

TRACKWISE DIGITALSM SERVICE AGREEMENT

THIS TRACKWISE DIGITAL SERVICE AGREEMENT (“AGREEMENT”) IS INCORPORATED INTO AND MADE A PART OF AN ORDER FORM EXECUTED BY SPARTA SYSTEMS INC., A NEW JERSEY CORPORATION, WITH OFFICES AT 2000 WATERVIEW DRIVE, SUITE 300, HAMILTON, NJ 08691 (“SPARTA”) AND THE ENTITY IDENTIFIED AS THE SUBSCRIBER IN THE ORDER FORM (“SUBSCRIBER”) BETWEEN SPARTA AND SUCH SUBSCRIBER (EACH A “PARTY” AND COLLECTIVELY, THE “PARTIES”). THIS AGREEMENT GOVERNS SUBSCRIBER’S ACQUISITION AND USE OF SPARTA’S PROPRIETARY SERVICE KNOWN AS TRACKWISE DIGITAL. THIS SERVICE MAY NOT BE ACCESSED BY A DIRECT COMPETITOR, EXCEPT WITH SPARTA’S PRIOR WRITTEN CONSENT. IN ADDITION, TRACKWISE DIGITAL MAY NOT BE USED FOR ANY BENCHMARKING OR COMPETITIVE PURPOSE. THIS AGREEMENT WAS LAST UPDATED ON DECEMBER 13, 2019 AND IS EFFECTIVE AS OF THE DATE OF THE ORDER FORM. IN THE EVENT OF A CONFLICT BETWEEN THE TERMS OF AN ORDER FORM AND THIS AGREEMENT, THE TERMS OF THIS AGREEMENT WILL PREVAIL.

References in these General Terms to “the Agreement” mean collectively the Order Form executed by the Parties and describing the products and services ordered by Subscriber from Sparta, any additional Order Forms incorporating these General Terms and related SOWs. Consulting Services (defined below) shall be provided pursuant to one or more separately signed statements of work (each a “Statement of Work” or “SOW”), which is incorporated by reference into the Agreement.

GENERAL TERMS AND CONDITIONS

1. DEFINITIONS. As used in this Agreement:

1.1 “**Account**” means a unique administrator account through which Subscriber enables its Users to access and use TrackWise Digital.

1.2 “**Confidential Information**” means any and all of the following, disclosed by or on behalf of one Party or its Affiliates to the other Party or its Affiliates, whether orally, in writing or in any other form, which is either (a) marked or identified as “confidential” at the time of disclosure or (b) of a nature that a reasonable business person would understand, under the circumstances, to be confidential or proprietary, including all software, research and development information, know-how, methodologies, materials, formulae, templates, brochures, configurations, books, compositions, manufacturing and production processes and techniques, technical data, training curricula, improvements, designs, drawings, specifications, customer and supplier lists and information (including all account information, files, programs, plans, data and related information), sales data and plans, pricing and cost information, strategic plans, business and marketing plans and proposals, assembly, test, installation, service and inspection instructions and procedures, technical, operating and service and maintenance manuals and data and engineering, programming, service and maintenance notes and logs and related documentation or other information disclosed in connection with the performance of this Agreement or any Order Form, including information of or about, or the identity of, employees, affiliates, customers, licensors, suppliers and representatives. The following information is Sparta’s Confidential Information whether or not marked or identified as such: (i) all Sparta Property (defined in Section 7 (Intellectual Property)); (ii) the terms of this Agreement including all Order Forms and pricing; and (iii) Sparta’s roadmaps, product plans, product designs, architecture, technology and technical information, and security audit reviews, however disclosed. Subscriber Data is Subscriber’s Confidential Information, whether or not marked or identified as such.

1.3 “**Consulting Services**” means technical account management, configuration or training provided by Sparta pursuant to a Statement of Work. Consulting Services do not include Subscription Care Support Services.

1.4 “**Documentation**” means the Sparta usage manuals, guides, policies, instructions and other explanatory materials regarding TrackWise Digital that are made generally available by Sparta to its TrackWise Digital customers, in any form or medium, for use in connection with TrackWise Digital, as such materials are updated from time to time.

1.5 “**Fees**” means the fees specified in the Order Form and/or invoice for TrackWise Digital, Consulting Services and/or Subscription Care Support Services.

1.6 “**Intellectual Property**” means all: (a) trademarks, service marks, brand names, certification marks, collective marks, d/b/a’s, Internet domain names, logos, symbols, trade dress, assumed names, fictitious names, trade names, and other indicia of origin, all applications and registrations for the foregoing, and all goodwill associated therewith and symbolized thereby, including all renewals of the same; (b) inventions and discoveries, whether patentable or not, and all patents, registrations,

invention disclosures and applications therefor, including divisions, continuations, continuations-in-part and renewal applications, and including renewals, extensions and reissues; (c) confidential information, trade secrets and know-how, including processes, schematics, business methods, formulae, drawings, prototypes, models, designs, customer lists and supplier lists; (d) published and unpublished works of authorship, whether copyrightable or not (including databases and other compilations of information), copyrights and database rights therein and thereto, and registrations and applications therefor, and all renewals, extensions, restorations and reversions thereof; and (e) moral rights, design rights, mask works, rights of privacy and publicity, and all other intellectual property rights.

1.7 **“Order Form”** means a mutually executed order form that describes TrackWise Digital and/or Consulting Services purchased by Subscriber. For Consulting Services, the term "Order Form" includes the applicable Statement of Work, if any. The Parties may enter into multiple Order Forms and each Order Form is hereby incorporated into and made a part of this Agreement.

1.8 **“Org”** means the unique identifier used by the SFDC Service to represent and contain an end user customer's portion of the SFDC Service, TrackWise Digital and the data residing therein.

1.9 **“Privacy Policy”** means the practices set forth regarding Sparta's collection, use and disclosure of information found online at <https://www.spartasystems.com/legal/privacy-policy>, as the same may be modified by Sparta from time to time to reflect the latest protocols on the data collected, used and disclosed by Sparta. The terms of the Privacy Policy are hereby incorporated by reference into and made a part of this Agreement.

1.10 **“salesforce.com”** means salesforce.com, inc. or the applicable salesforce.com, inc. subsidiary.

1.11 **“SFDC Service”** means the online service provided by salesforce.com to Subscriber in order to use the core functions of TrackWise Digital.

