

## END USER AGREEMENT

PLEASE READ ALL OF THE FOLLOWING TERMS CAREFULLY BEFORE ACCESSING AND/OR USING TRACKWISE AND/OR RELATED SERVICES. THIS IS A LEGAL AGREEMENT (THIS “AGREEMENT”) BETWEEN YOU (“COMPANY”) AND SPARTA SYSTEMS, INC. (“SPARTA”) STATING THE TERMS AND CONDITIONS THAT GOVERN COMPANY’S USE OF TRACKWISE AND RELATED SERVICES. BY ACCESSING OR USING TRACKWISE AND/OR RELATED SERVICES, COMPANY AGREES TO ALL OF THE TERMS OF THIS AGREEMENT. THE INDIVIDUAL ACTING ON BEHALF OF COMPANY REPRESENTS THAT HE OR SHE HAS THE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF COMPANY. IF COMPANY DOES NOT AGREE TO THESE TERMS, DO NOT ACCESS OR USE TRACKWISE AND/OR RELATED SERVICES. THIS SOFTWARE MAY NOT BE LICENSED OR ACCESSED BY A DIRECT COMPETITOR OF SPARTA, EXCEPT WITH SPARTA’S PRIOR WRITTEN CONSENT. THIS AGREEMENT WAS LAST UPDATED ON MAY 1, 2023 AND IS EFFECTIVE AS OF THE DATE OF THE ORDER FORM (“EFFECTIVE DATE”). Sparta and Company are sometimes referred to herein individually as a “Party” and together as the “Parties”.

**WHEREAS**, Sparta has developed software known as TrackWise;

**WHEREAS**, Company wishes to purchase certain TrackWise software licenses from Sparta through Channel Partner in accordance with the terms and conditions set forth herein;

**NOW, THEREFORE**, in consideration of the benefits and obligations exchanged in this Agreement, the Parties agree as follows:

### 1. **Definitions.** As used in this Agreement:

1.1. **“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.

1.2. **“Application Instance”** means each separate licensed instance or installation of the Software and its associated database to be utilized in connection with tracking, monitoring, operating or managing an area of Company’s business, such as quality management and regulatory compliance workflow processes.

1.3. **“ASP Services”** means application service provider services, which consist of the hosting operation of the Software on any hardware platform or platforms operated by Channel Partner, for the purpose of delivering access and use of the Software to Company in accordance with the terms and conditions of the Channel Partner Access and Use Agreement.

1.4. **“Channel Partner”** means a Sparta-authorized reseller of the Software in the country in which Company is located.

1.5. **“Channel Partner Access and Use Agreement”** shall mean the agreement between Channel Partner and Customer governing Channel Partner’s provision of the ASP Services and Channel Partner Support Services and incorporating this Agreement.

1.6. **“Channel Partner Support Services”** means the in-country, in-language first-line technical support services for the Software purchased by Company from Channel Partner pursuant to the Channel Partner Access and Use Agreement directly between Company and Channel Partner.

1.7. **“Community Portal”** means the Sparta online password-controlled web portal (currently located at <https://spartasystems.force.com/customercommunity>) that Company will be able to access.

1.8. **“Concurrent User License”** means a license associated with a particular Application Instance which establishes the maximum number of Users permitted to be logged into such Application Instance at any given time. For each Concurrent User License, 10 individual Users may have log-in accounts to the applicable Application Instance. For example, if Company purchases 50 Concurrent User Licenses, the maximum number of Users who may be logged into an Application Instance at any given time is 50 and the maximum number of Users with log-in accounts is 500.

1.9. **“Confidential Information”** means any and all information disclosed or made accessible by or on behalf of one Party or its Affiliates to the other Party or its Affiliates (or any representative of any of them), whether directly or via Channel Partner, and 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 provided that the disclosing Party generally treats it as confidential, including all technical, product, service, business, marketing, sales, financial and pricing information and data, techniques, methodologies, processes, algorithms, know-how, ideas, concepts, inventions, discoveries and trade secrets, including information of or about (including the identity of) employees, affiliates, customers, licensors, suppliers, subcontractors 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 2.7 (Ownership)); (ii) the terms of this Agreement and 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.

1.10. **“Delivery Date”** means the date of Channel Partner’s electronic notification to Company that the Software ordered pursuant to an Order Form is available for download by Channel Partner on behalf of Company or the date Sparta electronically delivers to Channel Partner on behalf of Company the license keys therefor, as applicable.

1.11. **“Documentation”** means the published Sparta user manuals, guides, policies and instructions regarding the Software that are made generally available by Sparta to licensees of the Software as formal documentation of the use and operation of the Software (including the Specifications) and are posted by Sparta on the Community Portal for use in connection with the Software, as such materials are updated by Sparta from time to time.

1.12. **“Error”** means any verifiable and reproducible material failure of the Software to conform to the Specifications.

1.13. **“Error Correction”** means a modification or addition to the Software delivered within a Release, hot-fix or patch designed to correct an Error, or work-around, procedure or routine designed to diminish or avoid the practical adverse effect of an Error.

1.14. **“Fees”** means the fees specified in the applicable Order Form and/or applicable invoice for Software licenses and/or Third Party Software licenses provided by the Channel Partner pursuant to the Channel Partner Access and Use Agreement.

