Master Software License Agreement

This Master Software License Agreement governs Customer's purchase, use of and access to the Software. The Agreement is by and between ETQ, LLC, a Delaware limited liability company with offices at 700 District Ave, 8th Floor, Burlington, MA 01803 ("**ETQ**") and the company or other legal entity accepting this or represented by the individual that accepts the Agreement ("**Customer**"). By entering into an Order Form that references this Agreement, Customer agrees to be bound by the terms and conditions of this Agreement. The Agreement governs Customer's and its Affiliates' and each of its and their Active Users' use of and access to the Services

The Agreement was last updated on January 28, 2019. It is made effective between Customer and ETQ as of the date Customer accepts the Agreement ("**Effective Date**") by executing an Order Form.

DEFINITIONS.

"Active User" means a unique user that accesses the Services at least one time during a month regardless of the location from which the Services are accessed. Active Users shall be limited to Customer's and its Affiliates' employees, agents and independent contractors, provided that: (a) any such employee, Affiliate, agent or independent contractor (individual person and entity) shall first be subject to written obligations of confidentiality which provide substantially the same protection as Section 8 (Confidentiality); (b) Customer has paid ETQ a fee for each Active User; and (c) any such agent or independent contractor shall not be a competitor of ETQ or acting on behalf of a competitor of ETQ. Customer shall be responsible for all access to and use of Customer's instance of the Software and Documentation and for the acts of all Active Users..

"Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the specified person. "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise.

"Agreement" means this MSA containing these terms, all executed Order Forms, and all Terms and Conditions referenced herein or in an Order Form each of which are incorporated into and made a part hereof.

"Confidential Information" means all information disclosed by a party to the Agreement ("Disclosing Party") to the other party to the Agreement ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Without limitation, the Software (in object and source code forms), Services, Documentation, and the ideas, concepts, know-how, techniques, inventions, processes, designs, methods, discoveries and improvements reflected or embodied therein, results of audits of Customer by ETQ, ETQ business information, ETQ business plans and ETQ financial information constitute and comprise Confidential Information and trade secrets of ETQ. Customer Data shall constitute and comprise Confidential Information of Customer.

"Customer Data" means any data entered into, processed by, or outputted from the Services, as a result of the operation of the Services by Customer or any Active Users, excluding any component of the Software, Services or Documentation itself, whether a Modification, extension, configuration, enhancement, derivative, improvement or otherwise.

"Documentation" means any non-public manuals, specifications, instructions, or other materials in any medium, describing the functionality or operation of the Software and delivered to Customer under this Agreement. Sections 3 (Intellectual Property and Licenses) and 8 (Confidentiality).

"License Key" means the software password provided to Customer by ETQ for use on the computer server on which the Software is licensed for installation which permits use of the Software from such computer server by the number of Active Users initially specified in the Order Form. License Keys may not be copied, distributed, published, transferred, disclosed outside Customer, nor may any License Key be used on any computer server other than the computer server for which it is supplied.

"Order Form" means an ordering document or online order specifying the Services to be provided hereunder that is entered into between Customer and ETQ, including any addenda and supplements thereto.

"Software" means the computer software program(s) described on an Order Form and which might otherwise be provided to Customer, including Updates, Modifications and Configurations thereto, Work Product consisting of any of the foregoing, and License Keys (subject to Section 2.7). References to Software shall be deemed to include Documentation for purposes of confidentiality, restrictions on use and ETQ's ownership of intellectual property rights therein.

1. LICENSE.

1.1. License Grant. ETQ hereby grants to Customer, and Customer hereby accepts, subject to the terms and conditions of this Agreement, an internal, non-exclusive and nontransferable license to use a single production instance of the Software, in object code form only, solely for its intended purpose as described in the Documentation and as permitted by this Agreement, as made available to Customer by ETQ as installed in Customer's internal network. The foregoing license permits Customer to: (a) install one copy of the Software on a single computer file server for the purpose of downloading and installing the Software onto other computers within Customer's internal network; or (b) install one copy of the Software on one or more computer file servers within Customer's internal network for the purpose of using the Software through commands, data or instructions from another computer on Customer's internal network. The Software may be used solely as permitted hereunder and by no more than the number of Active Users specified in an Order Form for which Customer has purchased licenses and as permitted by the applicable License Key. This Agreement also permits Customer to have installed or install a copy of the Software on additional servers limited to exercising the rights granted in Section 1.7 (Modifications), provided that such servers are utilizing the License Key. No other use of the Software is permitted, including using the Software either directly or through commands, data or instructions from or to a computer not part of Customer's

internal network. Customer acknowledges being advised that the Software is programmed to prevent use by more than the number of Active Users for which licenses have been purchased.

1.2. Additional Services. Customer may purchase customer support for the Software for twelve month terms in accordance with the Terms and Conditions of Customer Support set forth at https://www.etq.com/company/legal-agreements.shtml and incorporated herein by reference, and at the customer support level set forth in the applicable Order Form. Customer may purchase professional services for implementation and/or configuration of the Software for Customer's internal business needs, which professional services shall be governed by the Master Professional Services Agreement set forth at https://www.etq.com/company/legal-agreements.shtml and incorporated herein by reference.