1.12 **“Statement of Work”** or **“SOW”** means a statement of work for Consulting Services, signed by both Parties, setting forth the Consulting Services and deliverables, if any, to be performed by Sparta as well as the corresponding Fees to be paid by Subscriber.

1.13 **“Subscriber Data”** means any data, information or materials provided or submitted by Subscriber to TrackWise Digital or retrieved by TrackWise Digital from Subscriber's Org.

1.14 **“Subscription Care Support Services”** means the technical support services for TrackWise Digital as set forth in the Sparta Subscription Care Support Policy, as updated from time to time, found online at <https://www.spartasystems.com/SpartaSystemsNew/files/31/317d0483-2c9c-411e-bce1-957cf910aa23.pdf> (the **“Subscription Care Support Policy”**), which is included in the subscription Fees for TrackWise Digital.

1.15 **“Term”** means the period beginning on the first day of the Initial Term (defined in Section 6.1 (Term of Agreement)) and ending on the date that this Agreement terminates in accordance with the terms herein.

1.16 **“TrackWise Digital”** means Sparta's TrackWise Digital software-as-a-service applications as hosted within an Org provisioned by Sparta for Subscriber and described in the Documentation and subscribed to under an Order Form, to which Subscriber is being granted access under this Agreement.

1.17 **“User”** means any individual who is an active employee, consultant, contractor or agent of Subscriber (a) who is authorized by Subscriber to use TrackWise Digital solely on behalf of Subscriber for Subscriber's internal business purposes, (b) whom Subscriber has designated as a User of TrackWise Digital in accordance with Section 2.4 (Users) and (c) to whom Subscriber has supplied a single-user (i.e. named user) log-in account, user ID and password for TrackWise Digital.

Also, as used herein, the term “including” means “including but not limited to” and the term “shall” means “is required to”.

2. TERMS OF ACCESS.

2.1 **Grant of Right to Access and Use.** Subject to Subscriber's payment in full of the applicable Fees and to the terms and conditions of this Agreement and applicable Order Forms, Sparta hereby grants Subscriber the right to access and use, and to permit its Users to access and use, TrackWise Digital (for the term identified in the applicable Order Form) on a limited, revocable, non-exclusive, non-transferable basis, solely for the purpose of creating, updating, transmitting, storing and retrieving Subscriber Data by up to the number of Users specified in the Order Form(s), for Subscriber's internal business purposes only. Subscriber shall use TrackWise Digital in accordance with the Documentation and only for the modules and functionality purchased by Subscriber as reflected in an Order Form.

2.2 **Access and Use Restrictions.** Access and use by Subscriber and its Users of TrackWise Digital and Subscriber Data are subject to the terms of this Agreement, the Order Forms and the Documentation, including, without limitation, the following terms:

- (a) Subscriber may not (and may not permit others to) gain access, attempt to gain access, by any means, to any unauthorized portion of TrackWise Digital, or circumvent any contractual usage limit.

(b) Subscriber may not (and may not permit others to), directly or indirectly: (i) reverse engineer or otherwise attempt to discover the source code or underlying ideas or algorithms of TrackWise Digital (unless and only to the extent permitted by applicable law); (ii) modify, copy, translate, or create derivative works based on TrackWise Digital; (iii) rent, lease, license, distribute, sell, assign or otherwise transfer rights to TrackWise Digital; (iv) use TrackWise Digital for timesharing or service bureau purposes or otherwise for the benefit of a party (except Users, as expressly permitted in this Agreement); or (v) misappropriate any of Sparta's software, technology or other services or use TrackWise Digital or any Consulting Service to, or permit, enable or assist a third party to, create a competing product or service.

(c) Subscriber may not (and may not permit others to) use or attempt to use TrackWise Digital to obtain electronic data or other information except as authorized under this Agreement.

(d) Subscriber may not (and may not permit others to) bypass or disable any protections that may be put in place against unlicensed use of TrackWise Digital, or use or access TrackWise Digital or any Consulting Services or any Confidential Information of Sparta or third-parties in any way that might adversely affect the security, stability, performance or functions of TrackWise Digital, including by introducing any malware into TrackWise Digital or any part of TrackWise Digital.

(e) Subscriber may not (and may not permit others to) use the Org that is provisioned by Sparta for any purpose other than exclusively using TrackWise Digital, and may not increase the number of custom objects within the Org other than those included in TrackWise Digital.

(f) Subscriber may not (and may not permit others to) access, distribute or use any customer relationship management functionality of the SFDC Service.

2.3 Subscriber Responsibilities. Subscriber is responsible for making all arrangements necessary for internet access to TrackWise Digital and any charges associated with such access. Subscriber is responsible for obtaining and maintaining all computer hardware, software and communications equipment needed to access and use TrackWise Digital. TrackWise Digital is dependent on Subscriber's proper implementation and configuration of TrackWise Digital, Subscriber's proper use of the SFDC Service, the availability and performance of technology from third-party software and hardware vendors including the SFDC Service, salesforce.com AppExchange products and custom applications, Microsoft, Google, and the providers of various internet browsers, and other factors outside of Sparta's control. Sparta has no control over, and is not liable for performance issues or downtime of TrackWise Digital to the extent caused by, such factors. Furthermore, if and to the extent TrackWise Digital cannot for any reason access Subscriber's SFDC Service account, Sparta will be excused from any resulting nonperformance of TrackWise Digital. Subscriber acknowledges that to provide TrackWise Digital, Subscriber Data leaves the SFDC Service and that Sparta is responsible for Subscriber Data only when it is resident within the SFDC Service.

2.4 Users. Subscriber shall designate the Users who will have access to TrackWise Digital through its Account. The number of Users shall not exceed the number of Users specified in the Order Form(s). Each User must be identified by a unique email address and user name. In connection with the use of TrackWise Digital by a User, Subscriber shall: (a) make each User aware of the terms of this Agreement, the Privacy Policy and the Documentation, including, without limitation, the use limitations contained in this Section 2; (b) monitor each User's compliance with the terms contained in this Agreement and the Documentation; and (c) remain responsible to Sparta for any violations of this Agreement and the Documentation by any User. Subscriber is solely responsible for the actions of a User relating to access and use of TrackWise Digital and for all activities that occur under its Account, without limitation. A User log-in account may not be shared or used by more than one User, but may be reassigned from time to time to new Users who are replacing former Users who have terminated employment with Subscriber or otherwise changed job status or function and no longer require use of TrackWise Digital. If a User is no longer authorized by Subscriber to access and use TrackWise Digital, Subscriber shall terminate or otherwise disable such access and, to the extent required to implement termination of such access, notify Sparta promptly.

