

## END USER LICENSE AGREEMENT (“EULA”)

IMPORTANT: THE LICENSOR PROVIDES THE SOLUTION AND THE APPLICATION SERVICE TO THE LICENSEE (END USER) FOR ITS USE SUBJECT TO THE LICENSEE'S AGREEMENT TO BE BOUND BY THE CONTRACTUAL TERMS AND CONDITIONS SET FORTH BELOW. IF THE LICENSEE DOES NOT ACCEPT THE TERMS OF THE LICENSE AGREEMENT, THE LICENSEE IS NOT AUTHORIZED TO USE THE SOLUTION AND THE APPLICATION SERVICE. BY ELECTRONICALLY SIGNING THE LICENSE AGREEMENT, THE LICENSEE ACKNOWLEDGES THAT IT HAS READ AND UNDERSTOOD THIS LICENSE AGREEMENT, AND THAT HE AGREED TO BE BOUND BY ITS CONTRACTUAL TERMS. THE SOLUTION AND THE APPLICATION SERVICE ARE LICENSED AND NOT SOLD.

**1. DEFINITIONS** - Terms beginning with a capital letter within the License Agreement, whether used in the singular or plural form, shall have the meanings set forth below.

**“Order Form”**: means a document such as a written commercial proposal or quotation (i) signed by the Licensee, describing the Services, the number of Authorized Users, the price and duration if applicable and (ii) accepted by the Licensor or one of the Licensor's resellers or distributors in writing. Each Order Form accepted by the Licensor or one of the resellers or distributors is an integral part of this License Agreement. In no event shall any terms and conditions of Licensee contained in a purchase order or similar document issued by Licensee in connection with this License Agreement or an Order Form apply, and any such document issued shall have no legal effect.

**“Licensor”**: means **Toucan toco Inc.**, Corporation having its principal place of business at 55 Court Street, Boston, MA, 02108 or concerning the Maintenance Services, if applicable, one of its authorized distributors or resellers from which the Licensee acquires the rights of access and use of the Solution and the Application Service.

**“License Agreement”**: means the body of these End User License Agreement, its appendices and any supplement, modification or substitution.

**“Documentation”**: means to user manuals, user information, functionalities descriptions and any other documents available online relating to the use of the Application Service and Solution.

**“Data”**: means data, information and publications of the Licensee, logos, photographs, illustrations, identity elements and fonts imported by the Licensee and/or an Authorized User into the Solution for use with the Application Service.

**“Identifiers”**: means any means of identification of an Authorized User for access to the Solution and the Application Service, whether by combining an identifier with login and password or a single sign type system implemented by the Licensee.

**“Confidential information”**: means information of any kind, including but not limited to information relating to commercial and financial policy, strategy, know-how, tools, methodologies and/or infrastructure concerning a Party, the Data, Solution and/or Application Service, communicated prior to or during the Contract, whatever their medium or mode of communication.

**“Licensee”**: means the legal entity or natural person who legitimately acquires the rights of access and use of the Solution and the

Application Service as well as the provision of the Services from the Licensor or one of its distributors or resellers.

**“Application Service”**: means any software in the form of an executable program, including its functionalities, updates, modifications, corrections, revisions, upgrades or additions, as well as the Documentation made available to the Licensee under the License Agreement.

**“Services”**: refer to the hosting and maintenance services of the Solution and Application Service provided by the Licensor or one of its distributors or resellers under the terms of the License Agreement.

**“Solution”**: refers to the service offered in SaaS mode by the Licensor, allowing access and use of the Application Service by the Licensee.

**“Terminal”**: means any electronic communication device such as a workstation, mobile or tablet with an Internet connection and compatible with the Internet browsers and operating systems specified by the Licensor.

**“Territory”**: means the country where the Licensee is domiciled or the territory specified in the Order Form.

**“Authorized User”**: means any natural person employed by the Licensee who is duly authorized by the Licensee to access and use the Application Service from a Terminal in accordance with the terms of the License Agreement.

**2. PURPOSE** - The purpose of the License Agreement is to define the terms and conditions applicable to the access and use of the Solution and Application Service subscribed by the Licensee as well as to the provision of the Services by the Licensor or one of its distributors or resellers.

