

## Services Addendum to Terms and Conditions

**THIS SERVICES ADDENDUM ("ADDENDUM") INCORPORATES BY REFERENCE THE TERMS AND CONDITIONS, THE CONTRACT AND THE END USER LICENSE ADDENDUM TO WHICH THIS ADDENDUM IS ATTACHED, REFERENCED, OR INCORPORATED INTO AND INCLUDES THE FOLLOWING PROVISIONS. IN THE EVENT OF ANY CONFLICT BETWEEN THIS ADDENDUM, THE TERMS AND CONDITIONS, OR THE CONTRACT, THE CONTRACT SHALL FIRST TAKE PRECEDENCE, AND THEN ANY APPLICABLE ADDENDA. IN THE EVENT OF ANY CONFLICT BETWEEN THE END USER LICENSE ADDENDUM AND THIS ADDENDUM, THIS SERVICES ADDENDUM SHALL TAKE PRECEDENCE. TERMS NOT DEFINED HEREIN SHALL HAVE THE MEANING SET FORTH IN THE TERMS AND CONDITIONS OF SALE, THE CONTRACT OR THE END USER LICENSE ADDENDUM, AS APPLICABLE.**

### 1. Support Services.

(a) During the term of the Contract, and subject to the exclusions set forth herein, Licensor will provide, or cause to be provided through subcontractors at its discretion, the following Services (such support Services, collectively, the "Support Services"), for consideration to be set forth in the applicable Contract (the "Support Fees"), with such consideration subject to increase in accordance with the notice and other applicable terms of the Contract:

(i) Licensor will make available to Licensee a telephone number and email address (the "Support Contacts") for Licensee to call or email reporting Errors. Such calls and emails will be returned and addressed during Licensor's standard business hours which are from 9:00 am to 5:00 pm local time from Monday to Friday, excluding local holidays;

(ii) Notwithstanding the foregoing, Support Contacts may be inoperable and unavailable for reasons outside Licensor's control including Licensee's own telecommunications or network service providers, a Force Majeure Event (defined below), any systemic network failure, or any failure in Licensee's own hardware, software or network connection; and

(ii) Licensor will maintain the Licensed Software by providing to Licensee Software Updates and Maintenance Releases from time to time, in accordance with the terms of the End User License Addendum.

(iii) Licensor will use commercially reasonable efforts so that the Subscription Software and Service Applications and Tools shall have an uptime (i.e., shall be operational and accessible by the Licensee) of at least 95%. The uptime percentage shall not include any minutes of downtime resulting from (1) scheduled maintenance (of which notice will be provided to Licensee), (2) Force Majeure Events, (3) malicious attacks on the system, (4) issues associated with Licensee's computing devices, local area networks or Internet service provider connections, or (5) Licensor's inability to deliver services because of Licensee's acts or omissions. Licensor may take the Subscription Software offline for scheduled maintenances. While the unavailability of the Subscription Software due to such scheduled maintenance will not be included in the uptime percentage specified above, Licensor shall provide the schedule for the scheduled maintenance to Licensee in writing. Licensor may change its schedule for the scheduled maintenance upon providing advance written notice to Licensee.

(iv) Except as provided in the Contract, Licensor reserves the right to limit Support Service phone and technical calls from Licensee to 5 per month.

(v) All Software Updates and Maintenance Releases, in each case whether updates to Licensed Software or to Subscription Software, provided to Licensee by Licensor pursuant to the terms of this Agreement shall be subject to the terms and conditions of the End User License Addendum between Licensor and Licensee. Licensee acknowledges and agrees that Maintenance Releases do not include new releases or versions of the Software or added functionality of the Software, which are provided at Licensor's sole discretion under the terms and conditions of the End User License Addendum.

(b) Licensor will provide, or cause to be provided through subcontractors at its discretion, software support only for (i) the current version of the Licensed Software and (ii) the immediately previous version of the Licensed Software for a minimum period of twelve (12) months following the general availability of a new release or Software Update. After this time, Licensor shall have no further responsibility for supporting and maintaining any prior release of the Licensed Software.

Licensor will not provide software support for any version of the Subscription Software other than the current version.

(c) Licensee shall not make any improvements, customizations or modifications to the Software and Service Applications and Tools without prior approval and in any case Software Support shall be provided pursuant to a written agreement for a fee outlined in a SOW executed by Licensor and Licensee.

(d) Upon termination of the software license, Licensee or Licensor (upon request) shall disable the software.

(e) Additional Support Services requested as a result of, or with respect to, causes which are not attributable to Licensor shall be provided at Licensor's sole discretion. If provided, such Support Services shall be, billed to Licensee at Licensor's then-current rates. Causes which are not attributed to Licensor include, but are not limited to:

(i) technological change, modification of or damage to the Software or its operating environment (unless such modification or damage is caused by Licensor);

(ii) Licensee's failure to operate the Software in the proper and reliable network, hardware and software environment as specified by Licensor;

(iii) Licensee's failure to operate the Software in accordance with the Documentation;

(iv) Licensee's failure to implement any Maintenance Releases, or other updates, improvements, modifications and/or patches provided by Licensor in a timely manner, provided that Licensee has been provided with email notification to Licensee contacts who were flagged to receive such information and availability of the same;

(v) any virus, malware or similar issue on Licensee's system;

(vi) fire, water damage, problems with the power grid, Internet connectivity, lightning, bad weather or any other such event; or

(vii) compatibility of the Software with other software or hardware utilized by Licensee.

