

### MASTER TERMS FOR RETAIN SAAL PRODUCTS

The following terms and conditions ("**Master Terms**") apply to the Agreement formed between Retain International Software (USA) LLC, a Delaware Corporation with file number 5013472 ("**Retain**") and the customer submitting a Product Order for one or more SAAL Products identified on the Product Order ("**Customer**"). The Agreement is first formed and becomes effective the both parties sign a Product Order (the "**Agreement Effective Date**") and each subsequent Product Order accepted by Retain forms part of the Agreement. In the Agreement, Retain and Customer are sometimes referred to individually as a "**Party**" and together as the "**Parties**".

#### 1. **DEFINITIONS AND INTERPRETATION.**

- 1.1 "**Access Credentials**" has the meaning set out in Section 4.1 (*Access and Hosting*) of these Master Terms.
- 1.2 "**Affiliate**" means, in relation to Customer, any entity controlling, controlled by, or under common control with Customer, where "control" (in its various forms) means having the right to direct the management and affairs of an entity, whether through ownership of voting securities, by contract, or otherwise.
- 1.3 "**Agreement**" means and consists of these Master Terms, any Product Orders submitted by Customer and accepted by Retain, and the Product Terms and Professional Services Terms incorporated into a Product Order, all of which are incorporated herein, together with any duly executed amendments.
- 1.4 "**Agreement Effective Date**" has the meaning given to it in the preamble.
- 1.5 "**Authorized Purpose(s)**" means those purposes set forth in the applicable Product Terms for which Authorized Users are permitted to access and use the Products and any related Content.
- 1.6 "**Authorized User**" means the employees and independent contractors of Customer and Listed Affiliates, if any, who are entitled to use the Product(s) in accordance with the Agreement on their behalf.
- 1.7 "**Confidential Information**" means all written or oral information, disclosed, directly or indirectly, by either Party (the "**Disclosing Party**") to the other Party (the "**Receiving Party**"), related to the business or operations of the Disclosing Party or a third party that has been marked or otherwise identified as confidential or that by the nature of the information or circumstances surrounding its disclosure ought reasonably to be understood as being confidential or proprietary. Confidential Information of Retain includes the Products, Documentation and Content and any other Restricted Items.
- 1.8 "**Content**" means electronic data, information and/or other types of content, if any, that is displayed, distributed or otherwise made accessible to Customer and Listed Affiliates via the Products, but does not include Customer Data, Customer Confidential Information or the Products.
- 1.9 "**Customer Data**" means any data, information and/or other types of content submitted, posted or displayed by, or on behalf of Customer and its Affiliates to or on the Product(s), excluding Content.
- 1.10 "**Customer Systems**" has the meaning given to it in Section 5.3 (*Content and Customer Data*) of these Master Terms.
- 1.11 "**Deliverable**" means any deliverable or output to be provided to Customer in connection with Professional Services as set out in a Product Order, excluding any Customer materials contained in the Deliverables and standard Products, Content and Documentation provided by Retain.

- 1.12 **“Documentation”** means any then-current user manual, handbook or other documentation for a Product made available by Retain for Customer’s use.
- 1.13 **“Hosting Provider”** has the meaning given to it in Section 4.3 (*Access and Hosting*) of these Master Terms.
- 1.14 **“Intellectual Property Rights”** means all intellectual and industrial property rights of any type or nature recognized in any jurisdiction in the world, including copyrights, moral rights and other rights associated with works of authorship; trade secrets and know-how; patents, patent rights, and other rights in inventions; trade-marks, trade names, trade dress, service marks, logos, symbols and other source identifiers; and including applications and registrations for, and extensions, continuations, renewals, and re-issuances of any of the foregoing.
- 1.15 **“License Fees”** means the license and/or subscription fees described as such in the applicable Product Order.
- 1.16 **“Listed Affiliate”** means a Customer Affiliate listed in a Product Order as a Customer entity authorized to use one or more of the Products listed therein during the applicable Usage Period.
- 1.17 **“Maintenance Release”** has the meaning given to it in the applicable Product Terms.
- 1.18 **“Product Order”** means an order, in a form prescribed by Retain, submitted by Customer for one or more Products, Professional Services and/or Support Services and accepted by Retain, as described in Section 2 (*Structure of the Agreement and Product Orders*) of these Master Terms.
- 1.19 **“Product Terms”** means the additional terms and conditions (including the Usage Rights and terms describing and governing the Support Services (if any)) applicable to each Product (and related Content) which are incorporated into the applicable Product Order.
- 1.20 **“Product(s)”** means SaaS Products and SaaS Products, and excludes Content and Third Party Services.
- 1.21 **“Professional Services”** has the meaning given to it in Section 8.2 (*Support Services and Other Professional Services*) of these Master Terms.
- 1.22 **“Professional Services Fees”** means the fees for Professional Services described as such in the applicable Product Order.
- 1.23 **“Professional Services Terms”** means the terms describing and governing the Professional Services provided by Retain which are incorporated into the Product Order.
- 1.24 **“Representatives”** has the meaning set out in Section 10 (*Confidentiality*) of these Master Terms.
- 1.25 **“Restricted Item”** has the meaning set out in Section 7.1 (*Restrictions*) of these Master Terms.
- 1.26 **“SaaS Product”** means software products licensed to Customer under the Agreement.
- 1.27 **“SaaS Product”** means software-as-a-service subscription products, including updates thereto made generally available by Retain to its customers, to which Customer is granted access under the Agreement.
- 1.28 **“Services”** means Professional Services and Support Services.

