### 8.1 Standard of Performance

Vendor warrants that the Services will be performed in a good and workmanlike manner and materially in accordance with the applicable Order and this Agreement.

### 8.2 No Malicious Code

Vendor warrants that it has established reasonable controls over the production and delivery of Software, including the performance of dynamic application security testing, and that, upon the date of delivery of the Software to Customer, the Software (i) shall substantially conform to the functional specifications within the Documentation, and (ii) does not contain any disabling or malicious code, such as a computer time bomb, virus, or worm.

### 8.3 Remedies

If Customer notifies Vendor of the existence of a breach of this Section 8 (*Warranties*), Vendor shall, at its option: (a) to the extent related to Section 8.1 (*Standard of Performance*), during the term of the Order without undue delay repair the non-conforming Services; (b) to the extent related to Section 8.2 (*No Malicious Code*), during the Subscription Term without undue delay repair the non-conforming materials or replace them with materials of similar functionality; or (c) terminate the applicable

Order as to the non-conforming Licensed Materials or Services and refund the Fees prepaid for the non-conforming applicable Services or Licensed Materials that are allocable to the period after termination (in each case less any amount already paid or credited to Customer in connection with the non-conformity). THE FOREGOING REMEDIES FOR ANY BREACH OF WARRANTY SHALL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR SUCH BREACH.

### 8.4 Limitations

Sections 8.1 (*Standard of Performance*) and 8.2 (*No Malicious Code*) shall not apply to any claimed non-conformity (a) to the extent caused by (i) the malfunction or improper use of any hardware, software, or other materials not provided by Vendor, (ii) Customer's negligence, fault, or improper use of any Vendor Technology, or (iii) modifications to or changes in any Vendor Technology not made by Vendor, or (b) that cannot be reproduced on equipment controlled by Vendor or to which Vendor has been given access. Customer shall provide adequate supporting documentation and details to substantiate the non-conformity and shall reasonably assist Vendor in the identification and detection thereof. If a reported failure or breach is caused by an excluded item, Vendor reserves the right to charge Customer for its work in investigating such failure or breach.

### 8.5 Warranties Are Limited

EXCEPT AS SET FORTH IN THIS SECTION 8, VENDOR DISCLAIMS AND CUSTOMER WAIVES ALL REPRESENTATIONS, CONDITIONS, AND WARRANTIES (WHETHER EXPRESS, IMPLIED, OR STATUTORY), INCLUDING ANY WARRANTY OR CONDITION (A) OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, TITLE, SATISFACTORY QUALITY, OR QUIET ENJOYMENT, (B) WITH RESPECT TO THE ACCURACY, COMPLETENESS OR RELIABILITY OF THE LICENSED MATERIALS OR SERVICES, OR (C) ARISING FROM ANY COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE IN THE INDUSTRY. VENDOR SPECIFICALLY DISCLAIMS ANY WARRANTY THAT THE LICENSED MATERIALS OR SERVICES WILL BE ERROR FREE, THAT THE OPERATION OF ANY LICENSED MATERIALS WILL BE UNINTERRUPTED, OR THAT ANY ERRORS IN THE LICENSED MATERIALS WILL BE CORRECTED. CUSTOMER WILL BE CONSIDERED TO HAVE ACCEPTED THE LICENSED MATERIALS AND SERVICES AND MAY NOT ASSERT A WARRANTY CLAIM UNLESS CUSTOMER NOTIFIES VENDOR THEREOF WITHIN 90 DAYS OF THE INITIAL DELIVERY OF THE CLAIMED NON-CONFORMITY.

## 9 Privacy and Information Security

### 9.1 Privacy

The Quorum Data Processing Addendum at <https://resources.quorumsoftware.com/presentations/data-processing-addendum> applies if the Vendor processes Customer Personal Data, unless otherwise agreed in an exhibit to this Agreement or the Order, in which case the applicable DPA is incorporated into this Agreement by reference.

### 9.2 Security

Each Party will use and will require any subcontractors to use industry standard

organizational, administrative, physical, and technical safeguards to protect the other Party's data, including Personal Data. Any specific technical and organizational measures attached or referred to in the applicable Order apply and are part of this Agreement. Additionally, Customer will promptly notify Vendor if it discovers or suspects that any Licensed Materials or Vendor Confidential Information have been or may have been accessed, exfiltrated, modified, or destroyed without authorization, or that any credentials used by Customer to access Software or a SaaS Subscription are or may have been accessed or acquired without authorization (any of the foregoing, "**Unauthorized Access**"), in each case, without undue delay after Customer's first discovery of or suspicion of Unauthorized Access. Such notification shall be both (i) made via email to [dpp@quorumsoftware.com](mailto:dpp@quorumsoftware.com) in case of Personal Data incidents and otherwise to [security@quorumsoftware.com](mailto:security@quorumsoftware.com) and (ii) by logging a case through Vendor's service desk.