2.5 Subscriber Account. Sparta will provide Subscriber an Account for managing, requesting access for, and granting access to its Users. Subscriber shall use the Account only to configure and administer TrackWise Digital in support of Subscriber's use of TrackWise Digital and in accordance with this Agreement and the Documentation.

2.6 Passwords. Subscriber shall be responsible for activating Users through use of the Account. Subscriber and its Users are responsible for maintaining the confidentiality of all passwords and for ensuring that each password is used only by the assigned User. Sparta will have no liability for any loss or damage arising from Subscriber's failure to comply with the terms of this Agreement.

2.7 Acceptable Use. Subscriber shall not and shall ensure that none of its Users or any other user under its Account:

(a) transmit, post, distribute, store or destroy material in violation of any applicable law, rule or regulation (including, but not limited to, laws, rules or regulations governing the collection, processing or transfer of personal information);

(b) violate or attempt to violate the security of TrackWise Digital including attempting to probe, scan or test the vulnerability of a system or network, or breach security or authentication measures, or otherwise avoid, bypass, remove, deactivate, impair, descramble, or otherwise circumvent any technological measure implemented by Sparta or any of its providers to protect TrackWise Digital;

(c) aggregate, copy or duplicate in any manner any part of TrackWise Digital;

- (d) frame or link to TrackWise Digital (including any page or information made available on TrackWise Digital) that is visible or useable outside of Subscriber's own internal networks and systems, unless permitted by Sparta in writing;
- (e) input into TrackWise Digital any content or material that promotes or endorses false or misleading information or illegal activities, or endorses or provides instructional information about illegal activities or other activities prohibited in this Agreement;
- (f) access data not intended for Subscriber, or log into a part of TrackWise Digital or account that Subscriber is not authorized to access;
- (g) harass, incite harassment or advocate harassment of any group, company, or individual;
- (h) send unsolicited mail or email via TrackWise Digital, make unsolicited phone calls or send unsolicited faxes promoting and/or advertising products or services to any user, or contact any users that have specifically requested not to be contacted by Subscriber;
- (i) attempt to interfere with service to any user of TrackWise Digital including, without limitation, via means of submitting a virus to TrackWise Digital or overloading, "flooding", "spamming", "mailbombing" or "crashing";
- (j) promote or endorse an illegal or unauthorized copy of another person's copyrighted work;
- (k) send automated queries of any kind to TrackWise Digital without the express, advance, written permission of Sparta, which includes, among other things: using any software that sends queries to TrackWise Digital to determine how a website or web page "ranks" for various queries, "meta-searching," and performing "offline" searches on TrackWise Digital;
- (l) use manual or automated software, devices, scripts, robots, backdoors or other means or processes to access, "scrape," "crawl" or "spider" any web pages or other services offered at TrackWise Digital;
- (m) systematically retrieve data or other content from TrackWise Digital to create or compile, directly or indirectly, in single or multiple downloads, a collection, compilation, database, directory or the like, whether by manual methods, through the use of bots, crawlers, or spiders, or otherwise;
- (n) post, link to or submit any content that is defamatory, libelous, implicitly or explicitly offensive, vulgar, obscene, threatening, abusive, hateful, racist, discriminatory, of a menacing character or likely to cause annoyance, inconvenience, embarrassment, anxiety or could cause harassment to any person or include any links to pornographic, indecent or sexually explicit material of any kind, as determined in Sparta's reasonable discretion; or
- (o) use TrackWise Digital in any way that is: (i) in any way unlawful, illegal, fraudulent or harmful; (ii) in connection with any unlawful, illegal, fraudulent, or harmful purpose or activity; (iii) in a manner that may cause Sparta to have legal liability or disrupt others' use of TrackWise Digital; (iv) in any way connected to any malware, malicious code, virus or other harmful code; or (v) disrupting or risks disrupting the overall performance and up-time of TrackWise Digital due to Subscriber's use of excessive storage capacity or bandwidth outside of the ordinary course of business.

2.8 Suspension of Service. Without limiting any other rights or remedies available to Sparta, Sparta may suspend Subscriber's access to TrackWise Digital if (a) Subscriber fails to cure a payment breach under this Agreement within 10 days after delivery of written notice thereof, or (b) Sparta reasonably suspects that Subscriber's use of TrackWise Digital violates any of the access and use restrictions or acceptable use criteria specified in this Section 2. All Fees shall continue to accrue during the period of any suspension under this Agreement.

2.9 Changes. Sparta may change, update, alter or supplement all or any portion of TrackWise Digital and all or any portion of the information provided in connection therewith at its sole discretion and will provide commercially reasonable notice to Subscriber of any such material change.

2.10 Audit. Subscriber acknowledges and agrees that salesforce.com may audit Subscriber's use of TrackWise Digital within the Org provisioned by Sparta and provide the results of such audit to Sparta.

2.11 Affiliates. During the Term, Subscriber's Affiliates may purchase subscriptions to TrackWise Digital and Consulting Services from Sparta by entering into an Order Form with Sparta that incorporates the terms and conditions of this Agreement in a manner that binds such purchasing Affiliate to the terms and conditions hereof. "**Affiliate**" means, with respect to either Party, any legal entity that directly or indirectly controls, is controlled by or is under common control with such Party, where "control" means (a) ownership of more than 50% of the equity of such Party or entity or (b) the power to direct or cause the direction of the management and policies of such Party or entity.

3. . SUBSCRIPTION CARE SUPPORT. Subject to payment of the Fees set forth in the Order Form, Sparta will provide the technical support services for TrackWise Digital as set forth in the Subscription Care Support Policy. Subscriber must contact Sparta (not salesforce.com) for Subscription Care Support Services.

4. CONSULTING SERVICES.

4.1 General. Sparta will provide Subscriber with the requisite hours of Consulting Services as identified within a Statement of Work. The Parties may choose to define a set of deliverables within a Statement of Work, provided however that Sparta will not be obligated to provide Consulting Services beyond the total number of hours set forth in the Statement of Work.