1.15. **“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, including all renewals of the same, and all goodwill associated therewith and symbolized thereby; (b) inventions and discoveries, whether patentable or not, invention disclosures and all patents, registrations, and like rights of exclusion and applications therefor, including divisions, continuations, continuations-in-part and renewal applications, and including renewals, extensions and reissues; (c) trade secrets and know-how, including those included in Confidential Information; (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; (e) moral rights, design rights, mask works, rights of privacy and publicity; and (f) all other intellectual property and proprietary rights including rights under unfair competition and market practice laws; in each case throughout the world and whether registered or not.

1.16. **“Licensed Site”** means the location of the servers on which the Software is initially installed, as identified by Company at the time of purchase, or a subsequent location authorized in accordance with Section 2.3.

1.17. **“Named User License”** means a license for a single-User log-in account associated with a particular Application Instance. Each Named User License shall be in addition to the number of log-in accounts included with a Concurrent User License but shall be subject to the same limits as the Concurrent User Licenses on the maximum number of Users who may be logged into such Application Instance at any given time. Each Named User License must be assigned to a specific User.

1.18. **“Order Form”** means, as applicable, the purchase document between Channel Partner and Company for purchases of licenses by Company from Sparta through Channel Partner. Channel Partner and Company may enter into multiple Order Forms.

1.19. **“Permitted Users”** means the total number of licensed Users with valid log-in accounts for the applicable Application Instance, subject to the maximum number of licensed Users permitted to access the Software on such Application Instance at any given time.

1.20. **“Privacy Policy”** means the practices set forth regarding Sparta’s collection, use and disclosure of personal data currently located 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.

1.21. **“Release”** means any major, minor or point releases, and any type of Error Correction, for the applicable Software which Sparta makes generally available to Company. A Release shall not include new or separate products which Sparta offers only for an additional fee.

1.22. **“Software”** means the object code version of Sparta’s proprietary on-premise TrackWise® computer software products to which Company actually purchases a license(s) from Sparta via Channel Partner under one or more Order Forms and all Releases thereto. “Software” does not include Third Party Software.

1.23. **“Specifications”** means the specifications applicable to the Software as posted by Sparta on the Community Portal.

1.24. **“Term”** means the period beginning on the Effective Date and ending on the date that this Agreement terminates in accordance with the terms herein.

1.25. **“Third Party Software”** means third party software product(s) incorporated in the Software and to which Company actually purchases a license from or through Sparta (whether directly or via Channel Partner) under one or more Order Forms for use in conjunction with the Software.

1.26. **“Third Party Terms”** means the general terms and conditions pursuant to which Company may use Third Party Software to the extent Company has purchased a license for such Third Party Software as described in Section 3.1.

1.27. **“TrackWise System Requirements”** means the hardware, software and other technical requirements for the computing environment within which the Software must be operated as posted by Sparta on the Community Portal.

1.28. **“User”** means any individual natural human being (a) who is an active employee, consultant, contractor or agent of Company, or of any Company Affiliate, or of any third party contractor or service provider of Company or a Company Affiliate, (b) who is authorized by Company to use the Software solely on behalf of Company for Company’s internal business purposes and (c) for whom Company has established a valid log-in account under a Concurrent User License or a Named User License; provided, that Company shall be responsible for all actions and omissions of Users, any such Affiliate and any such third party contractors and service providers including any non-compliance by any of them with the terms of this Agreement (which shall constitute a breach of this Agreement by Company).

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

## 2. License.

2.1. **Grant.** Subject to the terms and conditions of this Agreement and the applicable Order Forms, Sparta hereby grants to Company a personal, non-exclusive, non-transferable, and non-assignable (except as expressly permitted pursuant to Section 10.3 (Assignment)) limited license for the term of the Channel Partner Access and Use Agreement to (a) permit Channel Partner to install the Software on the Licensed Site in accordance with Section 2.3 herein; (b) use and permit Permitted Users to use the Software: (i) in accordance with this Agreement, the applicable Order Forms and the Documentation; (ii) in connection with a single Application Instance; and (iii) for Company’s internal business purposes only; and (c) to use and permit Permitted Users to use the Documentation solely in connection with the licensed use of the Software.

2.2. **Restrictions.** (a) Company shall not, and shall not attempt to (and shall not assist, enable or permit Users or others to, or to attempt to), directly or indirectly: (i) modify, translate or adapt any Software or any portion thereof (unless and then only to the extent required to be permitted by applicable law); (ii) rent, lease, share, lend, sell, resell, license, sublicense, distribute or otherwise transfer any Software or any rights thereto, (iii) provide any Software on a subscription basis, use or permit access to any Software by any third party (other than Users as expressly permitted by this Agreement) or use any Software in connection with a service bureau or other configuration whereby any third party may access, use or benefit from any Software (such as business