- 1.29 **“Support Fees”** means the fees for Support Services described as such in the applicable Product Order.
- 1.30 **“Support Period”** means the period stated in a Product Order (as it may be renewed or extended per the terms of the Product Order) during which Retain shall supply, and Customer shall take and pay for, the Support Services.
- 1.31 **“Support Services”** means the support services provided by Retain pursuant to the applicable Product Terms, excluding any Professional Services and Third-Party Services.
- 1.32 **“Third Party Services”** has the meaning set out in Section 8.3 (*Support Services and other Professional Services*) of these Master Terms.
- 1.33 **“Third Party Software”** means any open-source or other software relating to the Products that are not proprietary to Retain.
- 1.34 **“Usage Period”** means the period stated in a Product Order (as it may be renewed or extended per the terms of the Product Order) during which Customer’s Authorized Users are permitted to use and/or access the Product(s) listed therein.
- 1.35 **“Usage Rights”** means the license to use or right to access (as applicable) the Product as set out in the applicable Product Terms.
- 1.36 Unless the context requires otherwise: (i) “including” (and any of its derivative forms) means including but not limited to; (ii) “may” means has the right, but not the obligation to do something and “may not” means does not have the right to do something; (iii) “will” and “shall” are expressions of command, not merely expressions of future intent or expectation; (iv) “written” or “in writing” is used for emphasis in certain circumstances, but that will not derogate from the general application of the notice requirements set forth in the Agreement in those and other circumstances; (v) use of the singular imports the plural and vice versa; and (vi) use of a specific gender imports the other gender(s).

## **2. STRUCTURE OF THE AGREEMENT AND PRODUCT ORDERS.**

- 2.1 The Agreement will be implemented by means of Customer’s submission and Retain’s acceptance of a first, and any subsequent, Product Orders for Products and/or related Services.
- 2.2 Each Product Order shall be part of the Agreement and shall not form a separate contract to it.
- 2.3 For the avoidance of doubt, the Agreement does not compel Customer to submit any particular Product Order, nor does it compel Retain to respond to a request for, or accept, any particular Product Order.
- 2.4 Save as explicitly stated elsewhere in the Agreement, in the event of a conflict or inconsistency between the provisions of the components of the Agreement, then the following order of precedence shall apply: (a) the Product Order’s terms and conditions shall take precedence over any other component of the Agreement; (b) then the Product Terms; (c) then the Professional Services Terms; (d) then the Master Terms.

## **3. USAGE RIGHTS.**

- 3.1 Subject to Customer’s and Listed Affiliates’ and their respective Authorized Users’ continuing compliance with the terms and conditions of the Agreement, Retain grants to Customer during the applicable Usage

Period, the Usage Rights specified in the applicable Product Order and any applicable Product Terms. Unless explicitly stated otherwise in the applicable Product Order or applicable Product Terms, such Usage Rights shall be on a non-exclusive and non-transferrable basis.

- 3.2 The Products and any Content, Documentation and Deliverables are not sold to Customer. The Agreement does not convey to Customer title to or ownership of the Products, Content, Documentation or Deliverables, but only a right of limited use on the terms and conditions set forth herein and in the applicable Product Order (and any applicable Product Terms and Professional Services Terms). All rights not expressly granted by Retain to Customer are reserved by Retain and its licensors.
- 3.3 The Products, Content and Deliverables may contain proprietary and/or Third Party Software components that are subject to additional or different license and notice terms. If so, Customer shall (and shall procure that any Licensed Affiliates and its and their Authorized Users shall) comply with all applicable license and notice terms identified on the applicable Product Order (or applicable Product Terms) or notified by Retain to Customer from time to time.
- 3.4 Customer and Listed Affiliates may exercise the Usage Rights granted in the applicable Product Terms through Authorized Users. Customer is responsible and liable for all uses of the Products, Content, Documentation and Deliverables resulting from access provided by Customer or any Listed Affiliate, directly or indirectly, whether such access or use is permitted by or in violation of the Agreement. Without limiting the generality of the foregoing, Customer is responsible for all acts and omissions of Listed Affiliates and Authorized Users, and any act or omission of a Listed Affiliate or an Authorized User that would constitute a breach of the Agreement if taken by Customer will be deemed a breach of the Agreement by Customer. Customer shall make all Listed Affiliates and Authorized Users aware of the provisions of the Agreement as applicable to such Listed Affiliates and Authorized Users' use of the Products, Content, Documentation or Deliverables and shall cause Listed Affiliates and Authorized Users to comply with such provisions.
- 3.5 Customer may make a reasonable number of copies of the SaaS Products and Documentation solely for back-up and archival purposes. When doing so, Customer shall reproduce and include all copyright, trademark, and other proprietary rights notices on any copies it makes (or has made) of the SaaS Products and Documentation, including partial copies. Any copies Customer makes (or has made) of the SaaS Products or Documentation, in whole or in part, are the property of Retain (and its licensors).

#### 4. **ACCESS AND HOSTING.**

- 4.1 If necessary for Authorized Users to gain access to or otherwise use or operate a Product, Retain shall provide to Customer the necessary keys and other access protocols or credentials (collectively, "**Access Credentials**") promptly after accepting Customer's Product Order.
- 4.2 If so requested by Retain, Customer shall designate at least one Authorized User to serve as administrator and act as Customer's principal point of contact with Retain for purposes of Customer's account administration.
- 4.3 For SaaS Products, the Product Order (or applicable Product Terms) shall specify whether Retain or Customer (either itself or through a third-party hosting provider ("**Hosting Provider**")) will provide the hosting environment for the SaaS Products. If Customer is responsible for providing the hosting environment (either itself or through a Hosting Provider) Customer shall:
  - 4.3.1 ensure the hosting environment meets Retain's operating environment specifications for the SaaS Products (including as may be specified in the applicable Product Terms) and is properly configured

for installation and operation of the SaaS Products;

- 4.3.2 arrange for Retain to have access to the hosting environment promptly following acceptance of the applicable Product Order for purposes of installing and configuring the SaaS Products for access and use by Authorized Users (where the Product Order provides that Retain is responsible for such installation and/or configuration of the SaaS Products in the hosting environment), and thereafter as may be reasonably necessary for Retain's ongoing provision of services; and
- 4.3.3 if Customer authorizes a Hosting Provider to host and operate the SaaS Products on Customer's behalf, first obtain such Hosting Provider's written agreement to be subject to, and comply with, all applicable terms and conditions of the Agreement. In all such cases, Customer shall be responsible and liable for the acts and omissions of its (and its Affiliates') personnel and contractors (including the Hosting Provider) as if they were the acts and omissions of Customer.