**3. HIERARCHY OF CONTRACTUAL DOCUMENTS** - Unless expressly stated otherwise, in the event of a contradiction between one or more provisions of the License Agreement, the higher ranked document shall prevail in the following decreasing order of priority: the License Agreement's body; the following appendices (i) service levels listed in Appendix 1; (ii) the maintenance conditions listed in Annex 2.

**4. DURATION AND RENEWAL** - Unless otherwise stipulated in an Order Form, the License Agreement comes into force from the date of the last signature affixed by a Party (the "Effective Date") and for the duration provided for in the Order Form.

### 5. SOLUTION ACCESS AND USAGE

**5.1. ACCESS TO THE SOLUTION** - The Licensee acknowledges that the Solution and the Application Service are accessible via a remote connection requiring Internet access. It is up to them to have the appropriate equipment and means of connection to maintain Internet access. The Licensee is fully aware of the technical hazards inherent in the Internet and of interruptions or slowdowns that can affect the connection. Consequently, the Licensor cannot be held liable for difficulties in accessing the Solution or the Application Service due to disruptions in the Internet network. Access to the Solution and / or the Application Service may also be occasionally suspended, without the Licensor's liability being sought in this regard, due to maintenance interventions necessary for the proper functioning of the Licensor's servers. The Licensor undertakes to inform the Licensee under the conditions referred into article 7 below of the interruption of access to the Solution or to the Application Service.

Access to the Solution and Application Service is granted from any Terminal, within the limits of the availability conditions referred to in Appendix 1, by means of Identifiers assigned by the Licensor or one of its distributors or resellers to the Licensee or the identification system set up by the Licensee. The Licensee is required to comply with the Licensor's instructions and the technical prerequisites contained in the Documentation relating to the Solution and the Application Service. It is the Licensee's responsibility to regularly modify and have modified by Authorized Users the passwords associated with the Identifiers. Identifiers are intended to restrict access to the Solution and Application Service to authorized Users only and to protect the completeness and availability of the Solution, Application Service and Licensee Data. The Identifiers are personal to each Authorized User and confidential, they are proof of the identity of the Authorized User. They may only be changed at the Licensee's request or at the Licensor's initiative in the event of a security risk, subject to informing the Licensee by any means. The Licensee undertakes to maintain the confidentiality and secrecy of the Identifiers and not to disclose them in any form whatsoever to third parties. The use of the Identifiers binds the Licensee to any use of the Solution and the Application Service; it is his responsibility to ensure that the Authorized Users respect the terms of the License Agreement. The Licensee shall bear the consequences of any unauthorized use by third parties who have had access to or knowledge of the Identifiers. If the Licensee becomes aware of the theft or misuse of Identifiers by a third party, the Licensee shall inform the Licensor without delay and confirm this by registered mail addressed to the Licensor. In the event of loss or theft of an Identifier, the Licensee will use the procedure set up by the Licensor to recover its Identifiers.

## 5.2. SOLUTION' USE

**5.2.1 User license** - In return for payment of the applicable fees and compliance with the terms of the License Agreement, the Licensor grants the Licensee for the duration of the License Agreement a personal, non-exclusive, non-transferable, non-transferable, non-transferable and sub-licensee license to the Licensee to allow access and use of the Solution and Application Service to Authorized Users exclusively for the Licensee's internal needs and for its own benefit. The right of use is granted within the limit of the number of Authorized Users referred to in the Order Form, for a reasonable number of interactions and within the limit of the volume of Data specified in Article 7 below. In the event of an overrun, the Licensee undertakes to inform the Licensor immediately and to subscribe to the additional licenses and/or additional volumes required to remedy the overrun. The Authorized User license prohibits the sharing of a right of access, simultaneously or alternatively, granted to an Authorized User between several members of the Licensee's staff. However, access and use rights associated with an Authorized User may be transferred from one Licensee's staff member to another provided that the original Member is no longer authorized to access and use the Solution, Application Service and associated results.

The results generated using the Application Service (such as dashboards) are governed by the terms of the license applicable to the Application Service, they may only be accessed and/or used by Authorized Users for the Licensee's internal needs.