1.3. Documentation License. Customer is granted a nonexclusive and nontransferable (subject to Section 12.1 (Assignment)) license for each Active User to download and use a single copy of the Documentation in connection with its use of the Software, subject to all restrictions applicable to the Software, except that each Active User may make a single copy of the Documentation solely for backup or archival purposes. Customer shall reproduce and include ETQ's copyright and other proprietary rights notices on any such copies, including partial and physical copies in any form. Documentation includes downloadable documents, videos and interactive wizards and any other media which describes the functionality and usability of the Software.

1.4. Additional Active Users. Use of the Software is subject to the total number of Active Users purchased by Customer. Customer shall cooperate with ETQ by providing to ETQ information regarding its total number of Active Users on a monthly basis, including though use of reporting tools contained in the Software. ETQ will invoice Customer for any Active Users in excess of the number of purchased Active Users at ETQ's then-current rates. If Customer does not timely pay for such additional Active Users, ETQ may, in its sole discretion, suspend Customer's and its Affiliates' and its and their Active Users' access to the Software or terminate the Agreement in accordance with Section 6 (Term and Termination). In addition, Customer may purchase access to the Software for additional Active Users at ETQ's then current pricing by executing an Order Form.

1.5. Duplication. Customer may make up to two (2) copies of the Software and Documentation solely for backup and/or archival purposes. Customer shall reproduce and include ETQ's copyright and other proprietary rights notices on any copies, including partial and physical copies in any form.

1.6. User IDs and Logins. Any user login and other ID for the Software may not be shared or used by more than one individual during any given period of time. However, Customer may reallocate or reassign user logins or IDs from time to time, as reasonably necessary to accommodate changes in personnel and duties. Customer is responsible and liable for all access to and use of the Software through any user login or other ID assigned to Customer or otherwise used to access the Software made accessible to Customer. Customer shall maintain Customer's user IDs and passwords as strictly confidential and not disclose them to any third party.   Customer shall notify ETQ immediately of any unauthorized use of any user login or other ID assigned to Customer, or any other actual or suspected breach of security related to the Software of which Customer becomes aware.

1.7. Modifications. Notwithstanding the foregoing, Customer may create or request that ETQ create modified versions or configurations of the forms, workflows, and/or routings contained in the databases originally supplied in the Software and as permitted by the functionality of the Software (collectively, "Modifications"). Such Modifications are limited to customizing only those forms, workflows, or routings contained in the databases as originally supplied in the Software, solely as permitted by the functionality of the Software and solely for their original intended purpose as dictated by the Software's original configuration. ETQ shall own all rights, including intellectual property rights, in and to the Modifications. To the extent Customer owns any rights, including intellectual property rights, in and to any Modifications, Customer hereby assigns them to ETQ. Customer shall have a license to use Modifications to the same extent that Customer has a license to use the Software pursuant to the Agreement and Modifications shall be deemed part of the Software, subject to all restrictions contained in the Agreement.

1.8. Restrictions.

    1.8.1. Usage Restrictions. All licenses granted are for use of the Software in machine-executable object code form only. Except as expressly permitted in this Agreement, Customer shall not: (a) reverse assemble, reverse engineer, decompile, or otherwise translate, use, copy, modify, prepare derivative works from, transmit or distribute by any means any portion of the Software or Documentation; (b) rent, lease, sublicense or transfer the Software or Documentation or the use thereof to any third party; (c) charge, or allow others to charge, any third party for use of the Software; or (d) use the Software in the operation of a service bureau or time-sharing arrangement, or otherwise allow direct or indirect use of the Software (including via the Internet) to generate revenue for Customer; (e) defeat or attempt to defeat any security mechanism of the Software or knowingly permit any third party to do so; (f) use the Software to store, send, or provide access to obscene or otherwise illegal materials or to store, send, or provide access to materials that would infringe upon any intellectual property rights or violate any privacy rights of any third party; (g) use the Software in any other manner that does not comply with applicable laws, rules, and regulations; (h) use the Software to store or transmit malicious or disruptive code; (i) copy the Software or any part, feature, function or user interface thereof or frame or mirror any part of any Software; (j) access or use the Software for benchmarking or similar competitive analysis purposes or in order to build a competitive product or service; or (k) breach ETQ's Acceptable Use Policy, available at https://www.etq.com/company/legal-agreements.shtml and incorporated herein by reference. The Software may contain or rely on components that are owned by ETQ or third parties and have been licensed to ETQ. Customer may not use the components other than through Customer's use of the Software as expressly permitted by the Agreement. ETQ is required to publish the disclaimers, notices and other terms applicable to such third party software, which are viewable in the Software's "About" screen, and

Customer agrees to same to the extent required therein. Any prohibitions or limitations in the Agreement that apply to Customer shall apply equally to Customer's Affiliates and its and their Active Users..

1.8.2. **Customer's Responsibilities.** Customer shall be solely responsible for (a) ensuring and preserving the truthfulness, accuracy, quality, legality, and secrecy of Customer Data, and (b) ensuring that Customer Data does not infringe or misappropriate any trade secret, or violate or contravene any applicable laws, rules, or regulations. Customer further agrees, represents, and warrants that it has obtained binding consents and approvals from all necessary persons, authorities, or individuals, and has complied with all applicable laws, rules, and regulations to allow ETQ to use the Customer Data to provide Services under the Agreement.