process outsourcing or training); (iv) copy, duplicate or create any derivative works of or based on any Software; (e) reverse-engineer, decompile (except to the extent that decompilation cannot be prohibited or restricted by applicable law because it is essential in order to achieve interoperability with another software program, but only to such extent), disassemble or otherwise attempt to discern or derive the source code of any Software or underlying ideas or algorithms of any Software; (v) misappropriate any Software or any portion thereof; (vi) access or use any Software or other Sparta Property to create a competing product or service; (vii) actually or effectively circumvent any contractual usage or other limit, whether via automated means or otherwise; (viii) use Software components other than as intended and as specifically identified in this Agreement, even if it is technically possible for Company to otherwise access such components; (ix) transmit any content or data that is unlawful or infringes any Intellectual Property rights; (x) circumvent or endanger the operation or security of the Software or other Sparta Property (as defined below); (xi) bypass or disable any protections that may be put in place against unlicensed use of any Software, or otherwise gain access to or use any unauthorized portion of any Software; (xiii) disclose any benchmark tests relating to any Software; or (xiv) remove, relocate, alter or obscure any trademark, copyright or other proprietary or restrictive marking or legend on any Software or other materials delivered or made available by Sparta hereunder or any copies thereof. Company shall not take or permit any action that (1) creates any obligation with respect to the Software, including any obligation to disclose or distribute any of its source, object or executable code, or (2) grants to any third party any rights to the Software. As used in this Section 2.2(a), the term "Software" includes object and source code forms of the Software and Third Party Software and the Documentation thereof.

(b) Company shall not use or permit use of any Third Party Software on a stand-alone basis or otherwise separated from the Software or transfer any Software (including User licenses) or Third Party Software from one Application Instance to another Application Instance. Company also shall not use or permit use of any Software or Third Party Software in connection with more than one Application Instance or for any Application Instance other than the one for which it was acquired.

**2.3. Licensed Site.** The Software shall be installed at the Licensed Site on server(s) owned or controlled by Channel Partner used to provide hosting or IT operational services on behalf of Company as part of the ASP Services. The Software shall not be copied or installed at additional locations without the prior written consent of Sparta, unless the Software will be used from additional locations to remotely access the licensed Application Instance hosted at the Licensed Site, subject to the number of Permitted Users and concurrency limits.

**2.4. Additional Concurrent or Named User Licenses.** During the Term, provided that Company is not then in breach of this Agreement, Company may purchase additional Software licenses including Concurrent User Licenses and/or Named User Licenses hereunder for any licensed Application Instance in accordance with the Channel Partner Access and Use Agreement.

**2.5. Additional Application Instances.** If Company desires more than one Application Instance, Company must purchase all of the following for each additional Application Instance: (a) a TrackWise Base License; (b) the number of Concurrent User Licenses needed to access such additional Application Instance; and (c) a Crystal Reports Base License and separate licenses to any other software not included in the TrackWise Base License, to be used in connection with such additional Application Instance.

**2.6. Affiliates.** During the Term, Company's Affiliates may purchase Software licenses from Sparta by entering into an Order Form with Channel Partner, that incorporates the terms and conditions of this Agreement in a manner that binds such purchasing Affiliate to the terms and conditions hereof.

**2.7. Ownership.** Notwithstanding anything to the contrary, as between the Parties, Sparta or its applicable third party licensor retains and shall be the sole owner of all right, title and interest, including all Intellectual Property rights, in, to and under the following (the following being collectively referred to as "**Sparta Property**"): (a) the Software (in object code and source code form), the Documentation, all other software, technology, content and materials provided or prepared by or on behalf of Sparta or used by Sparta in providing the Software, and all other Sparta Confidential Information; (b) any and all suggestions, ideas, enhancement requests, recommendations, modifications, improvements or other feedback provided by Company or any employee, agent or contractor of Company relating to any of the foregoing, all rights in which are hereby assigned to Sparta; and (c) all derivative works, customizations, enhancements, modifications, translations, extensions and improvements in or related to any of the foregoing. Company shall not register or attempt to register any patent or copyright which, in whole or in part, incorporates any Sparta Property. Except for the rights expressly granted herein, Sparta does not grant, license or transfer to Company or any User or other third party any ownership or other rights to any Sparta Property. No implied licenses are granted herein and all rights not expressly granted to Company herein are reserved by Sparta.

### 3. Third Party Components.

3.1. **General.** Individual Third Party Software components, each of which has its own copyright and its own applicable license conditions, may be distributed, embedded or bundled with the Software. Such Third Party Software is separately licensed by its copyright holder or sublicensed by Sparta. If this Agreement does not contain the applicable Third Party Terms, such terms shall be posted by Sparta at [www.spartasystems.com/legal](http://www.spartasystems.com/legal) or on the Community Portal. Company agrees that by accessing or using the Software and the applicable Third Party Software constitutes its acceptance of and agreement to the Third Party Terms applicable to Third Party Software licenses purchased pursuant to this Agreement. In the event of an inconsistency between the terms of this Agreement and any applicable Third Party Terms, the terms of the Third Party Terms shall prevail and, notwithstanding anything to the contrary (other than as stated within the Third Party Terms), no additional rights or remedies are granted to Company with respect to Third Party Software. All licenses of Third Party Software are granted subject to Sparta's receipt of payment in full of the applicable fees and Company's compliance with all applicable terms of this Agreement, including Third Party Terms. Sparta and its licensors reserve the right to modify Third Party Terms at any time upon prior notice to Company, provided that, unless otherwise provided in any Third Party Terms, such modifications shall apply only to licenses purchased after such notice. In addition, certain open source and free software components may be distributed, embedded or bundled with the Software; such components are provided under the licenses that accompany such components and which are also posted on the Community Portal.