## 5. **CONTENT, CUSTOMER DATA AND CUSTOMER SYSTEMS.**

- 5.1 The Product(s) may enable Authorized Users to search for, find, store, manage, and use Content that is provided or made accessible through the Product(s) or to submit, post or display Customer Data to or on the Product(s). Customer acknowledges that Retain does not endorse, support, represent or guarantee the completeness, truthfulness, accuracy, reliability, or other attributes of any Content or Customer Data, nor does Retain review or attempt to verify the accuracy or currency of any Customer Data or Content. As between Customer and Retain, Customer is solely responsible for:
  - 5.1.1 determining the suitability of any Content or Customer Data for its intended use by Customer; and
  - 5.1.2 as necessary for its intended use, verifying the authenticity, integrity, and accuracy of the Content and any Customer Data prior to using it.
- 5.2 Retain has no obligation to preview, verify, flag, modify, filter or remove any Customer Data or Content. Retain may remove or disable access to any Content or Customer Data at its sole discretion (but is not responsible for any failures or delays in removing or disabling access to any Content or Customer Data unless otherwise provided herein), including Content or Customer Data that may be considered harmful, inaccurate, unlawful or otherwise objectionable or if Retain is required by any third party rights holder to remove Content or Customer Data, or receives information that Content or Customer Data may violate applicable law or third-party rights.
- 5.3 Customer has and will retain sole responsibility for: (a) all Customer Data, including its content, use, accuracy, quality and legality; (b) all information, instructions, and materials provided by or on behalf of Customer or any Authorized User in connection with the Products; (c) Customer's information technology infrastructure, including computers, software, databases, electronic systems, and networks, whether operated directly by Customer or through the use of third-party services ("**Customer Systems**"); (d) the security and use of Customer's and its Authorized Users' Access Credentials; and (e) all access to and use of the Products directly or indirectly by or through the Customer Systems or its or its Authorized Users' Access Credentials, with or without Customer's knowledge or consent, including all results obtained from, and all conclusions, decisions, and actions based on, such access or use.

## 6. **U.S. GOVERNMENT RESTRICTED RIGHTS.**

This Section 6 applies to all acquisitions of the Products by or for the U.S. federal government, or by any prime contractor or subcontractor (at any tier) under any contract, grant, cooperative agreement or other

activity with the government. By accepting delivery of a Product, the government hereby agrees that the Product qualifies as “commercial” computer software within the meaning of the acquisition regulation(s) applicable to the procurement of the Product. The terms and conditions of the Agreement shall pertain to the government’s use and disclosure of the Product(s), and shall supersede any conflicting contractual terms or conditions. If the Agreement fails to meet the government’s needs or is inconsistent in any respect with Federal law, the government agrees to return the Product(s), unused, to Retain, or cease use of the Product(s).

### 7. **RESTRICTIONS.**

7.1 Customer shall not, and shall cause Listed Affiliates and Authorized Users not to, act outside the scope of the Usage Rights that are expressly granted by Retain in the Agreement. Further, in relation to any Product, Content or Documentation (each a “**Restricted Item**”) Customer shall not, and shall not permit or allow Listed Affiliates, Authorized Users, or any other person to:

7.1.1 use the Restricted Item in any manner that is not authorized by, or not consistent with, the Agreement;

7.1.2 reverse engineer, decompile, disassemble, or otherwise translate or derive any trade secrets embodied in the Restricted Item or the source code for any components of the Restricted Item, or attempt to do so (except as otherwise expressly permitted by applicable law for computer interoperability);

7.1.3 access or use the Restricted Item in order to develop or support, or assist another party in developing or supporting, any products or services competitive with the Restricted Item;

7.1.4 disclose or give access to the Restricted Item to any person who is involved in any way in the design or development of a competitive alternative to any Product;

7.1.5 access or use the Restricted Item to operate the business of a third party or to process data or content provided by a third party for the operation of a third party’s business, or otherwise use the Restricted Item on a third party’s behalf, or to act as a service bureau or provider of application services to any third party;

7.1.6 alter, obscure, or remove any copyright, trademark or other proprietary rights notice from the Restricted Item;

7.1.7 knowingly or intentionally re-use, disseminate, copy, or otherwise use the Restricted Item in a way that infringes, misappropriates, or violates any trademark, copyright, patent, trade secret, publicity, privacy or other right of any third party;

7.1.8 take any action designed or intended to: (a) interfere with the proper working of the Restricted Item; or (b) circumvent, disable, or interfere with security-related features of the Restricted Item or features that prevent or restrict use, access to, or copying the Restricted Item, or that enforce limitations on use of the Restricted Item; or

7.1.9 sell, lend, lease, assign, novate, transfer, pledge, permit a lien upon, or sublicense any of the rights or obligations under this Agreement with respect to the Restricted Item.

7.2 At Retain’s written request, and no more than once every six (6) months, Customer shall provide Retain

with a signed certification verifying that the Restricted Items are being used and/or accessed in accordance with the Agreement and the applicable Product Order (including applicable Product Terms), and that no unlicensed or unauthorized use of the Restricted Items is occurring.

- 7.3 In addition to the foregoing, at Retain's written request, Customer shall (and shall procure that any Listed Affiliates, and any Hosting Provider (if applicable), shall) permit Retain or its designated representatives to review and verify Customer's (and Listed Affiliates' and, if applicable, the Hosting Provider's) records, deployment, and use of the Restricted Items for compliance with the terms and conditions of the Agreement, and:
- 7.3.1 such review and verification may be conducted remotely or onsite, at Retain's discretion;
  - 7.3.2 any onsite review shall be scheduled on reasonable notice, shall be conducted during normal business hours if at Customer's or a Listed Affiliate's or the Hosting Provider's facilities, and shall not unreasonably interfere with Customer's or the Hosting Provider's business activities (as applicable); and
  - 7.3.3 if any such verification process determines that Customer's (including any Listed Affiliates) usage of the Products exceeds the number of licenses or other Usage Rights Customer has purchased, Customer shall promptly place an order with Retain for (and Retain shall be entitled to invoice Customer for) at least the number of additional licenses required for Customer and any Listed Affiliates to come into compliance with the Agreement. The price of each such license will be at Retain's then current list price, calculated so as to cover the time period during which the license should have been in effect to avoid any period of non-compliance, and bearing interest at a rate of 1.5% per month (or the maximum legal rate if less) from the date when the license subscriptions should have been purchased to the actual purchase date.