1.8.3. **Suspension of Access**. ETQ may immediately suspend or disable access to and use of the Software if, as a result of Customer's or its Affiliates' or its or their Active Users' use of the Software or breach of the Agreement, ETQ reasonably believes: (a) it is likely to be subject or exposed to criminal or civil sanctions, prosecution or suit; or (b) such use or breach is likely to cause harm to ETQ or ETQ's other customers or their respective employees or interfere with the integrity, operations or security of the Software or ETQ's network or systems or those with which ETQ is interconnected, or interfere with another customer's use of any of the foregoing. ETQ may also suspend or disable access to and use of the Software if required in order to comply with a court order or government requirement. In the exercise by ETQ of its right to act immediately under this Section 1.8.3, ETQ shall provide as much advance notice as is reasonably practicable under the circumstances. If advance notice is not reasonably practicable, ETQ shall provide subsequent notice promptly thereafter. Customer shall promptly cooperate with ETQ in attempting to resolve the issue giving rise to any suspension or disablement of access to and use of the Software. The foregoing shall be in addition to the termination rights of either party hereunder.

1.9. Hosted Software Access for Training and Configuration.

1.9.1. To accelerate the implementation of the Software and as a convenience to Customer, ETQ will, at Customer's option and without charge for up to one hundred eighty (180) days, temporarily host a non-production, limited bandwidth development environment of the Software on an ETQ staging server to which Customer and ETQ will have remote access to facilitate initial training and configuration professional services for the initially installed version of the Software. Training and configuration professional services will be described in a separate Work Order or Order Form. The hosted Software shall be used solely for non-production purposes. "Non-production" means that the Software shall not be used to process any Customer Data consisting of live, actual data used in the operation of Customer's business.

1.9.2. ETQ shall use commercially reasonable efforts to make the hosted Software available to Customer 99.9% of the time 24x7x365 for the limited purposes described in Section 1.9.1 commencing upon installation of the hosted development environment of the Software until installation of the Software as described below. The foregoing shall be subject to routine maintenance outages, outages and service interruptions requested by Customer, the service level availability policy of ETQ's hosting services subcontractor, and occurrences outside the reasonable control of ETQ. Access to the hosted Software may be denied or limited by ETQ, or be unavailable, interrupted and/or discontinued from time to time due to system difficulties, maintenance or otherwise, or at ETQ's discretion, and ETQ shall have no liability for such occurrences. Customer agrees not to access the hosted Software by any means other than through the interface that is provided by ETQ for use in accessing the Software. Customer agrees to abide by all of ETQ's access security rules and procedures, systems, and mechanisms, and to make no attempt to disable or circumvent any such security rules and procedures, systems or mechanisms.

1.9.3. ETQ shall be under no obligation to host Customer's development environment of the Software for a period greater than one hundred and eighty (180) days, unless mutually agreed to in writing by Customer and ETQ. Notwithstanding the foregoing, within thirty (30) days of commencement of any of the following activities, Customer must migrate the hosted development environment of the Software to Customer's internal network or computing environment, and ETQ shall have no further hosting responsibility: (a) user testing, (b) integration of the Software with other software within Customer's internal network or computing environment, (c) Software validation, or (d) use of the Software in production, i.e., processing of any Customer Data consisting of live, actual data used in the operation of Customer's business.

2. CUSTOMER DATA

2.1. Protection of Customer Data. ETQ will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data, as described in its Security Standards available at https://www.etq.com/company/legal-agreements.shtml and incorporated herein by reference. Currently, ETQ's policies are derived from the National Institute of Standards and Technology (NIST) Risk Management Framework. Policies will be periodically reviewed to determine whether different or additional security measures are required to respond to new security risks or findings generated by the reviews. The terms of ETQ's data processing addendum at https://www.etq.com/company/legal-agreements.shtml ("DPA") are hereby incorporated by reference and shall apply to the extent Customer Data includes Personal Data, as defined in the DPA. ETQ, its Affiliates, and its third-party service providers that perform services in connection with ETQ's performance of this Agreement may evaluate Customer's use of the Services, which may include Customer Data solely to the extent necessary for such evaluation. Further, ETQ may use Customer Data solely to the extent necessary to improve the Services. ETQ may also use Customer Data in an aggregated and anonymized form to derive statistical and performance information related to the Services, which it may freely use and disclose in an aggregated and anonymized form, provided that it does not include any data that would reveal the identification of Customer, Customer Data or any other Customer Confidential Information.

3. INTELLECTUAL PROPERTY OWNERSHIP AND LICENSES.

3.1. ETQ's Intellectual Property. The Software is licensed, not sold. Subject to the limited license rights expressly granted hereunder, ETQ and/ its licensors reserve all right, title, and interest in and to the Software, including all copyrights, trade secrets, trademarks, patents, ideas, concepts, know-how, techniques, inventions, discoveries, improvements and other intellectual property and proprietary rights therein throughout the world. Customer has the right to access and use the Software subject to the terms and conditions of the Agreement. Except for the limited license rights granted in the Agreement, Customer has no rights in or to the Software or any copies thereof. To the extent Customer is permitted to make copies of the Software pursuant to the terms and conditions of the Agreement, Customer shall include all copyright, trademark, service mark, and other proprietary notices on any complete or partial copies of the Software in the same form and location as the notice appears on the original work. Customer shall protect and prevent unauthorized access to and use of the Software (including any embedded components), and will notify ETQ immediately of any such unauthorized access or use. ETQ reserves all rights not expressly granted to Customer in this Agreement.