3.2. **Crystal Reports.** With the purchase of a Crystal Reports Base License pursuant to an Order Form, Company will receive one copy of the latest generally released version of the Crystal Reports software, subject to the applicable Third Party Terms, as posted by Sparta at [www.spartasystems.com/legal](http://www.spartasystems.com/legal) or on the Community Portal, as the same may be modified by Sparta from time to time. The current version as of the Effective Date \ is attached hereto and incorporated herein as Exhibit A. "Crystal Reports Base License" means one SAP Crystal Reports Server license. Crystal Reports software is licensed for use only as bundled with or in combination with the Software.

4. **Support and Maintenance.** During each Channel Support Services (or similar third party support services) term purchased by or on behalf of Company, Channel Partner or other third party service provider (and not Sparta) will be responsible for providing Channel Partner Support Services (or similar third party support services) in the local language to Company to assist Company with resolving technical issues or concerns relating to the Software. Company acknowledges and agrees that they shall not be entitled.

### 5. Termination.

5.1. **Termination by Either Party for Material Breach.** Either Party may terminate this Agreement and/or license upon written notice to the other Party if the other Party materially breaches this Agreement or such Order Form or license and fails to cure such breach within 30 days of its receipt of written notice thereof.

5.2. **Effect of Termination.** (a) Unless this Agreement is terminated by Sparta for Company's breach pursuant to Section 5.1 above, all licenses shall remain in effect after the termination of this Agreement, provided that the applicable terms of this Agreement shall otherwise continue to apply to each thereof. (b) Notwithstanding the foregoing, if this Agreement is terminated by Company pursuant to Section 5.1 above, then any licenses then outstanding shall remain in effect, provided that the applicable terms of this Agreement shall otherwise continue to apply to each thereof. (c) Upon termination of this Agreement, each Party shall return, or destroy and at the other Party's written request certify the destruction of, all of the other Party's Confidential Information and all copies thereof in the possession of it, its Affiliates or any third party under its control, except that Company shall not be required to return the Software or Documentation unless the license thereto has terminated. Upon termination of any license, Company shall, and shall instruct Channel Partner to, return or, at Sparta's election, destroy and certify the destruction of all copies of the Software and Documentation in Company's, its Affiliates', Channel Partner's, or any third party's possession, except that each Party may retain one copy of such Confidential Information (excluding the Software) to the extent required to comply with applicable laws or regulations or applicable professional standards of conduct.

5.3. **Survival.** The following provisions shall survive any termination of this Agreement: Sections 1 (Definitions), 2.2 (Restrictions), 2.7 (Ownership), 5.2 (Effect Termination), 5.3 (Survival), 6 (Confidentiality), 7.3 (Disclaimer), 8 (Limitation of Liability), 9 (Audit Rights) and 10 (Miscellaneous).

## 6. Confidentiality.

6.1. **Obligations.** 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, service providers or advisors (each, a “Representative”) who have a bona fide need-to-know such Confidential Information, provided that (i) such Representatives are bound by legally enforceable 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 event less than reasonable care; and (c) use the other Party’s Confidential Information only for the purposes described in this Agreement. Notwithstanding anything to the contrary, each Party agrees that the other Party may disclose Confidential Information to Channel Partner for the purpose of enabling Channel Partner to conduct and fulfill its obligations under transactions and agreements contemplated by this Agreement.

6.2. **Exceptions.** (a) Confidential Information shall not include: (i) any information that is or becomes generally available to the public (provided that such information did not become public as a result of the receiving Party’s or its Representative’s disclosure thereof in breach of this Agreement); (ii) any information received by the receiving Party without restriction on use or disclosure from sources other than the disclosing Party or its Representatives (provided that such source is not subject to a confidentiality obligation with regard to such information); (iii) any information that is independently developed by the receiving Party without use of or reference to Confidential Information of the other Party; or (iv) any information that was in the receiving Party’s possession (without restriction on use or disclosure) prior to the time of its disclosure by or on behalf of the disclosing Party. (b) Notwithstanding the foregoing, either Party may disclose Confidential Information of the other Party to any regulatory agency or court of competent jurisdiction if and to the extent: (i) approved by the other Party in advance and in writing; or (ii) required to comply with applicable law, regulatory agency or court order, provided that such Party provides prompt prior written notice of such required disclosure to the other Party (to the extent legally permitted) and reasonably cooperates with the other Party (at such other Party’s cost and expense) to limit the extent of such disclosure.

## 7. Representations and Warranties.

7.1. **Software Warranty.** For a period of one year from the Effective Date (“Warranty Period”), Sparta warrants to Company that the Software, when run on systems which conform to the TrackWise System Requirements, will materially conform to the Specifications. In the event of a breach of the foregoing warranty, Company shall deliver to Channel Partner and Sparta, during the Warranty Period, written notice detailing the nature of the non-conformity. Channel Partner and/or Sparta shall use commercially reasonable efforts to provide an Error Correction within 30 days from receipt of Company’s written notice. Thereafter, Company shall have 10 days to notify Channel Partner and Sparta if the Error Correction does not bring the Software within substantial conformity to the Specifications. If Channel Partner or Sparta does not provide an Error Correction within 30 days of its receipt of Company’s written notice, or if the Error Correction does not bring the Software within substantial conformity to the Specifications, then, as Company’s sole and exclusive remedy and Sparta’s sole and exclusive obligation and liability, Company shall have the right to terminate its license to the non-conforming Software by notifying Channel Partner and Sparta in writing of such termination and thereafter receive a refund of the license fees received by Sparta for such non-conforming Software.