4.2 **Fees, Expenses & Cancellation.** Sparta will invoice Subscriber on a monthly basis for all Consulting Services rendered and accrued expenses except as otherwise specified in the applicable Order Form. Subscriber shall reimburse Sparta for actual and verifiable out-of-pocket expenses (including travel and related expenses) reasonably incurred by Sparta in connection with any SOW. Sparta may charge for travel time at 50% of the applicable rate when travel time exceeds four hours. Sparta will not be responsible for any delay caused by Subscriber or any third party under contract with Subscriber. Subscriber may delay Consulting Services by written notice to Sparta, provided that if Subscriber delays upon less than two weeks prior written notice and Sparta is unable to reallocate the applicable Sparta personnel on a billable basis to another customer project (which Sparta will use reasonable efforts to do), then Sparta will invoice Subscriber for any Consulting Services that are delayed by Subscriber without such two week notice, at the applicable daily rate for such Consulting Services.

4.3 **Ownership.** Sparta will retain sole ownership of all right, title and interest, including without limitation all Intellectual Property rights, in and to the Consulting Services and deliverables (if any), including techniques, knowledge and processes. Subject to Subscriber's payment in full of all Fees due under an SOW and satisfaction of all claims, Sparta hereby grants to Subscriber a non-exclusive, non-transferable license to use the Consulting Services and deliverables during the Term for Subscriber's internal business purpose.

5. PAYMENTS.

5.1 **Payment.** In consideration of the rights and services granted and provided hereunder, Subscriber shall pay Sparta the Fees set forth in the Order Form. Fees will be invoiced annually in advance except as otherwise provided in the applicable Order Form or, with respect to Consulting Services, in Section 4.2. Subscriber shall remit payment to Sparta within 30 days of receipt of invoice. Sparta shall have the right to assess a late payment charge on any overdue amounts equal to the lesser of: (a) two percent per month; or (b) the highest rate allowed by applicable law. Additional payment terms may be set forth in the Order Form. All Fees paid pursuant to this Agreement and any applicable Order Form are non-refundable and all services ordered pursuant to an Order Form are non-cancelable, unless expressly otherwise mutually agreed in writing. In the event that Sparta seeks legal recourse for the collection of any unpaid Fees from Subscriber, Sparta will be entitled to an award of reasonable attorney's fees and other costs incurred by Sparta in such matter. Upon execution of an Order Form, if required for Subscriber's internal financial controls, Subscriber shall issue a valid purchase order for the TrackWise Digital, Subscription Care Support Services and Consulting Services set forth in such Order Form. Subscriber's failure to issue such purchase order shall not relieve Subscriber of its obligation to purchase and pay for such licenses and services. Any preprinted or additional terms and conditions on any such purchase order and any terms thereof that are inconsistent with the terms of this Agreement or the applicable Order Form or invoice shall have no force or effect.

5.2 **Taxes.** The Fees specified pursuant to this Agreement do not include taxes or duties. If Sparta is required to pay or account for any taxes, public fees, duties, deductions or withholdings (collectively "Taxes"), then such Taxes shall be borne by Subscriber. Taxes shall not include taxes based upon Sparta's income.

6. TERM AND TERMINATION.

6.1 **Term of Agreement.** The initial term of this Agreement will commence on the Subscription Start Date and will end on the latest Subscription End Date as identified in any mutually executed the Order Form ("**Initial Term**"), and thereafter will automatically renew as provided in Section 6.2, in each case unless this Agreement is terminated earlier as provided herein.

6.2 **Renewal.** Sparta shall provide notice via electronic mail of the upcoming renewal of the licenses to which Subscriber has subscribed approximately 60 days prior to the end of the Initial Term and any subsequent renewal terms. Unless either Party gives notice of its intent not to renew such licenses at least 45 days prior to the end of the then-current term, they and this Agreement will automatically renew for a subsequent 36 month period unless a different renewal period is specified in the Order Form, in which case each renewal term shall be for the renewal period specified in the Order Form.

6.3 **Termination for Cause.** Either Party may terminate this Agreement upon written notice to the other Party if the other Party materially breaches this Agreement and fails to cure such breach within 30 days of delivery of written notice thereof. Notwithstanding the foregoing, Sparta may terminate this Agreement upon written notice to Subscriber if Subscriber fails to cure any payment default within 10 days of delivery of written notice thereof. Either Party may terminate any Statement of Work upon written notice to the other Party if the other Party materially breaches such Statement of Work and fails to cure such breach within 30 days of delivery of written notice thereof.

6.4 **Effect of Termination.** Termination of this Agreement shall automatically terminate all Order Forms. Upon termination of this Agreement, (a) all rights and licenses granted by Sparta under this Agreement and all Order Forms (including Subscriber's right to access or use Subscriber Data via TrackWise Digital) shall automatically terminate, (b) Subscriber shall immediately cease all use of TrackWise Digital and (c) subject to the data retrieval provisions of Section 12.3 (Data Management and Retrieval), each Party shall promptly return or destroy all Confidential Information of the other Party in its possession. All payment obligations of Subscriber incurred, accrued or arising prior to the effective date of termination shall survive and be payable in accordance with the applicable payment terms herein.

6.5 **Survival.** Upon any termination of this Agreement, provisions which by their express terms or nature continue after termination will survive, including the following Sections: 1 (Definitions); 2.2 (Access and Use Restrictions); 2.7 (Acceptable Use); 2.10 (Audit); 4.3 (Ownership); 5 (Payments); 6.4 (Effect of Termination); 6.5 (Survival); 7 (Intellectual Property); 8

(Confidentiality); 9.4 (Disclaimer); 10 (Limitation of Liability); 11 (Indemnification); 12.1 (Ownership); 12.3 (Data Management and Retrieval); and 13 (Miscellaneous).