## 8. **SUPPORT SERVICES AND OTHER PROFESSIONAL SERVICES.**

- 8.1 Retain offers different levels of Support Services for its Products, as described in the applicable Product Terms. Support Services may be subject to separate charges.
- 8.2 Retain may agree to provide Customer certain professional services, such as installation, configuration, consulting, and training ("**Professional Services**"), if and as specified on a Product Order (including any applicable Professional Services Terms) executed by the Parties under the Agreement. Any such Professional Services shall be deemed to be performed under and governed by the Agreement. Unless otherwise provided in a Product Order (including any applicable Professional Services Terms), Customer is responsible for installing and configuring Products for its use.
- 8.3 From time to time Retain may recommend its authorized resellers, partners and other third parties to Customer, or Customer may elect to have other third parties, to provide Customer certain professional services, such as installation, configuration, consulting, and training, in connection with the Product(s) ("**Third Party Services**"). IF CUSTOMER CHOOSES TO PROCURE THIRD PARTY SERVICES, CUSTOMER ACKNOWLEDGES AND AGREES THAT RETAIN SHALL HAVE NO RESPONSIBILITY OR LIABILITY FOR THE PERFORMANCE OF THE THIRD PARTY SERVICES BY THE THIRD PARTY SERVICES PROVIDER, OR FOR ANY DEFECT OR FAILURE OF THE PRODUCT(S) CAUSED BY THE THIRD PARTY SERVICES AND CUSTOMER SHALL NOT BE ENTITLED TO ANY REDUCTION IN FEES FOR THE PRODUCT(S) AS A RESULT THEREOF. Retain may deny access to the Product(s) to any third party services provider which Retain reasonably determines poses a security or confidentiality risk to Retain's, or its other customers', systems, data or Intellectual Property Rights.

9. **FEES AND TAXES.**

- 9.1 In consideration for the Usage Rights granted under the Product Order and any applicable Product Terms, Customer agrees to pay Retain the fees set forth in the applicable Product Order.
- 9.2 Unless Customer is exempt from payment of taxes otherwise due in respect of the transactions effected by the Agreement and provides Retain the appropriate tax exemption certificate(s), Customer agrees to pay directly or reimburse Retain for any taxes and other governmental fees arising out of the Agreement or Retain's performance under the Agreement, excluding taxes on Retain's net income.
- 9.3 Unless otherwise set out in the Product Order, all fees and expenses are to be paid to Retain in United States Dollars, by wire transfer of funds to an account designated by Retain, or by such other means as Retain may agree to. Retain's invoices are due and payable in full within thirty (30) days from the date of the invoice. If Customer does not pay a Retain invoice in full within thirty (30) days after the invoice date, in addition to any other rights or remedies of Retain under the Agreement or at law, Retain may: (a) add an interest charge of 1.5% per month, or the maximum rate allowed by law if less, to the outstanding balance; this interest will begin to accrue on the day after the payment due date and will accumulate on the outstanding balance on a daily basis until paid in full; and (b) if such failure continues for fourteen (14) days following written notice thereof, suspend performance of Services and/or, where applicable, access to SaaS Products until all past due amounts and interest thereon have been paid, without incurring any obligation or liability to Customer or any other person by reason of such suspension. All invoices issued to Customer pursuant to this Agreement shall be transmitted electronically to Customer, and Customer hereby acknowledges and agrees to the sufficiency of receiving such invoices electronically.
- 9.4 Retain may increase fees in the manner and at the periods set out in the Product Order (of, if relevant, the Product Terms). Any increase shall be notified to Customer at least sixty (60) days prior to the date any fee adjustment takes effect.

10. **CONFIDENTIALITY.**

- 10.1 Each Receiving Party recognizes and agrees that the Confidential Information of the Disclosing Party is critical to the Disclosing Party's business and that neither Party would enter into the Agreement without assurance that such information and its value will be protected as provided in this Section 10 and elsewhere in the Agreement. As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party shall:
- 10.1.1 not access or use, or permit the access or use of, Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with the Agreement;
- 10.1.2 not use or permit the use of any of the Disclosing Party's Confidential Information, directly or indirectly, in any manner to the detriment of the Disclosing Party or to obtain any competitive advantage over the Disclosing Party;
- 10.1.3 except as may be permitted by and subject to its compliance with Section 10.1.6 below, not disclose or permit access to Confidential Information other than to its personnel and professional and legal advisers ("**Representatives**") who: (i) need to know such Confidential Information for purposes of the Receiving Party's exercise of its rights or performance of its obligations under and in accordance with the Agreement; (ii) have been informed of the confidential nature of the Confidential Information and the Receiving Party's obligations under this Section 10; and (iii) are bound by written confidentiality and restricted use obligations at least as protective of the



Confidential Information as the terms set forth in this Section 10;

- 10.1.4 safeguard the Confidential Information from unauthorized use, access, or disclosure using at least the degree of care it uses to protect its similarly sensitive information and in no event less than a reasonable degree of care;
  - 10.1.5 ensure its Representatives' compliance with, and be responsible and liable for any of its Representatives' noncompliance with, the terms of this Section 10; and
  - 10.1.6 notify the Disclosing Party in writing promptly of any unauthorized disclosure or use of the Disclosing Party's Confidential Information and cooperate with the Disclosing Party to protect the confidentiality and ownership of all Intellectual Property Rights, privacy rights, and other rights therein.
- 10.2 Confidential Information does not include information that the Receiving Party can demonstrate by written or other documentary records:
- 10.2.1 was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information being disclosed or made available to the Receiving Party in connection with the Agreement;
  - 10.2.2 was or becomes generally known by the public other than by the Receiving Party's or any of its Representatives' noncompliance with the Agreement;
  - 10.2.3 was or is received by the Receiving Party on a non-confidential basis from a third party that was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or
  - 10.2.4 the Receiving Party can demonstrate by written or other documentary records was or is independently developed by the Receiving Party without reference to or use of any Confidential Information.
- 10.3 If the Receiving Party or any of its Representatives is required to disclose the Disclosing Party's Confidential Information in response to a valid order of a court or other valid governmental body in the United States, the Receiving Party agrees to give the Disclosing Party reasonable advance notice of the required disclosure (if legally permitted to do so) in order to afford the Disclosing Party a reasonable opportunity to contest the disclosure or seek a protective order, and the Receiving Party agrees to reasonably cooperate with the Disclosing Party's efforts.
- 10.4 The Receiving Party's obligations of confidentiality shall apply with respect to any particular Confidential Information of the Disclosing Party while any copy of it remains in the Receiving Party's possession or control, and thereafter for a period of two (2) years.
- 10.5 Upon the termination of the Agreement, the Receiving Party will cease all use of the Disclosing Party's Confidential Information in the form originally furnished and destroy it or, at the Disclosing Party's direction and expense, return it to the Disclosing Party.
- 10.6 Notwithstanding anything to the contrary in this Section 10, Retain may: (i) include Customer's name on Retain's customer list and may describe in general terms the nature of the services provided by Retain to Customer; and (ii) disclose Customer's Confidential Information and the contents of the Agreement with its Affiliates and any purchaser or potential purchaser of all or substantially all the assets or shares of Retain,