3.2. Customer Data. As between the parties, Customer owns and shall retain all right, title, and interest in and to the Customer Data. During the term of the Agreement, Customer grants ETQ a worldwide, non-exclusive, royalty-free license to host, copy, store, process, transmit, display and otherwise use Customer Data as reasonably necessary for ETQ to provide, and ensure proper operation of, the Services and to fulfill its obligations under the Agreement.

3.3. Suggestions; Feedback. During the course of the Agreement or otherwise, Customer may provide, or ETQ may solicit, input regarding the Software, including comments, feedback or suggestions regarding the possible creation, modification, configuration, correction, improvement or enhancement of the Software, ETQ's website or any of ETQ's or ETQ's Affiliates' products or services, or their operation, functions or features (collectively, "Feedback"). Any information ETQ discloses to Customer related to or in response to Feedback shall be protected as Confidential Information of ETQ subject to the protections of Section 8 (Confidentiality). For the consideration provided to Customer in the form of the right to use the Services, Customer agrees that ETQ shall own all right, title, and interest in and to the Feedback including all intellectual property rights therein, even if Customer has designated the Feedback as confidential. ETQ and its Affiliates will be entitled to use the Feedback without restriction. Customer hereby irrevocably assigns to ETQ all right, title, and interest in and to the Feedback including all intellectual property rights therein and agrees to provide ETQ any reasonable assistance ETQ may require (at ETQ's expense) to document, perfect, and maintain its rights in the Feedback.

4. PRICE AND PAYMENT.

4.1. Payment. Customer shall pay ETQ fees (and other specified charges set forth on an Order Form. All fees will be invoiced in full up front, and unless otherwise set forth in the applicable Order Form, such fees shall be due and payable within thirty (30) days after the date of ETQ's invoice. Each applicable Order Form and shall be made in U.S. Dollars. All such fees are non-refundable except as expressly provided in the Agreement. Customer shall pay a late charge of the lesser of one and one-half percent (1.5%) per month and the highest amount allowed by law on all amounts not paid to ETQ when due hereunder. Customer shall reimburse ETQ for all reasonable costs incurred (including reasonable attorneys' fees) in collecting past due amounts. ETQ may suspend its performance hereunder, in whole or in part, if Customer has failed to pay any amounts due or is otherwise in material breach of this Agreement, until such breach is cured.

4.2. Taxes. The fees and all other amounts due to ETQ as set forth in this Agreement are net amounts to be received by ETQ, exclusive of all taxes, duties, and assessments, including all sales, withholding, VAT, GST, excise, ad valorem, and use taxes, (collectively, "Taxes") and are not subject to offset or reduction because of any Taxes incurred by Customer or otherwise due as a result of this Agreement. Customer shall be responsible for and shall pay directly, any and all Taxes relating to the performance of this Agreement, provided that this Section 4.2 shall not apply to taxes based solely on ETQ's income.

5. COMPLIANCE. ETQ shall have the right to access Customer's instance(s) of the Software and Customer Data during the normal course of this Agreement as necessary to perform administrative, Support and other activities, which Customer acknowledges is essential in order for ETQ to meet its obligations hereunder. In addition, during the term of this Agreement and for one (1) year thereafter, ETQ (itself or in conjunction with independent auditors retained by it and subject to obligations of confidentiality) shall have the right to examine Customer's instance of the Software, Customer Data and other records and information relating to Customer's use of the Software, in order to confirm Customer's compliance with the terms of this Agreement. ETQ shall not in the conduct of its examination unreasonably interfere with Customer's business operations. If this examination reveals that Customer has used the Software in violation of this Agreement, such conduct shall be considered a material breach of this Agreement, which Customer shall immediately cure (if capable of cure), and ETQ may terminate this Agreement in accordance with Section 6.1 and/or invoice Customer for such unauthorized use (including applicable Software license, Hosting Services and Maintenance and Technical Support fees) based upon ETQ's standard fees in effect at the time the examination is completed. If the amount of unpaid fees exceeds five percent (5%) of the amount actually owed, Customer shall also pay ETQ's reasonable costs of conducting the examination.

6. TERM AND TERMINATION.

6.1. General. The Agreement commences on the Effective Date and continues until terminated by either party as expressly permitted by the Agreement. The Agreement and the right to use the Software and Documentation, and/ any Order Forms or other agreements hereunder, may be terminated as follows: (a) by ETQ immediately, at its option, upon written notice to Customer in the event of a material breach by Customer of the confidentiality, license or other terms protecting the Software and Documentation or a violation or misappropriation by Customer of ETQ's intellectual property or rights therein; (b) by either party upon thirty (30) days prior written notice to the other party in the event of a material breach by the other party of any terms and conditions of this Agreement, and the failure to cure such material breach during such thirty (30) day period, except in the case of Customer's failure to pay any amount when due under this Agreement, in which case the cure period shall be fifteen (15) days; or (c) by either party immediately upon

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written notice to the other party in the event the other party makes an assignment for the benefit of creditors, or commences or has commenced against it any proceeding in bankruptcy, insolvency or reorganization pursuant to bankruptcy laws or laws of debtor's moratorium.