7.2. **Limitations.** The warranty in Section 7.1 do not apply if the Software has been: (a) altered, except by Sparta; (b) installed, operated, repaired or maintained other than in accordance with the Documentation or other Sparta instructions; (c) subjected to abnormal stress, misuse, negligence or accident; or (d) used in connection with any nuclear, aviation or mass transit application or other inherently dangerous activity. In addition, such warranty will not apply to non-conformities caused by Company’s (or any User’s or third party’s) access to, or manipulation, modification or extraction of, any data (including record data and configuration data) either at the database level or without going through the Sparta user interface. Delivery of a Release does not commence or extend any warranty period.

7.3. **Disclaimer.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT, THE SOFTWARE AND THE DOCUMENTATION, ARE PROVIDED “AS-IS” AND “AS AVAILABLE”, 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 (FOR ITSELF AND ITS AFFILIATES, LICENSORS AND OTHER SUPPLIERS) EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, TERMS AND CONDITIONS, INCLUDING ALL IMPLIED WARRANTIES, TERMS AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY

QUALITY, NON-INFRINGEMENT, OWNERSHIP, QUIET ENJOYMENT OR ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE, ALL OF WHICH ARE HEREBY EXCLUDED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SPARTA DOES NOT WARRANT THAT THE SOFTWARE WILL PERFORM CONTINUOUSLY OR WITHOUT INTERRUPTION, BE ERROR-FREE, MEET COMPANY'S REQUIREMENTS, OR BE TIMELY OR SECURE, OR THAT DATA PROVIDED THROUGH THE SOFTWARE WILL BE ACCURATE, UP-TO-DATE, COMPLETE OR FREE OF HARMFUL COMPONENTS OR NOT LOST OR DAMAGED. COMPANY SHALL NOT MAKE OR PASS ON ANY REPRESENTATION OR WARRANTY ON BEHALF OF SPARTA TO ANY THIRD PARTY.

**8. Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT FOR COMPANY'S (A) NON-COMPLIANCE WITH THE PAYMENT OBLIGATIONS OR THE LICENSE OR USE LIMITATIONS OF THIS AGREEMENT, (B) BREACHES OF SECTION 6 (CONFIDENTIALITY) OR (C) VIOLATION, MISAPPROPRIATION OR MISUSE OF SPARTA'S INTELLECTUAL PROPERTY RIGHTS, IN NO EVENT SHALL SPARTA (OR ITS AFFILIATES, LICENSORS OR OTHER SUPPLIERS) OR COMPANY BE LIABLE TO THE OTHER FOR: (I) ANY DAMAGES FALLING WITHIN ANY OF THE FOLLOWING CATEGORIES: (a) LOST PROFITS; (b) LOST BUSINESS, REVENUES OR SAVINGS; (c) BUSINESS INTERRUPTION; (d) LOSS OF GOODWILL; (e) LOSS OF ANTICIPATED SAVINGS; OR (f) LOSS, CORRUPTION OR MODIFICATION OF DATA OR OTHER INFORMATION; OR (II) ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES WHATSOEVER; IN EACH CASE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT (INCLUDING ANY APPLICABLE ORDER FORM), INCLUDING THE USE OF OR INABILITY TO USE THE SOFTWARE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IN THE EVENT OF FAILURE OF AN EXCLUSIVE REMEDY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SPARTA AND ITS AFFILIATES' AGGREGATE AND CUMULATIVE LIABILITY UNDER OR IN CONNECTION WITH THIS AGREEMENT (INCLUDING ALL ORDER FORMS), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY OR OTHERWISE SHALL IN NO EVENT EXCEED (I) WITH RESPECT TO THE SOFTWARE, THE AMOUNT OF THE LICENSE FEES ACTUALLY RECEIVED BY SPARTA FOR THE APPLICABLE SOFTWARE LICENSES PURCHASED BY COMPANY DURING THE 12 MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE EVENT GIVING RISE TO LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SPARTA AND ITS AFFILIATES SHALL NOT BE LIABLE FOR, AND SPARTA (FOR ITSELF AND ITS AFFILIATES) HEREBY DISCLAIMS, ANY DAMAGES OR LOSSES CAUSED BY OR RESULTING FROM THE CONDUCT, SOFTWARE, CONTENT, PRODUCTS, SERVICES OR INFORMATION OF ANY THIRD PARTY INCLUDING CHANNEL PARTNER OR ANY FAILURE OF COMPANY OR ANY USER TO COMPLY WITH THE TERMS OF THIS AGREEMENT.

Nothing in this Agreement or any Order Form shall limit or exclude either Party's or its Affiliates' liability for (a) death or personal injury caused by its or their negligence or the negligence of its or their employees, agents or subcontractors, (b) fraud or fraudulent misrepresentation or (c) any other liability to the extent that it cannot be limited or excluded by applicable law.