## 10 Additional Obligations

### 10.1 Compliance

Each Party shall comply and ensure that all members of its Group engaged in the Services and/or Deliverables comply with Applicable Law and obtain, maintain, and comply with any required registrations and other authorizations. The obligations in this Section shall not include any (i) obligation for Vendor to identify or implement any retention period for Customer Data or Output, or (ii) actual or implied functional requirement or modification to the Licensed Materials, except to the extent specifically agreed in an Order. Vendor is entitled to a reasonable adjustment in scope and compensation if, after the Effective Date, there is a change in Applicable Law, including tax laws, regulations, decisions, or practices by authorities or the Customer that causes additional or increased costs or increased Customer withholdings to Vendor. Neither Party shall give to or receive from any representative of the other Party's Group a gift, payment, offer, promise, or anything else of value that is more than of nominal cost or value in connection with this Agreement. Neither Party shall offer or make any payment or offer or give anything of value to any official or immediate family member of an official of any government, public international organization, or a political party, or candidate for public office, to influence an act or decision or to gain any other advantage for either Group or any member thereof arising out of this Agreement.

### 10.2 Trade Control Laws

Each Party represents and warrants to the other that, during the term of this Agreement and/or an Order, the Party and the members of its Group: (a) will comply with all applicable Trade Control Laws in the performance of this Agreement; (b) are not a Sanctioned Person; and (c) are not doing any act or thing, including dealing with any Sanctioned Person, that would contravene any applicable Trade Control Laws or be reasonably likely to cause the other Party to contravene any applicable Trade Control Laws. Customer acknowledges that the Licensed Materials may be subject to U.S. or other applicable Trade Control Laws. Customer will not directly or indirectly use, export, reexport, or transfer the Licensed Materials (i) in violation of any Trade Control Laws; (ii) for activities directly or indirectly related to the design, development, production, stockpiling, or use of nuclear explosive devices, missiles, chemical, or biological weapons or other restricted end-uses;

or (iii) for activities directly or indirectly related to Sanctioned Countries or Sanctioned Persons. Notwithstanding the provisions of this [Section 10.2](#), each Party shall be entitled, without incurring any liability to the other Party, to terminate this Agreement and/or a relevant Order with immediate effect if performance of any duties or obligations under this Agreement is, or becomes, in any way restricted or prohibited under applicable Trade Control Laws.

## 11 Financial Matters

### 11.1 Payments

For Licenses and Services obtained directly from the Vendor, all payments shall be made directly to the Vendor in accordance with the payment instructions provided in this Agreement. Unless otherwise agreed in the Order, for Licenses and Services obtained through an enterprise application marketplace, authorized agent, or reseller: (i) payments shall be made as instructed by the respective marketplace host, agent, or reseller, who will be solely responsible for invoicing the Customer and remitting and/or making payments to the Vendor under its agreement with the Vendor; (ii) resellers are authorized to set end-Customer pricing independently in accordance with their agreement with Vendor; (iii) all prices set by agents or for Orders placed directly with the Vendor are subject to the Vendor's acceptance; and (iv) the Customer acknowledges that its payment obligations are governed by the terms agreed with the marketplace host, agent, or reseller and remain independent of the enforceability of this Agreement, except in cases of non-payment by the Customer of the applicable fees. In such cases, the Vendor reserves the right to partially or entirely suspend the provision of Licenses and Services to the Customer.

### 11.2 Fees

Customer shall pay all Fees and expenses as specified in this Agreement and each Order. Unless otherwise stated in an Order, (i) License and Recurring Services Fee(s) will be invoiced annually in advance. For the first period, invoicing will occur promptly following Order execution or as agreed, and subsequently on or about the first day of each successive 12-month period, (ii) consumption-based Fee(s), if applicable, will be invoiced monthly in arrears, (iii) onboarding Fees and other one-time charges will be invoiced as specified in the Order, and (iv) Professional Services will be invoiced monthly in arrears on a time-and-materials basis. The Vendor reserves the right to increase the Fees once per year by up to 8%. Any Fee estimate for Professional Services on a time-and-materials basis is not a commitment to complete the work within a maximum Fee amount.