provided such purchaser or potential purchaser has been informed of the confidential nature of the Confidential Information and is bound by written confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this Section 10.

### 11. **INTELLECTUAL PROPERTY RIGHTS.**

11.1 Customer acknowledges that the Products, Services, Content, Documentation and Retain's name, logos and branding have been developed at substantial cost and expense by Retain and its licensors and that they constitute valuable commercial and proprietary property of Retain and its licensors. Customer further acknowledges and agrees that, as between Retain and Customer, all Intellectual Property Rights in and to the Products, Services, Content, Documentation and Retain's name, logos and branding are (and will be) owned solely and exclusively by Retain and its licensors and that Customer does not, by virtue of the Agreement or performance under it, receive any ownership interest in or continuing license to any part of the Product(s), Services, Content, Documentation or to Retain's Intellectual Property Rights, whether expressly, or by implication, estoppel, or otherwise.

11.2 Customer grants to Retain and its Affiliates a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into its services and products any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer or Authorized Users relating to the operation or use of Retain's services and products.

### 12. **REPRESENTATIONS AND WARRANTIES.**

12.1 Each Party represents to the other Party that: (a) it has all necessary power and authority to enter into the Agreement; and (b) the Agreement, when executed and delivered, will constitute a valid and binding obligation of such Party and will be enforceable against such Party in accordance with its terms.

12.2 Retain warrants that the SaaS Products will perform in accordance with their respective Documentation in all material respects for thirty (30) days following delivery. The warranty shall not apply: (i) if the SaaS Product is not used in accordance with the Documentation; (ii) if the defect is caused by a modification (other than a modification provided by Retain), Customer or third party software; (iii) to any Customer unlicensed activities; or (iv) if the defect is caused by a failure by Customer to install and run a Maintenance Release in accordance with the applicable Product Terms. Provided Customer notifies Retain in writing with a specific description of the SaaS Product's non-conformance within the warranty period referenced above and Retain validates the existence of such non-conformance, Retain's sole obligation and Customer's exclusive remedy will be for Retain to use reasonable efforts to correct the failure of the affected SaaS Product to operate as warranted, at no charge to Customer. If Retain is unable to cure a breach of this warranty after using reasonable commercial efforts, Customer's exclusive remedies will be to terminate its license for the affected SaaS Product in accordance with Section 15.2.3 below, and receive a refund of any unused prepaid fees received for such Product less an amount that reflects Customer's use and benefit derived from the Product prior to the date of such termination, assuming a useful life of five (5) years.

12.3 Retain warrants that it will perform the Support Services in a professional and workmanlike manner consistent with generally accepted industry practices.

12.4 Retain warrants that the Professional Services (if any) will conform in all material respects with the descriptions set forth in the applicable Product Order. Provided Customer notifies Retain in writing with a specific description of any non-conformity of Professional Services in breach of this warranty within thirty (30) days of completion of the applicable Professional Services, Retain's sole obligation and Customer's exclusive remedy will be for Retain to re-perform of such deficient Professional Services, and if Retain fails

to re-perform such Professional Service as warranted, Customer, as its exclusive remedy, shall be entitled to recover the fees paid to Retain for such deficient Professional Services.

12.5 CUSTOMER ASSUMES ALL RISKS ASSOCIATED WITH ITS SELECTION AND USE OF THE PRODUCTS, DOCUMENTATION, DELIVERABLES AND CONTENT TO MEET ITS NEEDS. CUSTOMER ACKNOWLEDGES THAT IT IS SOLELY RESPONSIBLE FOR THE RESULTS OBTAINED FROM USE OF THE PRODUCTS, DOCUMENTATION, DELIVERABLES OR CONTENT, INCLUDING THE COMPLETENESS, ACCURACY, AND CONTENT OF SUCH RESULTS AND THE CONCLUSIONS DRAWN FROM SUCH USE. RETAIN DOES NOT REPRESENT OR WARRANT THAT THE PRODUCTS, DOCUMENTATION, DELIVERABLES OR CONTENT WILL MEET THE REQUIREMENTS OR BUSINESS NEEDS OF CUSTOMER OR ITS LISTED AFFILIATES, THAT THE PRODUCTS', DOCUMENTATION'S, DELIVERABLES' OR CONTENT'S OPERATION WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ALL DEFECTS WILL BE CORRECTED. EXCEPT AS EXPRESSLY PROVIDED IN THE AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, RETAIN DISCLAIMS ALL OTHER WARRANTIES UNDER THE AGREEMENT, WHETHER WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF TITLE OR NON-INFRINGEMENT, SATISFACTORY QUALITY OR ACCURACY, AND THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. RETAIN DISCLAIMS ALL LIABILITY AND INDEMNIFICATION OBLIGATIONS FOR ANY HARM OR DAMAGES CAUSED BY ANY THIRD PARTY HOSTING PROVIDERS OR BY ANY OTHER PROVIDERS OF THIRD PARTY SERVICES.