**9. Audit Rights.** During the Term and for a period of one year thereafter, upon Sparta's written request, Sparta or an independent and reputable agent or accounting firm chosen by Sparta will be provided reasonable access, during Company's normal business hours and at Sparta's expense, to examine Company's records and computer equipment for the purpose of auditing Company's compliance with this Agreement and the Order Forms and auditing Company's usage of the SAP Materials (defined in Exhibit A). Sparta's written request for audit will be submitted to Company at least five days prior to the specified audit date. If Company is not in material compliance with the terms of this Agreement and the Order Forms, then in addition to and notwithstanding any other rights or remedies available to Sparta, Company shall (a) reimburse Sparta for its expenses incurred in conducting the audit and (b) pay Sparta for all additional applicable license fees.

## **10. Miscellaneous.**

**10.1. Notices.** Notwithstanding anything to the contrary, notices and other communications may be given or made pursuant to this Agreement electronically including via the Community Portal. Notwithstanding the foregoing, any notice concerning a material breach or termination of this Agreement or any applicable Order Form or license must be in writing and delivered in person or sent by certified or registered mail or internationally recognized express courier or overnight delivery service which tracks receipt, and shall be deemed given upon personal, confirmed or documented delivery. All notices concerning a material breach shall

specify the nature of the breach in reasonable detail. All notices must be in English. 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 Company shall be sent to the address first listed above and addressed to the individual signing this Agreement. Either Party may, by written notice given in accordance with this Section, designate another address or person for receipt of written notices hereunder. With respect to notices and other communications by Sparta regarding the Privacy Policy, such notices shall be deemed given when posted on the Community Portal or at <https://www.spartasystems.com/legal>. All notices required to be provided by Company to Channel Partner under this Agreement shall be delivered in accordance with the applicable Channel Partner Access and Use Agreement.

**10.2. 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. Each Party acknowledges that it in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (including negligently or innocently made statements) by or on behalf of any person or entity (whether or not a Party) that is not expressly set out herein. (b) This Agreement and the applicable Order Forms may not be amended or modified, nor any of its provisions waived, except by mutually signed written agreement. Any failure or delay 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 applicable 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) 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. (e) Any terms appearing on any purchase order, acknowledgment or confirmation that are different from or in addition to the terms of this Agreement or any applicable Order Form shall not be binding, even if signed and returned. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (i) this Agreement; and (ii) the applicable Order Form between the Parties except to the extent such Order Form expressly supersedes a specified provision of this Agreement.

**10.3. Assignment.** Neither this Agreement nor any Order Form nor any right or obligation hereunder or thereunder may be assigned, transferred or delegated, by operation of law or otherwise, in whole or in part, by Company without Sparta's prior written consent. Due to the importance of Company's ownership and management, a Change of Control of Company shall be deemed an assignment of this Agreement. "Change of Control" of Company means a transaction or series of transactions (a) pursuant to which direct or indirect control of Company is acquired by persons or entities other than those who, directly or indirectly, control Company as of the Effective Date (with "control" having the meaning specified in the definition of Affiliate in Section 1) or (b) resulting in the sale of all or substantially all of Company's business or assets utilizing any part of the Software. Subject to the foregoing, this Agreement and the Order Forms between the Parties shall be binding upon and inure to the benefit of the Parties and their successors and assigns.

**10.4. Trademarks.** Sparta and its 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. Company agrees not to take or permit 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.

**10.5. Publicity.** Neither Party may issue or make any press release, announcement or publication containing or otherwise use any of the other Party's Marks without the other Party's prior written approval; provided that, during the Term, Sparta may list Company along with Company's logo as a customer of the Software on Sparta's website and in other Software marketing materials.

**10.6. Force Majeure.** Except for payment obligations, neither Party will be liable for, or be considered to be in breach of this Agreement or the applicable Order Forms on account of, any delay or failure to perform as a result of any cause or condition beyond such Party's reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, epidemic, pandemic, Internet failure or delay, or denial of service attack. The affected Party shall use commercially reasonable efforts to avoid or remove such cause of non-performance or delay. If such cause or condition continues for a period of more than



60 days, then the other Party may terminate this Agreement for convenience upon 10 days' written notice to the affected Party.