**5.2.2 USAGE RESTRICTIONS** - Access and use of the Solution and Application Service is strictly limited under the terms of the License Agreement. The Licensee undertakes not to (i) copy, transfer, transmit, make available and/or distribute in whole or in part in any way whatsoever the Application Service to third parties (including service providers or Licensees of the Licensee); (ii) allow access to and/or use

of the Application Service beyond the number of Authorized Users specified in the Order Form without prior authorization of the Licensor and payment of any applicable additional fees; (iii) assign, sell, rent, lease, lend, sublicense, distribute, outsource or transfer the rights granted to the Licensee under the License Agreement; (iv) use the Application Service on behalf of third parties or for any similar purpose, using a data processing service, including time sharing, outsourcing or office services; (v) adapt, modify, even for correcting or translating the Application Service, create or attempt to create other works from the Application Service, or authorize a third party to do so or provide the means to do so; (vi) disassemble, decompile the Application Service, reverse engineer, or otherwise attempt to discover or reconstruct its source code, except as specifically provided by applicable law. Should the Licensee wish to obtain information enabling the interoperability of the Application Service to be implemented, the Licensee must request this information from the Licensor by registered letter with acknowledgement of receipt; (vii) altering, destroying, or deleting mentions or notices relating to intellectual property rights or any other mention of ownership of the Provider appearing in the Application Service or in the Documentation; (viii) use or distribute all or part of software created in whole or in part with the Application Service.

**6. INTELLECTUAL PROPERTY** - The Licensee acknowledges that all material and intellectual property rights attached to the Solution and the Application Service or relating thereto are and remain the exclusive property of the Licensor or its licensors. Except for the grant of a right of use of the Application Service and access to the Solution under the terms of the License Agreement, the Licensee does not acquire any ownership rights to the Solution or the Application Service. The Licensee undertakes not to infringe directly or indirectly on the property rights of the Licensor. The Licensee is informed that by accessing and/or using the Application Service, third party software incorporated in whole or in part into the Application Service is used. The use of such third-party software with the Application Service is governed by the same license conditions as those applicable to the Application Service.

## 7. SERVICES

**7.1 HOSTING** - The Licensor provides hosting for the Solution, Application Service and Data on a dedicated and secure server located in France provided by a partner of the Licensor. The Data are hosted by the Licensor up to a maximum volume of ten (10) GB and are partitioned from other Licensee data hosted by the Licensor. At the express request of the Licensee, the Licensor may provide a hosting service exclusively dedicated to the Licensee at the financial conditions in force on the date of the request. The Licensor shall not be held liable for accidental destruction of the Data by the Licensee or a third party accessing the Application Service by means of the Licensee's Identifiers. The Licensee acknowledges that the License Agreement does not create any obligation on the part of the Licensor to store the Licensor's server Data upon expiration or termination of the License Agreement in the absence of a request for reversibility from the Licensee. Hosting services, beyond a maximum volume of ten (10) GB, may be provided by one of the Licensor's resellers or distributors upon request from the Licensee. In this case, these services will be the subject of a separate contract between the Licensee and the resellers or distributors of the Licensor, it being specified that the Licensor declines any liability for the execution of these hosting services by its resellers or distributors.

**7.2 MAINTENANCE** - The Licensor reserves the exclusive right to modify and/or improve the Solution or Application Service to correct

any Incidents (as defined in Appendix 2). The Licensor undertakes to ensure that the Solution is maintained in operational condition, as well as the corrective and evaluative maintenance of the Application Service, with a view to correcting Incidents in accordance with the conditions set out in Appendix 2 of the License Agreement. Corrections, updates and functional upgrades provided for support and maintenance are expressly subject to the terms of this License Agreement, including the license conditions. In case of maintenance, access to the Solution and/or Application Service may be temporarily unavailable. The Licensor shall endeavour to carry out maintenance operations outside working days and hours and subject to a warning period of one (1) week notified by any means to the Licensee, except emergency maintenance. The Licensor reserves the right to modify at its discretion all or part of the Application Service, the Solution, as well as any hardware or software used for the provision of the Solution, it being specified that the Licensor shall ensure that such modifications do not lead to a substantial reduction in the performance and functionality of the Application Service. Services do not include additional services such as training in the use of the Application Service. At the Licensee's written request, these services will be provided and invoiced according to the Licensor's current terms and conditions.