### 13. **INDEMNIFICATION.**

13.1 Subject to Section 13.3, Retain will defend and indemnify, at its own expense, Customer from and against any third party (other than a Listed Affiliate or Authorized User) claim against Customer to the extent based on an allegation that any Product infringes any valid United States copyright in effect at the effective date of the applicable Product Order. Retain agrees to pay such damages or costs as are finally awarded against Customer by a court of competent jurisdiction or agreed to by Retain in settlement of such a claim provided that Customer: (a) gives Retain written notice of any such claim or threatened claim promptly after becoming aware of the claim or threat; (b) makes no admissions or settlements and does not prejudice Retain's defense of such claim or threatened claim; (c) gives Retain sole control of the defense, negotiations and settlement of such claim; and (d) fully cooperates in any defense or settlement of the claim (at Retain's cost). Retain shall not be liable for the settlement of a claim made without Retain's prior written consent. The defense and indemnification obligations set out in this Section 13.1 shall not apply to the extent a claim arises from, or in relation to, Content.

13.2 If Customer's use of a Product results in, or in Retain's opinion is likely to become subject to, any claim of infringement or misappropriation, then Retain may, at its sole option and expense, either: (a) obtain for the Customer the right to continue using the Product; (b) replace or modify the Product so that it is non-infringing and substantially equivalent in function to the allegedly infringing Product; or (c) if options (a) and (b) above cannot be accomplished on commercially reasonable terms, then Retain may terminate Customer's rights to use the affected Product. If option (c) is invoked, then: (i) if the Product is a SaaS Product, Retain will refund all license fees received for such Product less an amount that reflects Customer's use and benefit derived from the Product prior to the date of such termination assuming a useful life of five (5) years; or (ii) if the Product is a SaaS Product, Retain will refund any unused prepaid subscription fees for the affected Product. THE RIGHTS AND REMEDIES GRANTED TO CUSTOMER UNDER THIS SECTION 13 SHALL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES AND RETAIN'S COMPLETE AND ENTIRE RESPONSIBILITY AND LIABILITY FOR ANY ALLEGED INFRINGEMENT OR MISAPPROPRIATION BY ANY PRODUCT OF ANY INTELLECTUAL PROPERTY RIGHT OR OTHER PROPRIETARY RIGHT.

13.3 Retain shall have no obligation under Section 13.1 above with respect to any claim of infringement or misappropriation by any Product of any Intellectual property Right or other proprietary right based upon

any of the following, and Customer shall defend, indemnify, and hold Retain harmless from and against such claim: (a) combination of any Product with products, programs or data not furnished by Retain where, but for the combination, the claim would have been avoided; (b) any modification of a Product not made by Retain, if such claim would have been avoided by use of the unmodified Product; (c) negligence, abuse, misapplication, or misuse of a Product by or on behalf of Customer, any Listed Affiliate (or either of their Authorised Users), or a third party; (d) use of a Product by or on behalf of the Customer, any Listed Affiliate (or either of their Authorised Users) that is outside the purpose, scope, or manner of use authorised by the Agreement or in any manner contrary to Retain's instructions; (e) compliance by Retain with Customer's requirements or specifications if and to the extent such compliance with Customer's requirements or specifications resulted in the infringement; or (f) failure of Customer to use a Maintenance Release or replacement Product provided by Retain in a timely manner, where Customer has been advised that a purpose of such Maintenance Release or replacement Product is to avoid such claim of infringement or misappropriation.

- 13.4 Except for claims in respect of which Retain is obligated to indemnify Customer under Section 13.1 above, Customer will defend and indemnify, at its own expense, Retain from and against any third party claim against Retain to the extent arising out of or in connection with: (a) any claim that any Customer Data infringes or misappropriates such third party's intellectual property rights including Intellectual Property Rights, privacy, publicity, or other personal or proprietary rights, or that the any Customer Data posted, displayed, distributed, broadcast, or otherwise published contains libelous, defamatory or otherwise injurious or unlawful material; (b) Customer's use of, or inability to use, any Product; or (c) Customer's failure to comply with the terms of the Agreement. Customer agrees to pay such damages or costs as are finally awarded against Retain by a court of competent jurisdiction or agreed to by Customer in settlement of such a claim provided that Retain gives Customer: (i) written notice of any such claim or threatened claim promptly after becoming aware of the claim or threat; (ii) sole control of the defense, negotiations and settlement of such claim; and (iii) full cooperation in any defense or settlement of the claim (at Customer's cost). Customer shall not be liable for the settlement of any such claim made without Customer's prior written consent.

#### 14. **LIMITATIONS OF LIABILITY; REMEDIES.**

- 14.1 EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 14.1 AND SECTIONS 14.2 AND 14.3, NEITHER PARTY SHALL HAVE ANY LIABILITY UNDER OR IN CONNECTION WITH THE AGREEMENT FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, NOR ANY LIABILITY FOR LOST PROFITS, LOSS OF ANTICIPATED SAVINGS, LOSS OR CORRUPTION OF DATA OR INFORMATION, LOSS OF BUSINESS OR OPPORTUNITY, LOSS OF CONTRACTS, DEPLETION OF GOODWILL AND/OR SIMILAR LOSSES, OR BUSINESS INTERRUPTION, REGARDLESS OF THE THEORY OF LIABILITY (INCLUDING THEORIES OF CONTRACTUAL LIABILITY, TORT LIABILITY (INCLUDING NEGLIGENCE), OR STRICT LIABILITY), EVEN IF THE LIABLE PARTY KNEW OR SHOULD HAVE KNOWN THAT THOSE KINDS OF DAMAGES WERE POSSIBLE. EACH PARTY'S MAXIMUM CUMULATIVE LIABILITY UNDER OR IN CONNECTION WITH THE AGREEMENT SHALL NEVER EXCEED: (X) IN RESPECT OF EACH INDIVIDUAL PRODUCT ORDER OR ITS SUBJECT MATTER, THE INJURED PARTY'S ACTUAL DIRECT DAMAGES, CAPPED AT AN AMOUNT EQUAL IN THE AGGREGATE TO THE TOTAL AMOUNT PAID OR PAYABLE BY CUSTOMER UNDER THE RELEVANT PRODUCT ORDER FOR THE PRODUCT OR SERVICES GIVING RISE TO THE LIABILITY IN THE TWELVE (12) MONTHS PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE; AND (Y) IN RESPECT OF THE AGREEMENT OR ITS SUBJECT MATTER (OTHER THAN THE PERFORMANCE OR CONTEMPLATED PERFORMANCE OF ANY PRODUCT ORDER OR ITS SUBJECT MATTER), AN AMOUNT EQUAL IN THE AGGREGATE TO \$10,000 (TEN THOUSAND DOLLARS).
- 14.2 THE LIMITATIONS OF LIABILITY AT SECTION 14.1 SHALL NOT BE APPLICABLE TO A PARTY'S BREACH OF ITS OBLIGATIONS UNDER SECTION 10 (*CONFIDENTIALITY*) OF THESE MASTER TERMS, A PARTY'S