**10.7. Compliance with Laws.** (a) Company shall not, and shall not permit its Affiliates or Users to, access, use, export or re-export TrackWise, or use TrackWise to access, use, export or re-export Company Data, in or to a U.S.-embargoed country or in violation of any applicable export law, regulation, order or sanction. Company shall at all times comply and cause its Affiliates and Users to comply with all applicable laws and regulations in its use of TrackWise, including the United States' Foreign Corrupt Practices Act and the United Kingdom's Bribery Act 2010. (b) Without limiting the generality of the foregoing, through utilization of the Software (collectively, the "Offerings"), Company represents, warrants, and agrees that: Company and each of its Affiliates and Users are not a "Sanctioned Person," meaning any individual or entity: (1) named on a governmental denied party or restricted list, including but not limited to: the Office of Foreign Assets Control ("OFAC") list of Specially Designated Nationals and Blocked Persons ("SDN List"), the OFAC Sectoral Sanctions Identifications List ("SSI List"), and the sanctions lists under any other Sanctions Laws; (2) organized under the laws of, ordinarily resident in, or physically located in a jurisdiction subject to comprehensive sanctions administered by OFAC (currently Cuba, Iran, North Korea, Syria, and the Crimea, Donetsk People's Republic, or Luhansk People's Republic regions of Ukraine/Russia) ("Sanctioned Jurisdictions"); and/or (3) owned or controlled, directly or indirectly, 50% or more in the aggregate by one or more of any of the foregoing. Relating to this transaction and/or Agreement, Company, its Affiliates, and its Users are in compliance with and will continue to comply with all economic Sanctions Laws administered by OFAC, other U.S. regulatory agencies, the European Union and its Member States, the United Kingdom, and the United Nations ("Sanctions Laws"). Company, its Affiliates, and Users will not involve any Sanctioned Persons in any capacity, directly or indirectly, in any part of this transaction and performance under this transaction. Company will not take any action that would cause Sparta to be in violation of Sanctions Laws. Company will not sell, export, re-export, divert, use, or otherwise transfer any Sparta products, technology, software, or proprietary information: (i) to or for any Sanctioned Persons or to or involving Sanctioned Jurisdictions; or (ii) for purposes prohibited by any Sanctions Laws. Company, its Affiliates, and its Users will not source any components, technology, software, or data for utilization in Sparta products or services: (i) from any Sanctioned Persons or Sanctioned Jurisdictions or (ii) in contravention of any Sanctions Laws. Company's or any of its Affiliates' or any User's failure to comply with this provision will be deemed a material breach of the Agreement, and Company will notify Sparta immediately if it or any of its Affiliates or Users violates, or reasonably believes that it or any of its Affiliates or Users will violate, any terms of this provision. Company agrees that Sparta may take any and all actions required to ensure full compliance with all Sanctions Laws without Sparta incurring any liability. Notwithstanding any provision of this Agreement or any Order Form to the contrary, Sparta may limit, suspend, or terminate Company's or any of its Affiliates' or any User's access to or delivery of the Offerings or take other actions reasonably necessary to comply with applicable export laws and Sanctions Laws without liability. Company agrees to indemnify Sparta if Sparta becomes subject to liability because of Company's or any of its Affiliates' or any User's non-compliance with applicable export laws or Sanction Laws.

**10.8. Anti-Bribery, Anti-Corruption.** (a) Company represents and warrants that it understands and agrees that this Agreement is conditioned upon Company's strict compliance with all requirements and prohibitions of the FCPA (United States Foreign Corrupt Practices Act of 1977) and all other applicable anti-corruption laws, including the FCPA's prohibitions against acts of corruption relating to the offering, payment, promise to pay, or authorization to pay anything of value, including, but not limited to, cash, checks, wire transfers, tangible and intangible gifts, favors, services, and entertainment and travel expenses beyond what is reasonable and customary and of modest value to: (i) an officer, director, manager, employee or agent of a department, government agency or any of the same; (ii) a director, officer, manager, employee or agent of a company, entity, business wholly or partially owned by, or controlled by, the government; (iii) a political party or official thereof, or candidate for political office; or (iv) an officer, director, employee or agent of a public international organization knowing or reasonably believing that all or part thereof may be used in order to: influence any act, decision or omission by a governmental authority in its official capacity; inducing a government official to use its influence with a government or any part of it to affect any act or decision of such government or entity or to obtain an improper advantage in order to obtain, retain or direct business.

(b) Company represents and warrants that it is currently in compliance with all applicable anti-corruption and anti-bribery laws and will remain so and that they will not authorize, offer or make payments, directly or indirectly, to any government authority that may result in a breach of FCPA or established restrictions or prohibitions.

(c) No payment received from either Party by the other Party will be used for any purpose that could be construed in violation of the applicable anti-corruption laws or the FCPA.

(d) Company guarantees that it will not use any information provided in an improper way or of dubious origin in relation to the object of this Agreement.

**10.9. No Legal Advice.** Company acknowledges and agrees that Sparta does not and shall not provide Company with any legal advice regarding compliance with laws, rules or regulations in the jurisdictions in which Company uses the Software, including those related to data privacy or medical, pharmaceutical or health related data. Company acknowledges that the Software may be used in ways that do and do not comply with such laws, rules or regulations. It is Company's sole responsibility to monitor its (including Users') compliance with all such relevant laws, rules or regulations. Company is solely responsible for such Company-specific use decisions and Sparta and its Affiliates disclaim all liability for such decisions.

**10.10. Third Party Beneficiaries.** Company acknowledges that licensors of Third Party Software distributed to Company hereunder are direct and intended third party beneficiaries of this Agreement and the applicable Order Forms and are entitled to enforce this Agreement and/or such Order Forms directly against Company to protect their contractual, proprietary or other legal rights. In no event shall Sparta's licensors be deemed parties to this Agreement or any Order Form and neither Company nor any third party including Affiliates shall have a right to raise claims pursuant to this Agreement or any Order Form against such third party licensors. Subject to the foregoing, nothing in this Agreement or any Order Form 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 hereto shall have no right to enforce any part of it.

**10.11. Governing Law and Dispute Resolution.** (a) This Agreement (including this Section 10.11) and the applicable Order Forms and any disputes, controversies or differences arising out of or in connection with this Agreement and/or such Order Forms, including the breach hereof or thereof, shall be governed by the substantive laws of the State of 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. (b) Any and all disputes, controversies, or differences which may arise between the Parties out of or in connection with this Agreement or any applicable Order Form, including the breach hereof or thereof, which cannot be amicably settled by negotiation between the Parties within 30 days from delivery of written notice of that dispute by one Party to the other Party, 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 to the extent required by applicable law, neither Party may disclose the existence, content or results of any arbitration hereunder (other than to its accountants and attorneys) without prior written consent of the other Party. 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 term 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 term of this Agreement. Each Party retains the right to apply to any court of competent jurisdiction for provisional and/or conservatory relief to enforce the provisions of this agreement protecting, and to otherwise protect, its Confidential Information and Intellectual Property rights, 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.