## 8. DATA

**8.1. PERSONAL DATA** - Where the Data imported into the Solution for the purpose of using the Application Service include personal data within the meaning of Law No. 78-17 of 6 January 1978 relating to data processing, files and liberties and the General Regulation on Data Protection 2016/679 of the European Parliament and the Council of 27 April 2016 from the date of its application (together the "**Personal Data Regulations**"), the Licensee warrants to the Licensor as well as to the resellers or distributors of the Licensor (together the "Processor") that it has carried out all of the obligations incumbent upon it under the Personal Data Regulations and in particular that it has informed and obtained the consent of the natural persons concerned to the processing of their data by the Processor on behalf of the Licensee in order to ensure their storage and use with the Application Service and has informed them of their rights. The Licensee guarantees the Processor against any recourse, complaint or complaint from a person whose personal data is processed by the Licensor for the provision of the Application Service.

The Processor undertakes within the framework of the License Agreement, in its capacity as a subcontractor within the meaning of the Personal Data Protection Regulations, to take all necessary measures to ensure compliance by itself and its staff with the obligations incumbent upon it, and to:

- not to process and/or consult the Data containing personal data for purposes other than those defined in the License Agreement;
- process the Data containing personal data only upon documented instruction and authorization of the Licensee, including regarding data transfers to a country outside the European Union subject to the signature of Standard Contractual Clauses of the European Commission;
- not to disclose, in any form whatsoever, all or part of the Data containing personal data to third parties, and ensure that the persons authorized to process these data undertake to respect their confidentiality;

- ensure that persons authorized to process personal data undertake to respect confidentiality and receive the necessary training in the protection of personal data;
- ensure the traceability of operations and treatments carried out on behalf of the Licensee;
- not to outsource to a third party the processing of Data containing personal data without the prior written consent of the Licensee;
- take all technical and organizational measures to guarantee the security of the Data containing personal data, and take all necessary precautions to preserve the confidentiality, integrity, availability and resilience of the processing systems in accordance with the Licensee's instructions set out in the License Agreement;
- take all necessary precautions to prevent data containing personal data from being distorted, damaged, lost or accidentally or unlawfully destroyed and to prevent any access not previously authorized by the Licensee;
- take all measures to prevent any misuse, malicious or fraudulent use of the Data containing personal data;
- take measures to restore the availability of and access to Data as soon as possible in the event of a physical and technical incident with the Solution;
- ensuring the availability and portability of Data containing personal data under the conditions defined in Article 14 (Reversibility) below;
- proceed with the destruction or deletion of personal data in the event of termination of the License Agreement, for any reason whatsoever, and provided that the Licensee has not requested to recover and/or transfer them under the conditions set out in Article 14 (Reversibility) below;
- consider, regarding its tools, products, applications or services, the principles of personal data protection from the design stage and the protection of default data;
- to assist the Licensee as far as possible in fulfilling its obligation to comply with requests submitted by the persons concerned to exercise their right to forgetfulness;
- Immediately notify the Licensee of any breach of the Data containing personal data and/or security impact as soon as possible so that the latter can fulfil its obligations of notification to the competent supervisory authority and/or the data subject under the conditions defined by the Personal Data Regulations;
- make available to the Licensee all the information necessary to demonstrate compliance with the obligations and to allow security audits, privacy impact assessments and/or any visits by or at the request of the competent supervisory authority.

the Licensee expressly authorizes the Processor to process personal data of the Licensee and Authorized Users (such as Identifiers, Solution connection logs, Incident notification) for executing the License Agreement, managing and controlling access and use rights to the

Solution and Application Service and improving the Solution and Application Service. These personal data are kept by the Processor for as long as necessary for the execution of the License Agreement and may be stored, in accordance with the purposes of the processing, in compliance with the Personal Data Protection Regulations. The Licensee undertakes to (i) inform adequately any natural person concerned by the processing of personal data, including his rights of access, rectification, opposition for legitimate reasons, limitation of the processing, data portability and right to erasure of his personal data by the Processor, and to obtain their consent to the processing; (iii) cooperate with the Processor to enable it to comply with its obligations under the Personal Data Protection Regulations, in particular when a data subject wishes to exercise his or her rights.

**8.2. DATA EXPLOITATION** - The Licensee owns all the Data. The Licensee is solely responsible for the quality, lawfulness and relevance of the Data that it transmits to the Processor as well as for their use with the Application Service and the results thereof. In addition, the Licensee guarantees to be the owner of all rights (including intellectual property rights and authorization of third parties) allowing him/her to use the Data. The Licensee guarantees that the Data does not violate the laws and regulations in force, the rights of third parties and is free from any virus or malicious code likely to harm the Solution or the Application Service. If the Processor becomes aware that an element of the Data violates the above stipulations, the Processor is entitled to remove or render unavailable such an element. The Licensee guarantees the Processor in the event of failure to comply with the stipulations of this article. The Licensee undertakes to defend the Processor at its own expense and indemnify the Processor against any costs, claims or damages incurred by the Processor or for which the Processor may be liable due to the Licensee's default.