7. INTELLECTUAL PROPERTY. Notwithstanding anything herein to the contrary, as between the Parties, Sparta retains and shall be the sole owner of all right, title and interest, including all Intellectual Property rights, in and to the following (the following being collectively referred to as “**Sparta Property**”): (a) TrackWise Digital, the Documentation, Subscription Care Support Services, the Consulting Services and deliverables (if any), data regarding Subscriber’s use of TrackWise Digital, and all other software, technology, content, deliverables and materials provided or prepared by or on behalf of Sparta or used by Sparta in providing TrackWise Digital; (b) all ideas, concepts, techniques, inventions, innovations, know-how, data, designs, software, systems, procedures, processes, tools, utilities, metrics, methodologies and technologies related to, developed with or from, or provided in connection with or as part of, any of the foregoing, and all derivative works, customizations, enhancements, modifications, extensions and improvements in or related to any of the foregoing; and (c) any and all suggestions, ideas, enhancement requests, feedback, recommendations and other information provided by Subscriber or any employee, agent or contractor of Subscriber (all rights in which are hereby assigned to Sparta) or any other person or entity relating to the foregoing. Except for the rights expressly granted herein, Sparta does not grant, license or transfer to Subscriber, any User, or other third-party any rights to any Sparta Property. This Agreement is not a sale and does not convey to Subscriber any rights of ownership in or related to any of the foregoing. Sparta’s names, logos, and product and service names are trademarks of Sparta and no right or license is granted to use them. No implied licenses are granted herein and all rights not expressly granted to Subscriber herein are reserved by Sparta.

8. CONFIDENTIALITY.

8.1 Confidential Information. Each Party shall: (a) treat as confidential and shall not disclose any Confidential Information of the other Party other than to its employees, affiliates, contractors, consultants or advisors (each, a “**Representative**”) who have a bona fide need-to-know such Confidential Information, provided that (i) such Representatives are bound by written obligations consistent with and at least as restrictive as the provisions of this Section 8 and (ii) the receiving Party shall be responsible for any breach by its Representatives; (b) use the same degree of care to protect the other Party’s Confidential Information as it uses to protect its own Confidential Information of a similar nature, but, in no case, less than reasonable care or, if more restrictive, the degree of care required by applicable law or regulation; and (c) use the other Party’s Confidential Information only for the purposes described in this Agreement.

8.2 Exceptions. Confidential Information shall not include: (a) any information that is or becomes generally available to the public (provided that such information did not become public because of receiving Party’s or its Representative’s disclosure of such information in breach of this Agreement); (b) any information received by the receiving Party without restriction on use or disclosure from sources other than the providing Party or its Representatives (provided that such source is not subject to a confidentiality obligation with regard to such information); or (c) any information that is independently developed by the receiving Party without use of or reference to information from the providing Party. Notwithstanding the foregoing, either Party may disclose Confidential Information to any regulatory agency or court of competent jurisdiction if such information to be disclosed is (i) approved in writing by the providing Party for disclosure or (ii) to the extent required by law, regulatory agency or court order to be disclosed by such Party, provided that, to the extent legally permitted, prompt prior written notice of such required disclosure is given to the providing Party and provided further that such Party shall reasonably cooperate with the providing Party to limit the extent of such disclosure.

9. REPRESENTATIONS AND WARRANTIES.

9.1 Due Organization, Conflicting Agreements. Each Party represents that: (a) it is duly organized, validly existing, and in good standing in the jurisdiction in which it is incorporated; (b) it has the full corporate power and authority to execute and deliver this Agreement and comply with its obligations herein; and (c) it has no outstanding agreement that would conflict in any material way with the provisions of this Agreement, or that would preclude it from complying with the provisions hereof.

9.2 Sparta Warranties.

(a) **TrackWise Digital.** Sparta warrants that during the Term: (i) TrackWise Digital will perform substantially in accordance with the Documentation; and (ii) Sparta will not materially decrease the overall functionality of TrackWise Digital. In the event of a breach of the foregoing warranty, and as Subscriber’s exclusive remedy and Sparta’s sole liability, Sparta shall either, at its option: (A) correct the non-conforming component of TrackWise Digital; or (B) terminate this Agreement and refund to Subscriber any prepaid subscription Fees covering the remainder of the then-current Term.

(b) **Services.** Sparta warrants that, during the period of performance and for 30 days thereafter, Sparta’s services hereunder will be performed in a competent, professional and workmanlike manner by personnel of adequate training and experience. Subscriber’s exclusive remedy and Sparta’s sole liability for any failure of services to conform to this warranty shall be for Sparta to re-perform the non-conforming services.

9.3 **Subscriber Warranties.** Subscriber represents and warrants to Sparta that Subscriber or its licensors own all right, title and interest in and to all Subscriber Data.

9.4 **Disclaimer of All Other Warranties.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT FOR EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT, TRACKWISE DIGITAL, SUBSCRIPTION CARE SUPPORT SERVICES AND CONSULTING SERVICES ARE PROVIDED "AS IS", AND SPARTA MAKES NO OTHER REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER WRITTEN OR ORAL, EXPRESS, IMPLIED IN FACT OR BY OPERATION OF LAW, OR STATUTORY, AS TO ANY MATTER WHATSOEVER. SPARTA (ON BEHALF OF ITSELF AND ITS AFFILIATES AND LICENSORS) EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, NON-INFRINGEMENT, OWNERSHIP, QUIET ENJOYMENT, SECURITY OR ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE, ALL OF WHICH ARE HEREBY EXCLUDED TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SPARTA DOES NOT WARRANT THAT TRACKWISE DIGITAL OR THE SUBSCRIPTION CARE SUPPORT SERVICES WILL PERFORM CONTINUOUSLY OR WITHOUT INTERRUPTION, BE ERROR FREE, MEET SUBSCRIBER'S REQUIREMENTS, OR BE TIMELY OR SECURE, OR THAT DATA PROVIDED THROUGH TRACKWISE DIGITAL WILL BE ACCURATE, UP-TO-DATE, COMPLETE OR FREE OF HARMFUL COMPONENTS OR NOT LOST OR DAMAGED. SUBSCRIBER MAY NOT MAKE OR PASS ON ANY REPRESENTATIONS OR WARRANTY ON BEHALF OF SPARTA TO ANY THIRD PARTY.

10. LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT FOR SUBSCRIBER'S (A) NON-COMPLIANCE WITH THE PAYMENT OBLIGATIONS OR THE ACCESS OR USE RESTRICTIONS CONTAINED IN THIS AGREEMENT, (B) BREACHES OF THE PROVISIONS OF SECTION 8 (CONFIDENTIALITY) OR (C) MISAPPROPRIATION OR MISUSE OF SPARTA'S INTELLECTUAL PROPERTY RIGHTS, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES OF ANY KIND OR NATURE, OR FOR LOSS OF USE, REVENUES, PROFITS OR GOODWILL, BUSINESS INTERRUPTION, OR LOSS, CORRUPTION OR MODIFICATION OF DATA OR CONTENT, ARISING OUT OF THIS AGREEMENT (INCLUDING ANY ORDER FORM), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE) OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SPARTA AND ITS AFFILIATES' AGGREGATE AND CUMULATIVE LIABILITY (REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE) OR OTHERWISE) SHALL IN NO EVENT EXCEED THE AMOUNT OF FEES PAID BY SUBSCRIBER FOR TRACKWISE DIGITAL UNDER THIS AGREEMENT DURING THE SIX MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE EVENT GIVING RISE TO LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SPARTA SHALL NOT BE LIABLE TO SUBSCRIBER FOR, AND HEREBY DISCLAIMS, ANY DAMAGES OR LOSSES CAUSED BY OR RESULTING FROM THE CONDUCT, SOFTWARE, CONTENT, PRODUCTS, SERVICES OR INFORMATION OF ANY THIRD PARTY.

11. INDEMNIFICATION.

11.1 **Sparta Intellectual Property Infringement.** Notwithstanding anything to the contrary in this Agreement, and subject to Section 11.3, Sparta shall defend, or, at its option, settle, any third-party claim or suit against Subscriber to the extent based on a claim that TrackWise Digital infringes any third-party copyright, patent, trademark or trade secret that relates to Subscriber's use of TrackWise Digital (a "Third-Party IP Claim"). Sparta shall pay the damages, reasonable and verifiable costs, and expenses which are finally awarded against Subscriber by final judgment of a court of competent jurisdiction (or pursuant to settlements agreed to in writing by Sparta) directly attributable to such Third-Party IP Claim. If TrackWise Digital becomes, or in Sparta's opinion is likely to become, the subject of a claim of infringement or injunction, Sparta shall have the right, at its option and expense, to: (a) procure the necessary rights to enable Subscriber's continued use of TrackWise Digital as set forth in this Agreement; (b) replace or modify TrackWise Digital so that it is no longer claimed to infringe; or (c) terminate Subscriber's right to use the affected portion of TrackWise Digital and refund to Subscriber any prepaid unused portion of the subscription Fee(s) paid by Subscriber for such affected portion. Sparta shall have no liability under this Section 11 or otherwise to the extent a Third-Party IP Claim arises out of or relates to: (i) use of TrackWise Digital in a manner that does not comply with this Agreement; (ii) use of TrackWise Digital in combination with software, hardware, applications, content or data not provided by Sparta; (iii) modifications to TrackWise Digital not made by Sparta; or (iv) use of any version other than a current release of TrackWise Digital, if infringement would have been avoided by use of the current release.

11.2 **Subscriber Indemnification.** Notwithstanding anything to the contrary in this Agreement, and subject to Section 11.3, Subscriber shall indemnify and defend, or, at its option, settle, any third-party claim or suit against Sparta to the extent arising out of or related to: Subscriber Data; any of Subscriber's products or services; or negligent, reckless, illegal, or improper conduct of Subscriber's Users. Subscriber shall pay the damages, reasonable and verifiable costs, and expenses which are finally awarded against Sparta by final judgment of a court of competent jurisdiction (or pursuant to settlements agreed to in writing by Subscriber) directly attributable to such claim, including any reasonable attorneys' fees incurred by Sparta.

11.3 **Conditions.** Each Party's indemnification obligations under this Section 11 are subject to the conditions that: (a) the indemnified Party provides the indemnifying Party with prompt written notice of the indemnifiable claim unless the delay in notification has no prejudicial effect on the indemnifying Party's ability to defend or settle such claim; (b) the indemnifying Party retains sole control of the defense and/or settlement of the indemnifiable claim; (c) the indemnified Party does not prejudice the defense of the indemnifiable claim; and (d) the indemnified Party provides the indemnifying Party with such cooperation, assistance, documents, authority and information as it may reasonably require in relation to any indemnifiable claim and the defense and/or settlement thereof. The indemnified Party shall have the right, at its own expense, to participate in such litigation or defense and to retain its own separate counsel and advise the indemnifying Party on any proposed settlements, but only to the extent that such participation and advice do not unreasonably interfere with the indemnifying Party's ability to perform its obligations under this Section 11. The indemnifying Party may not, without the indemnified Party's prior written consent, settle, compromise or consent to the entry of any judgment in any indemnifiable claim unless such settlement, compromise or consent: (i) includes an unconditional release of the indemnified Party from all liability arising out of such indemnifiable claim; and (ii) is solely monetary in nature and does not include a statement as to, or an admission of fault, culpability or failure to act by or on behalf of, the indemnified Party.

11.4 **Sole Remedy.** SECTION 11.1 STATES SPARTA'S ENTIRE OBLIGATION AND LIABILITY, AND SUBSCRIBER'S SOLE RIGHT AND REMEDY, FOR INFRINGEMENT BY ANY PART OF TRACKWISE DIGITAL OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS. SECTION 11.2 STATES SUBSCRIBER'S ENTIRE OBLIGATION AND LIABILITY, AND SPARTA'S SOLE RIGHT AND REMEDY, FOR INFRINGEMENT OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS BY ANY SUBSCRIBER DATA OR ANY OTHER SUBSCRIBER PRODUCT OR SERVICE.

12. DATA AND DATA SECURITY.

12.1 **Ownership.** Subscriber retains ownership of all Subscriber Data. Subscriber, not Sparta, has sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and Intellectual Property ownership or right to use of all Subscriber Data, and Sparta is not responsible or liable for Subscriber's actions related to the deletion, correction, destruction, damage, loss or failure to store any Subscriber Data. Subscriber acknowledges that when using TrackWise Digital it can make permanent changes and edits to the Subscriber Data in its Org, including mass updates and mass alterations.

12.2 **Access and Processing of Data.** Subscriber acknowledges that with each use of TrackWise Digital initiated by its Users, TrackWise Digital will use the functionality of Subscriber's SFDC Service account to retrieve, manipulate, process and modify Subscriber Data based on its configuration of TrackWise Digital. Subscriber consents to such access solely as is necessary to provide TrackWise Digital and related services. However, Subscriber acknowledges that Sparta and its employees have no access to Subscriber Data within the SFDC Service unless (a) special access is granted by Subscriber for a specific purpose, or (b) in the case data is requested as part of agreement termination per Section 12.3. Subscriber hereby grants to Sparta a nonexclusive license during the Term to access Subscriber's account and access, use, transmit, modify, copy and distribute Subscriber Data from time to time as Sparta deems necessary, solely for the purpose of providing TrackWise Digital, Consulting Services and Subscription Care Support Services to Subscriber and related support and administration.