**10.12. 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.

## EXHIBIT A

### THIRD PARTY TERMS - SAP CRYSTAL REPORTS SOFTWARE

Each capitalized term in this Exhibit A that is not defined herein shall have the meaning given it in this Agreement or the SAP GTC:

1. **GRANT OF LICENSE.** Company shall have a non-exclusive and perpetual license to use the SAP Software (defined below) included in Bundled Solutions, subject to the terms and conditions of the SAP Agreement (defined below), to run Company's and its Affiliates' internal business operations.
2. **ADDITIONAL RESTRICTIONS.** The SAP Software may only be used with the Sparta Software to enable its performance, with data access limited to data created by the Sparta Software or data processed by the Sparta Software that is necessary to enable the functionalities of the Sparta Software. Company may permit Channel Partner to access the SAP Software only to assist Company with its permitted use of the SAP Software.
3. **SOFTWARE USE RIGHTS.** Company will comply with the Use Terms. Company acknowledges and agrees that the Use Terms form an integral part of the SAP Agreement. References to "OEM" in the Use Terms will be deleted and replaced by "Partner". With respect to Use of the Software by Company, references to "Licensee" will be deemed to mean "Customer".
4. **INSTALLATION.** Except as expressly permitted in the SAP Agreement, Company may install the SAP Software only on compatible hardware located at Company's or its Affiliate's facilities or in their direct possession
5. **AUTHORIZED USERS.** Company must be appropriately licensed as stated in the Use Terms for any individuals that Use the SAP Software. Use may occur by way of an interface delivered with or as a part of the SAP Software, Sparta, Company or third-party interface, or another intermediary system. Company may permit Business Partners to Use the SAP Software only through screen access, solely in support of Company's permitted Use, and not to run any of Business Partners' business operations.
6. **SERVICE PROVIDERS.** Company may permit service providers to access the SAP Software only to assist Company with its permitted Use of the SAP Software. Company is responsible for any breach of the SAP Agreement caused by any individuals using the Software or SAP Materials or SAP Confidential Information.
7. **SUPPORT.** SAP has no obligations to provide any SAP Support to Company directly. Channel Partner, on the behalf of Sparta, will be responsible for providing all support and maintenance services for the SAP Software to Company directly.
8. **OWNERSHIP.** SAP, SAP SE, their Affiliates, or licensors own all Intellectual Property Rights in and related to the SAP Solution, SAP Materials, Documentation, Modifications, design contributions, related knowledge or processes, and any derivative works of them conceived or created by SAP (collectively, "**SAP IP**"). All rights to the SAP IP not expressly granted to Partner are reserved by SAP, SAP SE, their Affiliates and licensors. Partner will not remove, delete or alter any Intellectual Property Rights notices appearing on the SAP Materials.
9. **EXPORT CONTROLS.** SAP Confidential Information is subject to export control laws of various countries, including the laws of the United States, European Union and Germany ("**Export Regulations**"). Company will not export SAP Confidential Information to countries, persons, organizations or entities if prohibited by export laws. Company will comply with the Export Regulations. The availability of the SAP Software and SAP Materials may require prior export and/or import authorizations and this process may delay or prevent the delivery of SAP Software or SAP Materials. This section also applies to any SAP Software or support services that SAP delivers directly to the Company on behalf of Sparta.
10. **DEFINITIONS.**
  - (a) "**SAP**" means the Business Objects Software Limited T/A SAP Solutions.
  - (b) "**SAP Agreement**" means, collectively, the following (i) the applicable Order Form terms pertaining to the purchased SAP Software licenses; (ii) the Use Terms; (iii) the *SAP PartnerEdge Support Schedule for On Premise Software*; (iv) the current *Personal Data Processing Agreement for SAP Support and Professional Services* as amended by the Partner Supplement; (v) the *Partner Supplement to Data Processing Agreement*; and (vi) the SAP GTC. The documents referenced in (ii) – (vi) are located at <https://www.sap.com/about/trust-center/agreements.html>. The terms and documents referenced in (i) – (vi) are listed in order of precedence and are incorporated by reference.
  - (c) "**SAP GTC**" means the *SAP OEM Partner Agreement General Terms and Conditions (North America)* document located at <https://www.sap.com/about/trust-center/agreements.html>, current as of the date of the order of the applicable SAP Software. The SAP GTC is incorporated herein by this reference.
  - (d) "**SAP Materials**" shall have the meaning set forth in the SAP GTC.
  - (e) "**SAP Software**" means the applicable SAP Crystal Reports licenses purchased pursuant to an Order Form.
  - (f) "**Sparta Software**" means the "Software" as defined this Agreement.
  - (g) "**Use Terms**" means the terms of the *SAP PartnerEdge Build (formerly OEM) Software Use Rights (English)* document located at <https://www.sap.com/about/trust-center/agreements.html>, current as of the date of the order of the applicable SAP Software. The Use Terms are incorporated herein by this reference.