**8.3. DATA SECURITY** - Each Party undertakes to implement appropriate technical means to ensure the security of the Data. The Processor undertakes to preserve the integrity and confidentiality of the Data imported by the Licensee into the Solution. The Processor shall put in place technical and organizational measures to prevent access to or fraudulent use of the Data and to prevent any loss, alteration or destruction of the Data in accordance with the conditions set out in Appendix 1 of the License Agreement.

## 9. AUDIT

**9.1 SECURITY AUDIT** - During the term of the License Agreement, the Licensee may, after giving at least two (2) weeks' prior written notice to the Licensor, carry out or cause to be carried out, at its own expense, an audit of the operating conditions of the Solution and the Application Service, regarding the technical and security requirements set out in the License Agreement. If the Licensee wishes to use a third party to carry out the audit, the Licensee will be required to appoint an independent auditor who is not a competitor of the Licensor in the SaaS market segment and who must be approved by the Licensor. The auditor shall be bound by an undertaking of confidentiality. The scope of the audit shall be subject to an engagement letter accepted by the Parties, it being specified that the audit may not concern the financial, accounting or commercial data of the Contractor. The Licensor undertakes to cooperate in good faith with the auditor by providing the auditor with such information as is reasonably necessary for the conduct of the audit. The audit shall be carried out at the premises of the Licensor or at the place where the services are performed during the Licensor's normal working hours without disrupting the Licensor's activities. A copy of the auditor's audit report will be provided to the Parties and will be subject to cross-examination. If the findings of the audit reveal non-compliance with the Licensor's obligations under the

License Agreement, the Licensor shall take the necessary steps to remedy the non-compliance within a reasonable period.

**9.2 LICENSEE AUDIT** - During the term of the License Agreement and for a period of five (5) years following its termination or expiration, at the request of the Licensor, the Licensee undertakes to provide within seven (7) days from the request, all appropriate documents; information and records relating to the access and use of the Application Service in order to enable the Licensor or any third party mandated for this purpose by the Licensor to verify that the Licensee and the Authorized Users comply with the obligations of the License Agreement and respect the intellectual property rights of the Licensor. Without prejudice to the rights and actions of the Licensor, if the audit shows that the number of users exceeds the number of licenses for Authorized Users subscribed under the License Agreement and the Order Form, the Licensee undertakes to remedy the breach immediately by subscribing additional licenses for Authorized User and the associated subscription, at the public price in force, plus interest calculated from the date of the overrun. In addition, the Licensee undertakes to reimburse reasonable audit costs incurred by the Licensor.

**10. EXCLUSION OF WARRANTIES** - The Solution and Application Service are provided "as is." Licensee assumes sole responsibility for any results obtained from using the Solution and Application Service. Licensor disclaims any and all warranties, conditions or representations (whether express or implied, oral or written), including without limitation any implied warranties of title, non-infringement, information, merchantability or fitness for any particular purpose (whether or not the Licensor knows or has reason to know of such purpose), whether arising by law, custom, usage in trade or by course of dealing. Licensor and its reseller or distributor do not warrant the results of any use of the Solution and Application Service, or that it is bug or error free, or that its use will be uninterrupted. Licensor does not warrant that the Solution or the Application Service or any equipment, system, or network on which the Solution or the Application Service is used will be free of vulnerability to intrusion or attack. Licensor will in no way be held liable for any inability of, error, or fault of Licensee or any third party appointed by Licensee to install the Solution or the Application Service. Data uploaded to the Solution and the Application Service and any third-party databases, software, hardware, or services connecting from or to the Solution or the Application Service are not the responsibility of the Licensor. The Licensee declares to have a perfect knowledge of how the Internet works and its limitations. The Licensee acknowledges that transmissions over the Internet are not secure and may be delayed, lost, intercepted, corrupted and that the transmission of Data via the Internet is carried out by the Licensee at its own risk.