12.3 **Data Management and Retrieval.** All access and interaction between TrackWise Digital and Subscriber's SFDC Service account are managed exclusively by Subscriber through its SFDC Service administration and security settings. Subscriber acknowledges that the SFDC Service, not Sparta, stores Subscriber Data (as such term is defined in the SFDC Service Agreement referred to below), and in the event this Agreement is terminated, it will not be Sparta's responsibility to make available to Subscriber a file of Subscriber Data upon termination; salesforce.com requires Sparta to first receive a request from Subscriber. Subscriber's use of TrackWise Digital shall be subject to, and Subscriber shall comply and cause its Users to comply with, the salesforce.com terms and conditions, as updated from time to time, currently located at <http://spartasystems.com/legal/SFDC-service-agreement.pdf> (the "**SFDC Service Agreement**"). As set forth in the SFDC Service Agreement, Subscriber will have 30 days from the date of termination of this Agreement to request a copy of Subscriber Data that is stored within the SFDC Service in accordance with the terms of the SFDC Service Agreement, which data will be made available to Subscriber in a .csv format; salesforce.com has no obligation to retain Subscriber Data after the end of such 30-day period. For clarity, upon termination, Subscriber's ability to use TrackWise Digital will immediately cease and Sparta will have no ability to, and no obligation to, maintain or forward any Subscriber Data. Any modifications to Subscriber Data made in any way outside of the Platform (as defined in the SFDC Service Agreement), if any, will not be captured in Subscriber Data as returned by the SFDC Service. Certain TrackWise Digital service offerings may be hosted on Amazon Web Services, Box.com or other Sparta third-party hosting providers. Data management and retrieval upon termination will differ for data hosted on such providers.

12.4 **Security.** Sparta will implement, as part of TrackWise Digital, commercially reasonable administrative, and technical measures designed to secure the Subscriber Data against accidental or unlawful loss, access or disclosure. Sparta's service providers will implement commercially reasonable administrative, physical, and technical measures designed to secure the Subscriber Data against accidental or unlawful loss, access or disclosure. Sparta, and its service providers, will maintain, at a minimum, a SOC-2 Type II report compliance audit documentation, or its equivalent, during the Term and will provide a copy to Subscriber once per year during the Term upon prior written request. Subscriber shall immediately notify Sparta of any unauthorized use of TrackWise Digital or any other breach of security known to Subscriber. Sparta reserves the right to

suspend access to TrackWise Digital in the event of an actual security breach or threat. Sparta and its service providers (including salesforce.com) are not responsible for the privacy, security or integrity of Subscriber Data that is transmitted outside of TrackWise Digital.

12.5 EU-US and SWISS-US Privacy Shield Framework. Sparta complies with the EU-US and Swiss-US Privacy Shield Frameworks as set forth by the US Department of Commerce regarding the collection, use, and retention of personal information from European Union member countries and the United Kingdom and from Switzerland. Sparta has certified that it adheres to the Privacy Shield Principles of Notice, Choice, Accountability for Onward Transfer, Security, Data Integrity and Purpose Limitation, Access, and Recourse, Enforcement and Liability. Sparta is committed to applying those Principles to any and all personal data received from the EU and Switzerland. If there is any conflict between this Agreement or the Privacy Policy and the Privacy Shield Principles, the Privacy Shield Principles shall govern. To learn more about the Privacy Shield program, and to view Sparta's certification page, please visit www.privacyshield.gov.

13. MISCELLANEOUS.

13.1 Notices. Notwithstanding anything to the contrary, notices and other communications may be given or made pursuant to this Agreement electronically including via the Account or electronic mail. Notwithstanding the foregoing, any notice concerning a material breach, violation or termination of this Agreement (including the Order Forms) must be in writing and delivered in person or sent by certified or registered mail; or internationally recognized express courier or overnight delivery service, and shall be deemed given upon personal, confirmed or documented delivery. All written notices or other written communications to Sparta shall be provided to the address first listed above, and addressed to: **ATTENTION: LEGAL DEPARTMENT**. All written notices to Subscriber shall be sent to the address first listed above and addressed to the individual signing this Agreement. With respect to notices and other communications by Sparta regarding Sparta's Privacy Policy, the Subscription Care Support Policy or any information provided via the Account, such notices shall be deemed given when posted to Sparta's website or community portal, as applicable, or e-mailed to the Subscriber's Account administrator(s).

13.2 Entire Agreement; Modification; Waiver; Severability; Order of Precedence. (a) This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior agreements, oral or written, and all other communications between the Parties relating to such subject matter. (b) This Agreement and the Order Forms may not be amended or modified, nor any of its provisions waived, except by mutually signed written agreement. Any failure or delay by a Party to enforce or exercise any right or remedy shall not be deemed a waiver of such or any other right or remedy. Any waiver of any breach shall not be deemed to be a waiver of any other or subsequent breach. (c) If any court of competent jurisdiction holds any provision of this Agreement or any Order Form as null, void or otherwise ineffective or invalid, such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the Parties in accordance with applicable law, and the remaining provisions shall remain in full force and effect and shall not be affected thereby. (d) Any terms appearing on any purchase order, acknowledgment or confirmation that are different from or in addition to the terms of this Agreement or the applicable Order Form shall not be binding on the Parties, even if signed and returned. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (i) the SFDC Service Agreement; (ii) this Agreement; (iii) the applicable Order Form except to the extent the Order Form expressly supersedes a specified provision of this Agreement; and (iv) the Subscription Care Support Policy.

13.3 Independent Contractors. The Parties are independent contractors. This Agreement (including the Order Forms) does not create any partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties. Sparta shall be solely responsible for the conduct and supervision of its personnel in the performance of its obligations hereunder. Neither Party shall have any right or authority to assume or create any obligation or responsibility, express or implied, on behalf of the other Party or to bind the other Party in any way whatsoever.