6.2. Effects of Termination. Upon termination of this Agreement, all rights and licenses granted hereunder to Customer shall terminate immediately. Immediately upon such termination, Customer and its Affiliates and its and their Active Users shall: (a) cease all use of the Software and Documentation; (b) return to ETQ all copies of the Software and Documentation and any other Confidential Information of ETQ; and (c) delete all copies of the Software and Documentation contained on any computer and storage media under Customer's control. Termination of this Agreement (or any Order form or other Terms and Conditions hereto) shall not relieve Customer of any unmet payment obligations. .

6.3. Survival. Upon termination of the Agreement, the following Sections shall continue and survive in full force and effect: Definitions, Sections 1.7 (Modifications), 3.1 (ETQ's Intellectual Property), 3.3 (Suggestions; Feedback), 4 (Price and Payment), 5 (Compliance), 6.2 (Effects of Termination), 6.3 (Survival), 7.2 (Exclusions), 7.4 (Warranty Limitations), 8 (Confidentiality), 9 (Indemnification), 10 (Limited Liability), 11 (U.S. Government Restricted Rights), and 12 (General Provisions).

7. LIMITED WARRANTY.

7.1. Warranty. ETQ warrants, for Customer's benefit alone, that for a period of thirty (30) days from successful completion of ETQ"s Installation Qualification Procedure, the Software's performance will substantially conform to descriptions contained in ETQ's Documentation for same.

7.2. Exclusive Remedy. ETQ's entire liability and Customer's sole and exclusive remedy for the breach of ETQ's warranty obligations in Section 7.1 shall be for ETQ to use commercially reasonable efforts to correct such nonconformance or, at ETQ's option, replace the nonconforming Software or terminate this Agreement and refund the applicable license fees paid upon receipt of all copies of the Software and Documentation in Customer's possession and Customer's certification that no additional copies are in its possession

7.3. Exclusions. The warranty set forth in Section 7.1 does not cover any copy of the Software which has been altered, misused or damaged in any way by Customer or any third party, nor do they apply to and ETQ is not responsible for, problems caused by the operating characteristics of any computer hardware or operating system for which the Software is procured or which occur as a result of the use of the Software in conjunction with software of third parties or with hardware which is incompatible with the operating system for which the Software is being procured or that have been modified or configured by Customer, or if Customer uses the Software in a manner contrary to that described or recommended in the Documentation, including any recommended software or equipment, or to the extent due to the problems within or impacting Customer's computing environment.

7.4. Warranty Limitations. OTHER THAN AS EXPRESSLY SET FORTH IN SECTION 7.1, ABOVE, AND EXCLUDING ANY WARRANTIES EXPRESSLY SET FORTH IN ANY OTHER APPLICABLE PUBLISHED TERMS AND CONDITIONS, NEITHER ETQ NOR ITS LICENSORS, EMPLOYEES, AGENTS, DISTRIBUTORS, MARKETING PARTNERS, RESELLERS, PARENT, AFFILIATES OR SUBSIDIARIES MAKE ANY EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS TO CUSTOMER, ANY OF ITS AFFILIATES, OR TO ANY OTHER PARTY WITH RESPECT TO THE SOFTWARE OR DOCUMENTATION, OR OTHERWISE REGARDING THIS AGREEMENT, WHETHER ORAL OR WRITTEN, EXPRESS, IMPLIED, OR STATUTORY. WITHOUT LIMITING THE FOREGOING, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IS EXPRESSLY EXCLUDED AND DISCLAIMED. ETQ DOES NOT WARRANT THAT THE SOFTWARE WILL MEET CUSTOMER'S REQUIREMENTS, THAT THE SOFTWARE IS WITHOUT DEFECT OR ERROR OR THAT THE SOFTWARE WILL OPERATE WITH ANY HARDWARE OR SOFTWARE NOT SPECIFIED IN THE DOCUMENTATION.

8. CONFIDENTIALITY.

8.1. General. Effective retroactive to the date a party first disclosed Confidential Information to the other, each Receiving Party will hold in confidence and, without the consent of the Disclosing Party, will not use, reproduce, distribute, transmit, or disclose, directly or indirectly, the Confidential Information of the Disclosing Party except as expressly permitted hereunder. The Receiving Party of Confidential Information may disclose the Confidential Information only to its employees, agents and independent contractors with a need to know the information in connection with the performance of the Agreement or exercise of rights thereunder, provided that any such employees, agents and independent contractors shall first be subject to written obligations of confidentiality to protect Confidential Information in a manner consistent with the Agreement and the Receiving Party shall be responsible to the Disclosing Party for any damages for unauthorized use, disclosure, duplication or other misuse of the Confidential Information resulting from its possession by a third party. Without limiting the foregoing, the Receiving Party of the Confidential Information agrees that it will exercise at least the same standard of care in protecting the confidentiality of the Disclosing Party's Confidential Information as it does with its own Confidential Information of a similar nature, but no less than a reasonable degree of care. ETQ shall not be liable for breach of its obligations of confidentiality thereunder resulting from unauthorized intrusion into, disclosure of or access to Customer Data, or any security breach affecting Customer Data, absent the gross negligence or intentionally wrongful conduct of ETQ employees. Each party may disclose the existence of this Agreement and its general nature, but not its specific terms without the prior written consent of the other party provide that ETQ may disclose the Agreement and its specific terms to any person in connection with a prospective sale of any portion of ETQ's business.