### 11.3 Travel Expenses

If the Parties agree that Vendor personnel perform Services at a Customer location and travel time exceeds 4 hours in one direction, the Customer shall reimburse the Vendor for: (a) travel time at applicable hourly rates, up to 8 hours per day, and (b) pre-agreed, actual travel-related expenses, including airfare, accommodation, statutory subsistence allowances, and other reasonable costs incurred in connection with the Services.

### 11.4 Invoicing

The Vendor or, where applicable, the marketplace host, agent, or reseller, shall issue invoices to the Customer as specified in this

Agreement and applicable Orders. While a Customer purchase order may be issued for administrative purposes, it is not required for invoice submission and shall not amend the terms of the Order or this Agreement, even if signed. Upon request, Vendor will reference the purchase order number on invoices, provided the Customer supplies it within 2 business days of the Order date. Customer shall pay all invoiced amounts in full, without set-off, deduction, or withholding, within 30 days of the invoice date. If the Customer disputes any portion of an invoice: (i) the Customer must notify the Vendor or invoicing party in writing of the dispute, providing valid reasons, prior to the invoice due date, (ii) the undisputed portion of the invoice must still be paid on time, and (iii) the Customer must make reasonable efforts to resolve the dispute promptly. Upon resolution of the dispute, the Customer shall pay any agreed-upon amount within 30 days of the resolution.

### 11.5 Late Payments

Late payments shall accrue interest from the due date at a rate of 1.5% per month or the maximum rate allowed by law, whichever is lower. In addition to other remedies, if a payment is overdue, the Vendor may, with at least 30 days' prior written notice: (i) suspend the Customer's licensed use of Software and cease performance of Services under the affected Order(s), or (ii) terminate the relevant Order(s) for cause. The Customer shall be liable for any costs incurred by the Vendor in collecting overdue amounts, including attorneys' fees, legal costs, and collection agency fees.

### 11.6 Taxes

Unless identified in the Order, all Fees are stated exclusive of taxes, withholdings, duties, levies, or similar governmental assessments, including sales, use, value-added, goods and services, excise, business, or other transactional taxes imposed by any jurisdiction, and the interest and penalties thereon (collectively, "**Taxes**"). The Customer shall bear responsibility for and pay all Taxes associated with its purchase of Licenses and Services. Taxes shall not be deducted from the payments to the Vendor (or, where applicable, to the marketplace host, agent, or reseller), except as required by Applicable Law. If required, and where the withholding tax is excluded from the Fees, the Customer shall increase the payment amount so that Vendor, the marketplace host, agent and/or reseller, as applicable, receives the full amount owed after any required deductions or withholdings. Where the use of a local agent is required, the agent fees will be treated the same as Taxes pursuant to this Section. The Customer will provide the Vendor with tax receipts or other proof of payment as reasonably requested and send them to [WHTReceipts@quorumsoftware.com](mailto:WHTReceipts@quorumsoftware.com). Vendor will provide Customer with reasonably requested tax forms to reduce or eliminate the amount of any withholding or deduction for Taxes in respect of payments under this Agreement. If the Vendor is required to invoice or collect Taxes, the Vendor will include the amount of Taxes on the invoice, itemized as required by law. Where applicable, the Customer shall provide the Vendor with its VAT identification, Taxpayer Identification Number (TIN), or GST identification for the country where the Licenses and Services are procured.

## 12 Indemnification

### 12.1 Infringement

Vendor shall defend and indemnify Customer against third-party claims alleging infringement

or misappropriation of patents, copyrights, trademarks, or trade secrets, arising from Customer's authorized use of the Licensed Materials. This indemnity applies to final judgments and settlements. The indemnity is conditioned on Customer: (a) promptly notifying Vendor of such claim, (b) granting Vendor sole conduct of defense and settlement, and (c) following Vendor's reasonable instructions. In the event of such a claim, Vendor may, at its expense, (i) modify or replace the Licensed Materials to avoid infringement; (ii) secure the right for Customer to continue using the Licensed Materials, or (iii) cancel the affected Order and refund any prepaid Fees for the remaining term. Vendor has no liability for continued use of the Licensed Materials after Customer is instructed to stop such use or after delivery of modifications intended to avoid a claim. Vendor's liability is excluded if the claim: (1) arises from changes made to comply with Customer's instructions, (2) results from the use of the Licensed Materials in combination with any material or service not supplied by Vendor, (3) derives from third-party materials or services, (4) could have been avoided by using the latest supported release, or (5) results from modifications by anyone other than Vendor. Termination of an Order or the Agreement does not affect the Vendor's indemnity obligations under this section.