(f) Licensor's provision of software support to Licensee is subject to Licensee's compliance with the following:

(i) Licensee shall document and promptly report all Errors to Licensor;

(ii) Licensee shall maintain a current backup copy of the Licensed Software and all related data;

(iii) Licensee shall train its personnel in the use and application of the Software and provide all initial troubleshooting of Software and Errors to Licensor;

(iv) Licensee shall comply with the applicable Service Applications and Tools Terms of Use; and

(v) Licensee shall provide Licensor with reasonably appropriate access to the system(s) running the Software (including Service Applications and Tools), but not limited to, passwords, system data, file transfer capabilities, and remote log-in-capabilities. Throughout the term of this Agreement, Licensee will: (A) at Licensee's expense, maintain an approved, secure internet connection to enable Licensor to gain remote access to the computer system(s) on which the Software is installed for diagnostic, error correction, software downloading, error logging and other maintenance purposes; (B) cooperate with Licensor in identifying the cause of any claimed failure of the Software to perform as expected; and (C) allow Licensor remote access to the Software and to Licensee's systems for the purpose of performing maintenance and to the extent reasonably necessary to perform maintenance.

**2. Software Updates and Maintenance Releases.**

From time to time, Licensor may release Software Updates and/or Maintenance Releases. Licensee has the opportunity to receive any Software Updates and Maintenance Releases in accordance with Section 3.2 of the End User License Addendum and under the terms and conditions of this Section 2.

(a) Maintenance Releases shall be provided at no charge to the Licensee. Licensee will install or assist Licensor with all Maintenance Releases as soon as practicable after receipt.

(b) Software Updates shall be provided to the Licensee for a fee. Licensor shall have no obligation to demonstrate the Software Updates to the Licensee prior to the release. Licensee will install or assist Licensor with all Software Updates as soon as practicable after receipt.

(c) Licensor shall provide Licensee notice of the availability of the Software Update and request Licensee's permission to provide the Software Updates to Licensee's computer systems on which the Licensed Software is installed via a push service.

(d) With respect to the Licensed Software, should Licensee decline to receive the Software Updates, Licensor may, but is not required to, provide the Support Services described in Section 1(a) of this Addendum to the previous version or un-updated version of the Licensed Software installed on the Licensee's computer system. Also, should Licensee decline to receive the Software Updates, any warranties regarding the operability of the Licensed Software shall expressly be waived, and Licensor shall not be responsible for any consequences arising from Licensee's decision to not receive the Software Updates.

3. **Term.** The term of this Agreement shall be as set forth in the Contract.

**4. Limited Warranty and Liability.**

(a) Licensor warrants that the Support Services will be provided materially in conformance with the terms of this Addendum. As the sole and exclusive remedy of Licensee for any proper warranty

claim, Licensor shall correct the nonconformity in such time and in such manner as is reasonable in light of the nonconformity.

(b) EXCEPT FOR THE FOREGOING, LICENSOR DOES NOT MAKE ANY OTHER WARRANTIES, WHETHER EXPRESSED OR IMPLIED, REGARDING THE PERFORMANCE OF THE SOFTWARE OR THE SUPPORT SERVICES PROVIDED UNDER THIS ADDENDUM. LICENSEE AGREES THAT LICENSOR HAS NOT WARRANTED THAT IT WILL AT ANY POINT RECOVER ANY DATA OR OTHER INFORMATION CONTAINED IN THE SOFTWARE. LICENSOR SHALL NOT BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, COST OF RECOVERY OR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF THE FURNISHING, PERFORMANCE OR USE OF THE SOFTWARE OR SUPPORT SERVICES PERFORMED HEREUNDER, WHETHER ALLEGED AS A BREACH OF CONTRACT OR TORT CONDUCT, INCLUDING NEGLIGENCE EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SUBJECT TO THE FOREGOING AND NOTWITHSTANDING ANYTHING TO THE CONTRARY ELSEWHERE CONTAINED, IN NO EVENT SHALL THE MAXIMUM AGGREGATE LIABILITY OF LICENSOR IN CONNECTION WITH THIS AGREEMENT EXCEED THE ANNUAL SUPPORT FEES PAID BY LICENSEE, PRO-RATED FOR THE REMAINING APPLICABLE SUPPORT SERVICES TERM AS OF THE DATE ANY CLAIM HEREUNDER ARISES.

(c) Neither party shall be in default or otherwise liable for any delay in or failure of its performance under this License if such delay or failure arises by any reasons beyond its reasonable control, including any act of God, any acts of the common enemy, the elements, earthquakes, floods, fires, epidemics, riots, failures or delay in transportation or communications or utilities (any such event, a "Force Majeure Event"); provided, however, that lack of funds shall not be deemed to be a reason beyond a Party's reasonable control.

[End of Services Addendum]