INDEMNIFICATION OBLIGATIONS UNDER SECTION 13 (*INDEMNIFICATION*) OF THESE MASTER TERMS, THE FEES PAYABLE BY CUSTOMER UNDER THE AGREEMENT, ANY BREACH BY THE CUSTOMER OF CLAUSE 3 (*USAGE RIGHTS*), CLAUSE 6 (*U.S. GOVERNMENT RESTRICTED RIGHTS*), CLAUSE 7 (*RESTRICTIONS*), CLAUSE 11 (*INTELLECTUAL PROPERTY RIGHTS*), ANY OF RETAIN'S INTELLECTUAL PROPERTY RIGHTS OR CLAUSE 16 (*LEGAL COMPLIANCE*), OR ANY DAMAGES THAT THE LIABLE PARTY IS NOT PERMITTED UNDER APPLICABLE LAW TO DISCLAIM (OR, AS APPLICABLE, LIMIT) UNDER APPLICABLE LAW.

- 14.3 NOTWITHSTANDING THE EXCLUSION OF SECTION 14.2, RETAIN'S LIABILITY IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR BREACH OF STATUTORY DUTY), MISREPRESENTATION, RESTITUTION OR OTHERWISE, ARISING UNDER OR IN CONNECTION WITH AN UNINTENTIONAL BREACH OF SECTION 10 (*CONFIDENTIALITY*) IN RESPECT OF CUSTOMER DATA SHALL BE SUBJECT TO THE LIMITATIONS AND EXCLUSIONS OF LIABILITY SET OUT IN SECTION 14.1.
- 14.4 ALL DATES SUPPLIED BY RETAIN FOR THE DELIVERY OF ANY PRODUCT OR THE PROVISION OF ANY SERVICE SHALL BE TREATED AS APPROXIMATE ONLY. RETAIN SHALL NOT IN ANY CIRCUMSTANCE BE LIABLE FOR ANY LOSS OR DAMAGE ARISING FROM ANY DELAY IN DELIVERY BEYOND SUCH APPROXIMATE DATES.
- 14.5 CUSTOMER ACKNOWLEDGES THAT THIS SECTION 14 IS AN ESSENTIAL PART OF THE AGREEMENT, ABSENT WHICH THE ECONOMIC TERMS AND OTHER PROVISIONS OF THE AGREEMENT WOULD BE SUBSTANTIALLY DIFFERENT.
- 14.6 The provisions of this Section 14 shall survive the expiration or termination of the Agreement and shall apply to the maximum extent permissible under applicable law, even if a remedy provided herein should fail of its essential purpose.

## 15. **USAGE PERIODS AND TERMINATION.**

- 15.1 The Agreement commenced on the Agreement Effective Date and continues until all Usage Periods hereunder have expired or have been terminated.
- 15.2 Unless otherwise agreed to by the Parties in writing, the Agreement and the usage rights it grants will terminate or may be terminated as follows:
- 15.2.1 The Usage Rights to any particular Product(s) will expire automatically at the end of the applicable Usage Period if not renewed in accordance with the applicable Product Order.
- 15.2.2 In addition to any termination rights Retain may have under any individual Product Order (including under any related Product Terms), Retain may terminate the Agreement or any individual Product Order (in whole or in part) for cause: (i) if Customer commits a material breach of the Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of thirty (30) days after being notified in writing to do so; (ii) Customer fails to pay any amount due under the Agreement on the due date for payment and remains in default not less than thirty (30) days after being notified in writing to make such payment; or (iii) if Customer becomes the subject of a petition in bankruptcy or any other proceedings relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.
- 15.2.3 Customer may terminate for cause: (i) an individual Product Order upon thirty (30) days' written notice to Retain of a material breach of the Agreement relating to the Products or Services under that Product Order which breach is irremediable or (if such breach is remediable) fails to remedy

that breach within a period of thirty (30) days after being notified in writing to do so; or (ii) the Agreement if Retain becomes the subject of a petition in bankruptcy or any other proceedings relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

- 15.2.4 When the Usage Rights to any particular Product(s) terminates, Customer will immediately cease to use or access the affected Product(s) and will promptly uninstall and securely erase all copies so that they cannot be recovered. Upon request by Retain, Customer will certify in writing that it has done so.
- 15.3 Termination of the Agreement does not free either Party from its obligations to comply with all terms of the Agreement that contemplate performance prior or subsequent to the termination date.
- 15.4 Other than as set out in Section 15.1 above, if Customer purchases a Product Order for a Usage Period, then the Product Order will be non-cancellable and the associated fees will be non-refundable for the applicable Usage Period.
16. **LEGAL COMPLIANCE.**
- 16.1 Each Party covenants that it will perform all activities under or pursuant to the Agreement in accordance with all applicable legal requirements.
- 16.2 Without limiting the generality of Section 16.1 above, Customer covenants that it will cause all personnel who will be given access to the Product(s), Documentation, Deliverables or Content to be familiar with U.S. laws governing cross-border transactions and activities, including U.S. export control laws and the U.S. Foreign Corrupt Practices Act, and Customer assures Retain that Customer and such personnel will not violate any such laws in connection with their activities under or relating to the Agreement, and that they will take no actions on behalf of or in relation to Retain or the Product(s), Documentation, Deliverables or Content that would subject Retain to liability under any such laws.
- 16.3 Customer will not permit access to the Product(s) , Documentation, Deliverables or Content to be given to, or accessed by, any individuals or companies from restricted destinations, organizations, entities, or individuals subject to U.S. trade embargoes, sanctions, and restrictions under U.S. Law, including the Office of Foreign Assets Control's (OFAC) Embargoed Countries, OFAC's Countries and Territories Sanctions Programs, and OFAC's Special Designated Nationals and Blocked Persons, the International Traffic In Arms Regulations Prohibited Countries, and Export Administration Regulation Entities' List and Denied Persons' List.
17. **INTERPRETATION; DISPUTES.**
- 17.1 The Agreement and the relationship of the Parties under it shall be governed and construed in all respects solely and exclusively by the substantive laws of the state of New York and applicable U.S. federal laws without regard to conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to the Agreement.
- 17.2 The courts situated in the state of New York shall have exclusive jurisdiction over all suits and proceedings arising out of or in connection with the Agreement. Both Parties hereby submit to the jurisdiction of such courts for purposes of any such suit or proceeding and irrevocably waive any claim that such forum is inconvenient or inappropriate.
- 17.3 The terms herein may not be changed or modified except by a written instrument signed by the duly