## 12.2 Exclusive Remedy

SECTION 12.1 CONTAINS THE ENTIRE LIABILITY OF VENDOR AND THE EXCLUSIVE REMEDIES OF CUSTOMER WITH REGARD TO ANY CLAIMED INFRINGEMENT, MISAPPROPRIATION OR OTHER VIOLATION OF INTELLECTUAL PROPERTY RIGHTS ARISING OUT OF OR BASED ON THIS AGREEMENT.

## 13 Limitation of Liability

### 13.1 Exclusion of Certain Damages

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE CUSTOMER WAIVES AND RELEASES ANY RIGHT TO CLAIM THE FOLLOWING TYPES OF DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT, WHETHER DUE TO BREACH (INCLUDING WARRANTY BREACHES OR FAILURE OF THE WARRANTY TO FULFILL ITS ESSENTIAL PURPOSE), TORT (INCLUDING NEGLIGENCE), OR OTHER CAUSES: (I) INDIRECT, SPECIAL, INCIDENTAL, RELIANCE, OR CONSEQUENTIAL DAMAGES OR LOSSES (WHETHER DIRECT OR INDIRECT AND WHETHER FORESEEABLE OR NOT); (II) LOSS OF PROFITS OR REVENUE; LOSS OF ECONOMIC ADVANTAGE OR BENEFIT; LOSS OF BUSINESS OPPORTUNITY OR EXISTING BUSINESS; LOSS OF PRODUCTION OR OPERATION DOWNTIME; DATA LOSS; LOSS OF GOODWILL AND PROSPECTIVE ECONOMIC ADVANTAGE; LOSSES UNDER THIRD-PARTY CONTRACTS; AND COSTS FOR REPLACEMENT GOODS OR SERVICES; AND (III) PUNITIVE OR EXEMPLARY DAMAGES.

### 13.2 Vendor's Limit of Liability

VENDOR'S TOTAL CUMULATIVE LIABILITY SHALL, WHETHER IN CONTRACT, TORT, UNDER INDEMNITY, REPRESENTATION, WARRANTY (INCLUDING FAILURE OF THE WARRANTY TO FULFILL ITS ESSENTIAL PURPOSE), OR OTHERWISE, NOT EXCEED: (A) UNDER ANY ORDER FOR ONE-TIME DELIVERIES (SUCH AS THE INITIAL

PROFESSIONAL SERVICES FOR SOFTWARE IMPLEMENTATION), 100% OF THE PRICE PAID FOR THE DELIVERY UNDER THE ORDER; (B) WITH RESPECT TO VENDOR'S OBLIGATIONS UNDER SECTION 12 (INDEMNIFICATION), TWO TIMES FEES PAID TO VENDOR HEREUNDER FOR THE LICENSED MATERIALS OR SERVICES GIVING RISE TO THE LIABILITY; AND (C) IN ALL OTHER CASES, INCLUDING FOR ANY ORDER REGARDING LICENSES AND SERVICES HAVING A DURATION OF MORE THAN 12 MONTHS, FOR EACH 12-MONTH PERIOD (CALCULATED FROM THE EFFECTIVE DATE OF THE ORDER) ("CONTRACT YEAR"), 100% OF THE ANNUAL FEES UNDER THE RELEVANT ORDER ATTRIBUTABLE TO THE THEN-CURRENT CONTRACT YEAR AT THE TIME OF THE EVENT GIVING RISE TO THE CLAIM.

### 13.3 Exceptions

The limits on liability in this Section 13 do not apply to (a) a Party's fraud or willful misconduct or (b) liability that cannot be limited under Applicable Law. Nothing in this Agreement limits either Party's liability for its own fines, penalties, or administrative sanctions assessed or imposed by an authority on the Party under Applicable Laws, and neither Party shall be liable to the other for such payments.