**11. LIABILITY** - Nothing in this Agreement limits or excludes either party's liability for: (i) gross negligence or willful misconduct; (ii) any breach of Section 16 (Confidentiality); or (iii) any other liability which cannot be limited or excluded by applicable law. Each Party shall assume responsibility for the consequences resulting from its own mistakes, errors or omissions that may cause direct harm to the other Party. In the event of the Provider's fault proven by the Licensee, the Provider shall only be liable for compensation for the pecuniary consequences of direct and foreseeable damage caused by the Application Service. **In no event**, the Licensor shall be liable for special, incidental, consequential, punitive, exemplary or tort damages including, without limitation, any damages resulting from lost profits, loss, inaccuracy or corruption of Data, commercial loss, loss of turnover or profit, loss of customers, loss of opportunity, cost of data

recovery, cost of obtaining a product, service or replacement technology. In no event will the cumulative liability of the Licensor, whether in contract, tort, or otherwise, arising out of or in connection with the Solution and the Application Service, or this License Agreement, exceed the highest amount between the amount of fees received by the Licensee (i) three (3) months prior to the occurrence of the event giving rise to liability or (ii) twelve (12) months prior to the occurrence of the event giving rise to liability.

## **12. FORCE MAJEURE**

Except for payment obligations, none of the Parties may be held liable for any failure to perform or delay in performance of any of its obligations under this License Agreement caused by circumstances beyond the reasonable control of a Party to this Agreement (a "Force Majeure Event"). The Party claiming the Force Majeure Event shall promptly notify the other Party in writing of its reasons for the delay or stoppage and its likely duration and shall take all reasonable steps to overcome the delay or stoppage. The Party claiming the Force Majeure Event shall take reasonable steps necessary to bring that event to a close or to find a solution by which its obligations under this Agreement may be performed despite the Force Majeure Event. The Force Majeure Event suspends the performance of the obligations. If the Force Majeure Event continues for a consecutive duration exceeding thirty (30) days, each Party is free to terminate the License Agreement by written notice. Each Party shall bear any costs that it may incur by virtue of the Force Majeure Event

## **13. LICENSE AGREEMENT TERMINATION**

**13.1 TERMINATION** - In the event of a breach by one of the Parties of its contractual obligations (including Articles 5 to 9, 16 and 17), the License Agreement may be terminated - by the other Party within thirty (30) days -, after sending a letter of formal notice sent by registered letter with acknowledgement of receipt requiring that the breach be remedied and left without effect. Subject to the provisions of applicable law, the Licensor may terminate the License Agreement by operation of law if the Licensee is subject to proceedings for dissolution, reorganization or liquidation. Termination of the License Agreement shall be without prejudice to all other rights and remedies available to the Party initiating the termination.

**13.2 CONSEQUENCES** - As of the effective date of termination or License Agreement expiry, all rights of access and use of the Solution and the Application Service cease to have effect. The Licensee shall immediately cease to have access to the Solution and the Application Service and to use the relevant Identifiers. Articles 6, 8.2, 9.2, 11, 15, 16, 18 and 19 as well as all clauses which by their very nature are intended to endure beyond the termination or expiration of the term of the License Agreement, remain in force and apply by operation of law.

**14. REVERSIBILITY** - At the Licensee's request, sent by registered letter with acknowledgement of receipt at the latest on the effective date of termination or expiration of the License Agreement, the Licensor shall return all the Data belonging to it in a readable standard electronic format, in an environment equivalent to that of the Licensor, within a period of thirty (30) working days from the date of receipt of the request. The Licensee and/or the Licensor retained by the Licensee undertakes to collaborate actively with the Licensor to facilitate the reversibility of the Data. At the Licensee's request, the Licensor may provide additional technical assistance services to the Licensee and/or the third party designated by the latter in the context of reversibility. The services of reversibility and reversibility assistance will be provided according to the financial conditions of the Licensor in force on the date of notification. In the absence of a request for reversibility from

the Licensee, the Data will be completely deleted at the end of the License Agreement.

**15. NON-SOLICITATION OF PERSONNEL** - Each Party undertakes not to employ or cause to be employed, directly or through an intermediary, any employee of the other Party, without the latter's express and prior agreement. This waiver is valid for the entire duration of the License Agreement and for twelve (12) months following its termination. In the event of failure by one of the Parties to comply with the non-solicitation obligation, the defaulting Party shall be required by operation of law to pay a lump sum penalty equal to six (6) times the amount of the employee's gross monthly remuneration on the date of his or her departure.