8.2. Exceptions. Confidential Information shall not include information if and only to the extent that the Receiving Party establishes that the information: (a) is or has become a part of the public domain through no act or omission of the Receiving Party; (b) was in the Receiving Party's lawful possession prior to the disclosure and had not been obtained by the Receiving Party either directly or

indirectly from the Disclosing Party; (c) was lawfully disclosed to the Receiving Party by a third party without restriction on disclosure; or (d) was independently developed by the Receiving Party without reference to the Disclosing Party's Confidential Information. If required by a lawful, validly issued subpoena, order of a court of competent jurisdiction, or request for information from a governmental agency, the Receiving Party may disclose only that part of the Confidential Information of the Disclosing Party that it is legally required to disclose, in the opinion of the Receiving Party's legal counsel, and shall to the extent not prohibited by law notify the Disclosing Party prior to such disclosure in order to provide the Disclosing Party an opportunity to seek an appropriate protective order or other judicial relief to prevent such disclosure. Notwithstanding the foregoing, the Receiving Party shall cooperate (at the Disclosing Party's expense) in all efforts of the Disclosing Party to prevent disclosure of the Disclosing Party's Confidential Information. .

8.3. Representatives. Notwithstanding the foregoing, either party may disclose Confidential Information of the other party to its third party legal or financial advisors under existing legal obligations of confidentiality or in connection with litigation or other dispute resolution attempts between the parties. To the extent any such advisors may not be under an existing legal obligation of confidentiality, such advisor shall sign an appropriate form of confidentiality agreement containing obligations of confidentiality substantially the same as those set forth in this Section 8 (Confidentiality).

8.4. Remedy. Each party acknowledges that any use or disclosure of the other party's Confidential Information in a manner inconsistent with the provisions of the Agreement may cause the other party irreparable damage for which remedies other than injunctive relief may be inadequate, and each party agrees that the other party shall be entitled to receive from a court of competent jurisdiction injunctive or other equitable relief to restrain such use or disclosure in addition to other appropriate remedies.

8.5. Term of Confidentiality Obligations. Each party's obligations under this Section 8 (Confidentiality) shall survive the termination of the Agreement for a period of ten (10) years, except with respect to trade secrets of a party, in which case such obligations with respect to Confidential Information constituting a trade secret shall survive the termination of this Agreement for a period of time as such trade secret remains a trade secret under applicable law.

9. INDEMNIFICATION.

9.1. By ETQ. ETQ shall defend, indemnify and hold harmless Customer against claims from a third party that the Software infringes a valid U.S. patent in existence as of the Effective Date or copyright. If ETQ determines that the affected Software is likely, or if the Software is determined in a final, non-appealable judgment by a court of competent jurisdiction, to infringe such a patent or copyright, ETQ will have the option, in ETQ's sole discretion, to elect one or more of the following: (a) replace such affected Software; (b) modify such affected Software to make it non-infringing; or (c) require the return of such affected Software from Customer and termination of all rights thereto, in which case ETQ agrees to refund the license fees paid by Customer for the affected Software, decreased on a straight line prorated basis over a three (3) year period from the Effective Date. No undertaking of ETQ under this Section 9.1 shall extend to any alleged infringement or violation to the extent that it: (A) arises from adherence to any design modification, specification, or written instruction which ETQ is directed by Customer to follow; (B) relates to uses of the Software in combination with other products furnished either by Customer or others, which combination was not approved by ETQ in writing; (C) relates to modifications to the Software made by someone other than ETQ or ETQ's authorized agents; or (D) relates to use of other than the then current version of the Software. Subject to Section 10 (Limited Liability), this Section 9.1 (Indemnification) states ETQ's entire liability and Customer's exclusive remedy for any claim of infringement.

9.2. By Customer. Customer shall defend, indemnify and hold harmless ETQ and its licensors from and against any claims, actions, demands, lawsuits, damages, liabilities, settlements, penalties, fines, costs and expenses (including reasonable attorneys' fees) to the extent arising from: (i) Customer's use of the Services; (ii) violation by Customer of any right of a third party; (iii) the Customer Data; or (iv) Customer's failure to comply with any laws, rules, or regulations; in each case except to the extent that ETQ indemnifies Customer pursuant to Section 9.1 (By ETQ).

9.3. Conditions. This right of indemnification set forth in this Section 9 (Indemnification) applies only if: (i) the party receiving the indemnification (the "Indemnified Party") provides the party providing the indemnification (the "Indemnifying Party") notice of such claim or cause of action sufficient to avoid prejudicing the Indemnifying Party's ability to defend the claim or cause of action; (ii) the Indemnifying Party is given sole control of the defense and all related settlement negotiations relating to such claim or action; and (iii) the Indemnified Party provides reasonable assistance and cooperation to enable the Indemnifying Party to defend the action or claim hereunder. Neither Party shall be responsible for any settlement of any claim or cause of action made without its written consent.