authorized representatives of both Parties.

17.4 Before the Parties resort to litigation to solve any dispute, the Parties agree to schedule a mandatory meeting at a mutually agreeable location within ten (10) days of the date a Party gives notice of the dispute to the other Party, which meeting will be attended by a senior official of each Party. At that meeting, each Party will present its side of the dispute, and the senior officials will enter into good faith negotiations in an attempt to resolve the dispute. In the event the matter is not so resolved at such meeting, the Parties reserve all applicable rights and remedies under the Agreement or available at law or in equity.

17.5 If any court of competent jurisdiction holds any provision or part provision of the Agreement invalid or unenforceable, the other provisions of the Agreement will remain in full force and effect. If any provision or part provision of the Agreement held invalid or unenforceable only in part will remain in full force and effect to the extent it is not held invalid or unenforceable. The invalid or unenforceable provision shall be changed and interpreted so as to best accomplish its intent within the limits of applicable law or court decisions.

17.6 Any term or condition of the Agreement required for the interpretation of the Agreement or necessary for the full observation and performance by each Party of all rights and obligations arising prior to the date of expiration or termination shall survive the expiration or termination of the Agreement for any reason.

18. **GENERAL.**

18.1 The relationship of the Parties under the Agreement is that of independent contractors. Nothing in the Agreement shall make Retain and Customer partners, franchise, joint venturers or otherwise associated in or with the business of the other. Neither Party is authorized to incur debts or other obligations of any kind on the part of or as agent for the other, or to make any commitments for the other Party.

18.2 Customer may not assign, delegate, or transfer the Agreement, in whole or in part, or any of its rights or duties hereunder without the written consent of Retain. For purposes of the preceding sentence, and without limiting its generality, any merger, consolidation, or reorganization involving Customer (regardless of whether Customer is a surviving or disappearing entity) will be deemed to be a transfer of rights, obligations, or performance under the Agreement for which Retain's prior written consent is required. No assignment, delegation, or transfer will relieve Customer of any of its obligations or performance under the Agreement. Any attempted assignment, delegation or transfer by Customer in violation of this Section 18.2 is void. The Agreement shall be binding upon, and shall inure to the benefit of, the Parties and their respective successors or permitted assigns.

18.3 Retain may at any time assign, delegate, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement.

18.4 All notices and other communications required or permitted hereunder must be in writing and sent to the addresses set out in the relevant Product Order and will be deemed to have been duly given: (i) when delivered by hand with a copy provided by another means specified in this Section 18.4; (ii) one (1) day after delivery by receipted overnight delivery; or (iii) three (3) days after being mailed by certified or registered mail, return receipt requested, with postage prepaid to the Party at the address set forth below, or to such address as either Party shall furnish to the other Party in writing, pursuant to this Section 18.4.

18.5 No waiver of any of the provisions of the Agreement shall constitute a waiver of any other provision of the Agreement, nor shall such waiver constitute a continuing waiver. The failure of either Party to enforce at any time any of the provisions of the Agreement, or the failure of either Party to require the performance

by the other Party of any provisions of the Agreement, shall not be construed as a waiver of such provisions in the future, nor will it affect the ability of a Party to enforce each and every provision thereafter.

- 18.6 Neither Party shall be in breach of the Agreement for any failure or delay in the performance of its obligations hereunder as a result of a force majeure event, such as fire, explosion, act of nature, strikes, war, riot, government regulation or act or any other cause beyond the reasonable control of such Party, provided that: (a) the affected Party and its representatives and agents are without fault in causing or failing to prevent the force majeure event; (b) the affected Party gives the other Party prompt written notice of the force majeure event and uses its best efforts to overcome or circumvent it, including through the use of commercially reasonable alternative sources, workaround plans or other means; and (c) the affected Party continues to use its best efforts to perform whenever and to whatever extent is possible under the circumstances and notifies the other Party promptly when the force majeure event has abated.
- 18.7 Except as expressly provided in the Agreement, all rights, remedies and powers of the Parties hereunder are irrevocable and cumulative, and not alternative or exclusive, and shall be in addition to all other rights, remedies and powers to which it may be entitled by law.
- 18.8 The captions and headings used in the Agreement are used for convenience only and are not to be given any legal effect.
- 18.9 The Agreement is entered into solely by and between Retain and Customer and will not be deemed to create any rights in any third parties. No third party shall be a third party beneficiary of the Agreement (or any of its terms) or otherwise have any rights under the Agreement.
- 18.10 The Agreement, including any Product Orders, exhibits and other attachments, constitutes the entire and exclusive statement of the agreement between the Parties with respect to its subject matter and supersedes all prior and contemporaneous communications, understandings, and agreements concerning the subject matter hereof, whether written or oral. Customer agrees that its purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Retain regarding future functionality or features.
- 18.11 The Agreement may be executed in separate counterparts, including by electronic or digital signature, and by the different Parties on the same or separate counterparts. Any signed copy of the Agreement made by reliable means will be considered an original, and all signed counterparts will constitute one and the same instrument.