**16. CONFIDENTIALITY** - Each Party undertakes to (i) keep confidential the Confidential Information of the other Party, (ii) not disclose the Confidential Information of the other Party to any third party other than its employees or agents who need to know them subject to confidentiality obligations at least as strict as the present; and (iii) use the Confidential Information of the other Party only for the purposes of the License Agreement. Notwithstanding the foregoing, the above confidentiality obligations do not apply in respect of Confidential Information that (i) has fallen or would fall into the public domain independently of a fault of the Party to which the Confidential Information is addressed, (ii) would be independently developed by the Party to which the Confidential Information is addressed, (iii) would be known to the receiving Party before it is disclosed by the issuing Party, (iv) would be legitimately received from the receiving Party, and (v) would be known to the receiving Party before it is disclosed by the issuing Party. The obligations of the Parties with respect to Confidential Information shall remain in force throughout the term of the License Agreement and for as long as, after its termination, the information concerned remains confidential to the Party disclosing it and, in any event, for a period of five (5) years after the term of the License Agreement. At the end of the License Agreement and at the request of the issuing Party, the receiving Party shall return all copies of documents and media containing Confidential Information of the other Party.

**17. TRANSFER – ASSIGNMENT** - The Licensee may not sublicense, assign or transfer to a third party all or part of its rights and obligations under the License Agreement without the prior written consent of the Licensor and the payment of additional transfer royalties. The Licensee expressly agrees that the Licensor is entitled to freely transfer all or part of the License Agreement to any entity of its choice by any means (including, without limitation, merger, demerger, partial transfer of assets).

**18. APPLICABLE LAW - COMPETENT JURISDICTION** - This License Agreement is made under and will be governed by and construed in accordance with the law of Massachusetts, without regard to its conflict of laws principles, and specifically excluding from application to this Agreement the United Nations Convention on the International Sale of Goods. Any dispute that arises between the Parties as to the validity, the interpretation and/or the performance of the License Agreement will be the subject of an attempt to reach an amicable settlement between the Parties. If no amicable solution is reached within the thirty (30) days following such dispute arising, any litigation relating to the interpretation or performance of the Agreement will shall be subject to the exclusive jurisdiction of the state and federal courts located in Boston.

## **19. GENERAL**



19.1 During the term of the License Agreement, the Licensee authorizes the Licensor to use and reproduce on its website and/or its advertising material the Licensee's trademarks, logos and/or trade name as a commercial reference.

19.2 The Parties are and shall remain independent contractors for the entire duration of the License Agreement. Each Party shall remain solely responsible for its actions, claims, commitments, services, products and personnel.

19.3 The Licensee acknowledges and accepts that the information collected by the Licensor regarding access to and use of the Solution and Application Service by the Licensee and/or Authorized Users is valid and accepted as literal proof.

19.4 The Parties agree to sign the License Agreement electronically using an electronic signature process to authenticate the signatories and to ensure the integrity of the License Agreement in electronic form. The Parties agree that the affixing of the electronic signature expresses their consent to the content of the License Agreement and acknowledge that the License Agreement signed electronically constitutes an original document of conclusive force in the same way as a handwritten signature in paper form. The Parties acknowledge that the electronically executed License Agreement is subject to legal proceedings as literal evidence.

19.5 The License Agreement (including its annexes and any referenced document) expresses the entire agreement between the Parties with respect to the subject matter hereof and supersedes all previous agreements, negotiations and discussions.

The License Agreement may only be modified by a written amendment signed by authorized representatives of the Parties.

The fact that one of the Parties does not exercise any of its rights under the License Agreement shall not constitute a waiver on its part of the exercise of any other right. Any waiver shall be in writing and signed by the Party concerned.

19.6 If one or more provisions of the License Agreement are found to be void, unlawful or unenforceable by the law or a final judicial decision, the other provisions shall remain in force and effect. The invalid, unlawful or unenforceable provision shall be replaced by a provision as close as possible to the intention of the Parties.

19.7 Any notification pursuant to the provisions of the License Agreement shall be made in writing to the address of the other Party and may be delivered by hand or sent by registered letter with acknowledgement of receipt. Notifications (i) delivered by hand shall be deemed to have been made at the time of delivery against signature; or (ii) sent by registered letter with acknowledgement of receipt shall be deemed to have been made upon their first presentation. Each Party may change its address by sending a notification to the other Party.