10. LIMITED LIABILITY.

10.1. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE AGREEMENT, ETQ'S TOTAL AGGREGATE LIABILITY FOR ANY AND ALL CLAIMS, BASED ON ANY THEORY OF LIABILITY, WHETHER CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE, OR OTHERWISE, WHETHER RELATING TO THE SOFTWARE, DOCUMENTATION, OR OTHERWISE, SHALL NOT EXCEED THE TOTAL AMOUNT OF APPLICABLE FEES PAID TO ETQ UNDER THE APPLICABLE ORDER FORM FOR THE SOFTWARE AND DOCUMENTATION, OR OTHERWISE, GIVING RISE TO THE LIABILITY, DECREASED ON A STRAIGHT LINE PRORATED BASIS OVER A FIVE (5) YEAR PERIOD FROM THE EFFECTIVE DATE.

10.2. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE AGREEMENT, IN NO EVENT SHALL ETQ, ITS LICENSORS, EMPLOYEES, AGENTS, DISTRIBUTORS, MARKETING PARTNERS, RESELLERS, PARENT OR AFFILIATES BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING RESULTING FROM UNAUTHORIZED ACCESS TO, OR THE ALTERATION, DELETION, DESTRUCTION, DAMAGE, LOSS, DISCLOSURE,

UNAVAILABILITY OR NON-STORAGE OF DATA, OR FROM DELAYS, LOSS OF PROFIT, INTERRUPTION OF SERVICE OR LOSS OF BUSINESS OR ANTICIPATORY PROFITS, BASED ON ANY THEORY OF LIABILITY, WHETHER CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE, OR OTHERWISE, WHETHER RELATING TO THE SOFTWARE, DOCUMENTATION, SERVICES, HOSTING SERVICES, MAINTENANCE AND TECHNICAL SUPPORT, OR OTHERWISE, EVEN IF ETQ HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ANY LIMITED REMEDY OF ITS ESSENTIAL PURPOSE.

10.3. THE PROVISIONS OF SECTIONS 10.1 AND 10.2 ARE FUNDAMENTAL AND SPECIFIC REQUIREMENTS OF THE BASIS OF THE BARGAIN BETWEEN ETQ AND CUSTOMER AND ETQ WOULD NOT BE ABLE TO ENTER INTO THE AGREEMENT WITHOUT SUCH PROVISIONS.

11. **U.S. GOVERNMENT RESTRICTED RIGHTS.** The Software and Documentation are provided with RESTRICTED RIGHTS and constitute "Restricted Computer Software". "Restricted Computer Software," as used in this clause, means computer software developed at private expense and that is a trade secret; is commercial or financial and is confidential or privileged; or is unpublished copyrighted computer software, including minor modifications of any such computer software. Use, duplication or disclosure by the U.S. Government, its agencies and/or instrumentalities, is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer software clause at 48 C.F.R. 252.227-7013 or subparagraphs (i) (1) and (2) of the Commercial Computer Software Restricted Rights of 48 C.F.R. 52.227-b19, as applicable, or their respective successor provisions. In addition, or alternatively, at ETQ's option, all software and software-related items licensed herein are "Commercial Computer Software" or "Commercial Computer Software Documentation" as defined in FAR 12.212 for civilian agencies and DFARS 227.7202 for military agencies, as applicable, or their respective successor provisions. The contractor/manufacturer of all Software and the Documentation is ETQ, LLC, 700 District Ave., 8th Floor, Burlington, MA 01803. The intent of the parties is that no intellectual property rights or confidentiality of the Software and Documentation are lost, diminished or transferred as a result of the execution of this Agreement. *For purposes of use by or for the benefit of the U.S. Government, all Software and Documentation are unpublished – rights reserved under the Copyright laws of the United States.*

12. **GENERAL PROVISIONS.**

12.1. **Assignment.** Customer may not assign, sublicense, or otherwise transfer the Agreement or the license granted to Customer herein, or any of its rights or obligations under the Agreement, without the prior written consent of ETQ; provided, however, that Customer may assign the Agreement without ETQ's consent in the event of a sale of all or substantially all of its assets or in the event of a merger, corporate reorganization or business consolidation of Customer (but excluding any assignment, sublicense or other transfer by Customer to a competitor of ETQ). In the event of a permitted assignment by Customer of this Agreement, the license rights purchased by Customer under the Agreement would continue to be subject to the restrictions and limitations specified therein, including a situation where rights are limited to a specific business unit, line, group, division, department or other organizational entity of Customer. The Agreement shall be binding upon and inure to the benefits of the parties, their legal representatives and permitted transferees, successors and permitted assigns. Notwithstanding the foregoing or anything in the Agreement to the contrary, any assignment, sublicense or transfer of this Agreement or attempt to do so in violation of this Section 12.1 shall be null and void ab initio and entitle the non-assigning party to immediately terminate this Agreement upon notice and without liability.

12.2. **Compliance with Laws.** Unless expressly stated in the Agreement, Customer shall not use or export (electronically or otherwise) the Software and Documentation outside of the U.S. other than in compliance with all applicable U.S. export laws, rules, and regulations. Customer shall be solely responsible for such compliance. Customer agrees to keep such books and records and to take such other actions as may be required by such applicable laws, rules and regulations.