## 14 Confidential Information

Vendor's Confidential Information includes the terms of this Agreement, the Licensed Materials, and information about their architecture, code, design, functionality, marketing, or pricing. Customer's Confidential Information includes information about the Customer Materials and Users. Confidential Information excludes information that is: (a) already known without confidentiality obligations; (b) publicly known or later made public without a breach; (c) lawfully received from a third party without confidentiality obligations; or (d) independently developed without using the disclosing Party's Confidential Information. Each Party retains all rights to its own Confidential Information. Neither Party will disclose the other's Confidential Information except to personnel, contractors, or Affiliates needing it for this Agreement. Confidential Information may only be used for purposes of this Agreement. Parties are liable for unauthorized disclosures by their personnel, contractors, or Affiliates and must protect Confidential Information with at least reasonable care. Confidential Information may be disclosed if required by law, provided that the receiving Party promptly notifies the disclosing Party (if permitted) and cooperates to prevent or limit disclosure. Confidential Information may also be disclosed as necessary to enforce rights under the dispute resolution provisions of this Agreement. Each Party acknowledges that a breach of this Section may cause immediate and/or irreparable harm, justifying equitable relief. Upon written request and subject to Section 6.3 (Exit Assistance), Confidential Information must be promptly returned or destroyed.

## 15 Governing Law and Disputes

Section 15.1 applies to Orders where Customer and Vendor are domiciled in the same country ("Domestic Orders"). Section 15.2 applies to Orders where Customer and Vendor are domiciled in different countries ("Cross-Border Orders"), and Section 15.3 applies to Orders where Vendor is domiciled in the United States ("US Orders").

### 15.1 Domestic Orders

This Agreement and related Orders are governed by and interpreted under the laws of the country and, if applicable, state or province where Vendor is domiciled, without regard to its choice of law rules.

### 15.2 Cross-Border Orders

This Agreement and related Orders are governed by and interpreted under the laws of England and Wales, without regard to its choice of law rules. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

### 15.3 US Orders

This Agreement and related Orders are governed by and interpreted under the laws of the State of Texas, without regard to its choice of law rules.

### 15.4 Dispute Resolution

Any dispute arising out of or in connection with this Agreement shall be finally settled by arbitration conducted in the English language, to be held (a) for Domestic Orders: (i) if Vendor is a Norwegian legal entity, in Oslo, Norway, in accordance with the rules of the Arbitration and Dispute Resolution Institute of the Oslo Chamber of Commerce; (ii) if Vendor is domiciled in Canada, in Edmonton, Canada, in accordance with the ADR Institute of Canada's Arbitration Rules governed by the Alberta Arbitration Act; (b) for Cross-Border Orders: in London, United Kingdom, in accordance with the rules of the London Court of International Arbitration; (c) for US Orders: in Harris County, Texas, administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and, as applicable, the Supplementary Procedures for Large, Complex Disputes. Notwithstanding the foregoing, either Party may at any time seek and obtain appropriate legal or equitable relief in any court of competent jurisdiction for claims regarding such Party's Intellectual Property rights.

## 16 General Provisions

### 16.1 Insurance

Vendor will during the term of this Agreement, obtain and maintain both legally required and customary general and professional liability insurance coverage for its operations. Vendor shall, at the Customer's request, provide a copy of the insurance certificate(s).

### 16.2 Public Announcements

Each Party grants the other Party a non-exclusive, non-transferable, non-sublicensable, worldwide, fully-paid, royalty-free license to use the legal name(s) and logo(s) ("Trademarks") of the other Party solely to identify the relationship of the Parties expressed in this Agreement, provided that (a) any goodwill derived from the use of such Trademarks inures to the benefit of the licensor Party, and (b) all use of such Trademarks shall be in a manner consistent with the high standards, quality, style, and image of the licensor Party. Unless agreed otherwise, Customer participates by default in the Quorum Customer Advocacy Program on Reference Level as set forth in each Order in more detail. Neither Party shall make any other public statements nor representations with respect to this Agreement except as authorized in advance in writing by the other Party.