13.4 Assignment. Neither this Agreement (including the Order Forms) nor any right or obligation hereunder may be assigned, transferred, delegated or subcontracted, by operation of law or otherwise, in whole or in part, by Subscriber without Sparta's prior written consent. Due to the importance of Subscriber's ownership and management, a Change of Control of Subscriber shall be deemed an assignment of this Agreement. "Change of Control" of Subscriber means a transaction or series of transactions (a) pursuant to which direct or indirect control of Subscriber is acquired by persons or entities other than those who, directly or indirectly, control Subscriber as of the Effective Date of this Agreement (with "control" having the meaning specified in Section 2.11 (Affiliates)), or (b) resulting in the sale of all or substantially all of Subscriber's business or assets utilizing any part of TrackWise Digital. Subject to the foregoing, the provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their successors and assigns.

13.5 Trademarks. Sparta and its third party licensors reserve all rights in and to their trademarks, trade names, service marks and logos (collectively "Marks") and no right to use, modify or reproduce such Marks are granted. Subscriber agrees not to take any action that may jeopardize the owner's rights in and to the Marks. Any and all uses of the Marks, or applications for or registrations of such Marks, shall inure to the benefit of Sparta or such licensors.

13.6 Publicity. Neither Party may issue or make any press release, announcement or publication containing or otherwise use any of the other Party's trademarks without the other Party's prior written approval; provided that, during the Term, Sparta may list Subscriber as a Subscriber of TrackWise Digital on Sparta's website and in other TrackWise Digital marketing materials.

13.7 **Non-solicitation.** During the Term and for a period of two years thereafter, Subscriber shall not employ or solicit the employment or services of an employee of Sparta or any of its Affiliates without the prior written consent of Sparta. For purposes of this provision, the advertisement of employment opportunities by Subscriber in any public forum (including magazines, trade journals, publicly accessible internet services, classified advertisements, or job fairs open to the public) shall not be considered "solicitation", and the hiring of an individual as a result of his or her response to such a general employment advertisement or in response to his or her unsolicited employment inquiry shall not constitute a breach of this Agreement.

13.8 **Force Majeure.** Except for any payment obligations, neither Party will be liable for, or be considered to be in breach of or default under this Agreement (including the Order Forms) on account of, any delay or failure to perform as required by this Agreement as a result of any cause or condition beyond such Party's reasonable control, so long as such Party uses all commercially reasonable efforts to avoid or remove such causes of non-performance or delay and provided further that the other Party may terminate this Agreement for convenience if such condition continues for a period of more than 60 days.

13.9 **Insurance.** Each Party shall bind and keep in force, for the Term of this Agreement, appropriate insurance coverage in accordance with industry practice applicable to its business.

13.9 **Compliance with Laws.** Subscriber shall not, and shall not permit Users to, access, use, export or re-export TrackWise Digital, or use TrackWise Digital to access, use, export or re-export Subscriber Data, in or to a U.S.-embargoed country or in violation of any applicable export law, regulation, order or sanction. Sparta represents that it is not named on any U.S. government denied-party list. Subscriber represents that neither it nor any User is named on any U.S. government denied-party list. Subscriber shall at all times comply and cause its Users to comply with applicable laws and regulations in its use of TrackWise Digital, including, without limitation, the provisions of the United States' Foreign Corrupt Practices Act and the United Kingdom's Bribery Act 2010.

13.10 **Federal Government End Use Provisions.** The Products are provided to the U.S. Government as "commercial items," "commercial computer software," "commercial computer software documentation," and "technical data" as those terms are defined by 48 CFR 2.102. The U.S. Government's use, duplication or disclosure of the Products identified herein are subject to the terms and conditions of this Agreement as provided for in 48 CFR 12.212, 12.216 and 227.7202-3. If the terms of the Agreement do not meet the U.S. Government's needs and/or are inconsistent in any respect with federal law, the U.S. Government's cognizant Contracting Officer must negotiate a mutually acceptable written addendum to this Agreement specifically granting such additional rights to the U.S. Government and modifying the agreement to be consistent with federal law.

13.11 **Third-Party Beneficiaries.** Salesforce.com shall be a third party beneficiary to this Agreement solely as it relates to the SFDC Service Agreement. Subject to the foregoing, nothing in this Agreement shall be construed as giving any right, remedy or claim hereunder to any person or entity that is not a Party hereto, and any person or entity that is not a Party to this Agreement shall have no right to enforce any part of it.

13.12 **Governing Law And Dispute Resolution.** This Agreement (including the Order Forms and this Section 13.12) shall be governed by the substantive laws of the State of New York applicable to agreements made and wholly performed in New York, without regard to the application of any conflicts of laws principles. Application of the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act is expressly excluded. Any and all disputes, controversies, or differences which may arise between the parties out of or in connection with this Agreement, or the breach hereof, which cannot be amicably settled by negotiation between the parties within 30 days from written notice of that dispute, shall be finally determined by arbitration administered by the International Centre for Dispute Resolution ("ICDR") in accordance with its International Arbitration Rules. The place of arbitration shall be New York, New York. All documents to be filed in the course of an arbitration shall be filed in the English language and all oral proceedings shall be conducted in the English language. Each party shall bear its own costs of translation, without prejudice to a final determination on the allocation of costs. Except as may be required by law, neither party may disclose the existence, content, or results of any arbitration hereunder without prior written consent of all parties. Each party shall cause its representatives, witnesses, and any arbitrators to assume confidentiality obligations no less stringent than those provided in this Agreement, during and after the termination or expiration of this Agreement, with respect to the existence, content, or results of any arbitration hereunder. Each party shall be fully responsible for the observance of such confidentiality obligations by its representatives and witnesses during and after the termination or expiration of this Agreement. Each party retains the right to apply to any court of competent jurisdiction for provisional and/or conservatory relief, including prearbitral attachments or injunctions, and any such request shall not be deemed incompatible with the agreement to arbitrate or a waiver of the right to arbitrate.

13.13 **Remedies Cumulative.** Except as otherwise expressly provided in this Agreement, all remedies shall be cumulative and shall be in addition to every other remedy given in this Agreement or existing at law or in equity, by statute or otherwise.

13.14 **Captions.** Section headings in this Agreement are used solely for convenient reference and shall not be deemed to define or limit the provisions of this Agreement. The Parties drafted this Agreement without any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted.

13.15 **Counterparts.** This Agreement and each Order Form may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute only one agreement. The execution and delivery

of counterparts by electronic mail, electronic form (including execution by way of an electronic or other signature stamp ("E-signature")), website submission, facsimile or by original manual signature, regardless of the means or any such variation in pagination or appearance, shall be binding upon the Parties.