12.3. **No Waiver.** No delay or failure in exercising any right under the Agreement and no partial or single exercise thereof shall be deemed to constitute a waiver of such right or any other rights thereunder. No consent to a breach of any express or implied term of the Agreement shall constitute a consent to any prior or subsequent breach.

12.4. **Notices.** All notices under the Agreement shall be in writing. Notices shall be given personally, electronically via email, or sent by traceable postal service mail, e.g., certified or registered mail, or express courier (e.g., FedEx, UPS or DHL). Notices shall be deemed given and received: (a) upon delivery, if given personally; (b) as indicated in the applicable tracking information when an express courier is used; (c) two (2) business days after deposit by the sender with its national postal service (or the recipient's national postal service if the sender elects) with the proper postage affixed, if sent by mail (or as otherwise indicated in the national postal service's tracking information, if applicable); or (d) upon transmission if sent by email. Notices shall be addressed to each party at its address set forth in the initial paragraph of the Agreement, or by email to ETQ's legal department at legal@etq.com or to Customer's authorized representative or administrator identified in the applicable Order Form, which the parties may change for the purpose of receiving notice by compliance with this Section 12.4.

12.5. **Severability.** If any provision or portion thereof is declared invalid by a court of competent jurisdiction, such provision shall be ineffective only to the extent of such invalidity, so that the remainder of that provision and all remaining provisions of the Agreement shall be valid and enforceable to the fullest extent permitted by applicable law.

12.6. **Force Majeure.** Notwithstanding anything in the Agreement to the contrary, except for payment obligations, neither party will be liable for any breach of this Agreement or resulting damages from delay or failure with respect to any obligation thereunder, nor for any damages or loss of any kind, resulting from causes beyond its reasonable control, including acts of God, earthquake, storms or other elements of nature, labor disputes, blockages, embargoes, riots or other industrial disturbances, mechanical, electrical, electronic, telecommunications, Internet or other third party supplier delay or failure, acts or orders of any governmental authority,

criminal acts, war or terrorism, including cyberattack or other malicious intrusion into or breach of security with respect to data or computer systems.

12.7.   Governing Law. The Agreement shall be interpreted and construed in accordance with the laws of the State of Massachusetts. Any and all claims, controversies and causes of action arising out of relating to the Agreement, whether sounding in contract, tort, or statute, shall be governed by the internal laws of the State of Massachusetts, including its statutes of limitations, without giving effect to any laws or other rules that would result in the application of the laws or statutes of limitations of a different jurisdiction. Customer consents to the exclusive jurisdiction and venue of the state or federal courts in the State of Massachusetts.

12.8.   Complete Agreement. The Agreement supersedes in full all prior discussions and agreements, oral and written, between the parties relating to the subject matter hereof, and constitutes the entire understanding of the parties with respect to the subject matter. No additional terms and conditions proposed by Customer, whether electronically or otherwise or associated with any Customer purchase order or otherwise, shall be applicable to the Agreement or any ETQ products or services at present or in the future, absent the express manual written consent thereto by ETQ. If ETQ has commenced work at Customer's request in connection with the matters described in any Work Order or proposal for Services, or request for proposal, all provisions of the Agreement as originally proposed by ETQ shall apply to such activities even if this Agreement has not been formally executed by both parties.

12.9.   Amendment or Modification. No amendment or modification of the Agreement shall be valid or binding upon the parties unless it is in writing and signed by the duly authorized officers of the parties.

12.10.   No Third Party Benefit.   Except with respect to any confidentiality obligation protecting the Software or Documentation contained in an agreement between Customer and a third party, to which ETQ shall be deemed a third party beneficiary, the provisions of the Agreement are for the sole benefit of the parties hereto and this Agreement neither confers any rights, benefits, or claims upon any person or entity not a party hereto nor precludes any actions against, or rights of recovery from, any persons or entities not parties hereto.

12.11.   Conflicts. In the event of any conflict between the terms and conditions of this MSA and those contained in or referenced in an Order Form, the terms and conditions of this MSA shall prevail over the terms and conditions in or referenced in the Order Form unless the Order Form or such other terms and conditions make specific reference to the section in this MSA the terms and conditions contained in an Order Form, the terms and conditions referenced in the Order Form shall prevail unless the Order Form makes a specific reference to the section in the terms and conditions that it supersedes.

12.12.   Subcontractors. Notwithstanding anything to the contrary in this Agreement, ETQ may retain subcontractors to perform any of its obligations under the Agreement. ETQ shall remain responsible for the performance of such obligations by its subcontractors.

12.13.   Terms Generally. The defined terms in this Agreement shall apply equally to both the singular and the plural forms of the terms defined.   The term "person" includes individuals, corporations, partnerships, trusts, other legal entities, organizations and associations, and any government or governmental agency or authority. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation."   The words "approval," "consent" and "notice" shall be deemed to be preceded by the word "written." The word "access" as it relates to ETQ Software or Documentation shall be interpreted to presume use of same unless expressly stated to the contrary.

12.14.   Construction. The captions in this Agreement are for convenience of reference only and shall not be used to interpret the Agreement. References to this MSA to a particular section are references to the section of this MSA. References in a document that is part of the Agreement to a particular section are references to the section of such document. All dollar amounts stated in this Agreement are in U.S. dollars.