### 16.3 Assignment

Customer may not assign, delegate, sublicense, or otherwise convey this Agreement, any Order, or any of its rights or obligations under this



Agreement or any Order to any other person without notice and Vendor's prior written consent, provided that the foregoing shall not limit Customer's rights to designate Users as expressly set forth in Section 3.7 (Permitted Users). Notwithstanding the foregoing, Customer may assign this Agreement in its entirety to a successor in interest to all or substantially all of Customer's assets and operations provided that such successor is (a) not a direct or indirect competitor of Vendor or any of its Affiliates and (b) reasonably deemed by Vendor to be creditworthy. Any attempted assignment, delegation, sublicensing, or conveyance by Customer in violation of this Section without Vendor's prior written consent will be void. If (i) there is a change of control or restructuring of Customer or an Affiliate of Customer named in an Order as within the scope of such Order (whether pursuant to merger, acquisition, reorganization, sale or lease of substantially all of Customer's or the Affiliate's assets, operation of law, or otherwise), or (ii) this Agreement, any Order, or any Licensed Materials are assigned by operation of law or otherwise, the scope of the Licenses or other rights granted hereunder shall be restricted as of the effective date of such event to the authorized scope of use prior to such date (including as to number of Users or permitted operations). In the event of any disposition of any of Customer's assets (if any) using Licensed Materials, (a) Vendor will subject to written request and agreed Fees allow Customer, for a period of 180 days (or such other period as the Parties shall mutually agree in good faith) immediately following the effective date of such disposition, to use the Licensed Materials pursuant to this Agreement in support of the divested asset(s), and (b) during such period, Vendor agrees to negotiate in good faith with the acquirer of such asset(s) an agreement that will allow the continued use of the Licensed Materials in support of such asset(s). Customer's right to use the Licensed Materials cannot be divided or multiplied and Customer may not partially assign, delegate, or convey this Agreement.

#### 16.4 Non-Solicitation

Customer agrees that, during the term of this Agreement and for one year thereafter, it shall not solicit, offer employment to, employ, engage as an independent contractor, or otherwise obtain the services of any person employed or engaged as a full-time independent contractor then or within the preceding one year by Vendor.

#### 16.5 Miscellaneous

**Entire Agreement.** Each Ordering Document, any applicable incorporated documents or hyperlinks and this Agreement, constitute the entire agreement and understanding between the Parties and supersede all prior agreements and understandings, both written and oral, regarding your Order. This Agreement will be binding upon and inure to the benefit of each Party and its permitted successors and assigns. Unless otherwise agreed in writing, this Agreement applies exclusively to the exclusion of any terms and conditions presented by either Party.

**Interpretation.** If a conflict exists between an exhibit and this Agreement, the terms of this Agreement shall control, except to the extent the exhibit by its terms expressly supersedes any conflicting terms in this Agreement. If a conflict exists between this Agreement and an Order, the terms of the Order shall control, except to the extent such Order provides that any Licensed Materials will be owned by Customer, in which case the provision of this Agreement providing that all Licensed Materials will be exclusively owned by Vendor will control.

**Amendments; Waiver.** Vendor reserves the right, at its sole discretion, to update, change or replace the terms of this Agreement. The most current version of the Agreement will be posted on the Vendor's designated URL, and it is the Customer's responsibility to periodically review the Vendor's website for updates. However, Vendor will not make changes to this Agreement that materially affect the Customer's rights or obligations during an ongoing annual or committed Subscription Term or any term of Services, except as otherwise permitted under this Agreement or required by applicable law.

This Agreement and any Order may only be further modified or waived by a written document executed by both Parties. A waiver by either Party of any right under this Agreement shall not be construed as a waiver of any other right or a subsequent or continuing waiver of the same right.

**Severability; Interpretation.** Each provision of this Agreement is severable, and any determination of invalidity does not affect any other provision. The words "include" and "including" are illustrative and non-limiting and shall be deemed to mean "include without limitation", and the word "or" is not exclusive.

**Notices.** Each Party will identify in each Order a representative to serve as the Party's primary point of contact with respect to that Order. A party may change its designated representative by providing notice. Unless otherwise stated in this section, all notices must comply with the following: (i) Notices must be in writing and delivered by mail (prepaid first-class postage), in-hand delivery, or a recognized courier service to the address specified in the Order. Notices to Vendor must also include delivery of a copy addressed to the attention of the CFO at the Vendor's corporate headquarters at 811 Main Street, Suite 2200, Houston, TX 77002. (ii) Notices may alternatively be sent by email to the designated representative identified in the Order and, if to Vendor, with a copy to the CFO. Email notices will be deemed effective only if accompanied by a receipt confirmation from the recipient, which may include an automated response or explicit acknowledgement from the recipient. Furthermore, (iii) Vendor may issue notices related to Software and Services by posting them at URLs or community sites specified in the Order or Documentation (as updated or relocated from time to time). It is the Customer's responsibility to regularly review these locations for updates. Such notices will be considered effective upon posting and will adhere to any notice periods specified in the Order or Documentation.

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