

CEGID SUBSCRIPTION SERVICES AGREEMENT

The Terms and Conditions of this Subscription Services Agreement (together with the Terms of Service and Schedules hereto, the **"Agreement"**) govern Your use of the Services offered by Cegid North America Inc. (**"Cegid"**), as specified on an Order entered into between Cegid and the entity that you purport to represent (**"You"**), and Your use of any Services is conditioned on Your acceptance and compliance with this Agreement. By entering into this Agreement and using or receiving any Services, You represent and warrant that You have read this Agreement, that You are authorized to accept and agree to it, and You agree to be bound by it.

1. DEFINITIONS.

"Affiliate" means, with respect to a party, any entity which directly or indirectly Controls, is Controlled by or is under common Control with such party.

"Cegid Technology" means all hardware, software and other technology and intellectual property provided by Cegid or its suppliers and used in connection with providing the Services to You.

"Control" means ownership or control, directly or indirectly, of more than fifty percent (50%) of the voting interests of the subject entity.

"Client Contact" means Your internal resource who is knowledgeable about Your use of the Subscription Services and authorized by You to communicate with Cegid's support team.

"Client Data" means all data stored by Users in the Subscription Services.

"Content" means all Client Data, information and other content provided by You in connection with your use of the Services.

"Documentation" means the information provided by Cegid in the form of user documentation accompanying the Subscription Services, or which may be in the form of on-line assistance.

"Effective Date" means the date You execute Your first Order and accept this Agreement through such Order. The "effective date" of a subsequent Order shall be the date You execute such Order.

"Emergency Maintenance" means downtime of the Subscription Services, outside of the Maintenance Window, due to the application of urgent patches or fixes or other urgent maintenance.

"Malicious Code" means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.

"Maintenance Window" means a window of time during which the Subscription Services may be down for maintenance, which window is set forth in the Terms of Service.

"Order" means a Cegid sales order executed by Cegid and You that is made pursuant to this Agreement.

"Services" means the Subscription Services or any Professional Services identified on an Order.

"Professional Services" means the professional services for the Subscription Services (such as analysis, configuration, training, set up) as described in the Order to this Agreement.

"Subscription Services" means the standard, online application services provided by Cegid on a subscription basis and identified on an Order.

"Support Services" means the Subscription Services technical support and maintenance services as described in the Terms of Service.

"Taxes" means any direct or indirect local, state, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including VAT (subject to reverse charge), GST (subject to reverse charge), excise, sales, use or withholding taxes.

"Technical Requirements" means the list of materials and infrastructure recommended by Cegid, including all updates and revisions made by Cegid from time to time as set forth in Section 3.1, which shall be provided and maintained by You in order to access the Subscription Services. The User Workstations shall conform to the Technical Requirements. The Technical Requirements will be available on Cegid's website (<http://www.cegid.us> or such other URL as specified by Cegid).

"Terms of Service" means the document describing the specific conditions for the Subscription Services and Support Services, including all updates and revisions made by Cegid from time to time as set forth in Section 3.1.

"Users" means named (by password or other user identification) individuals that are permitted to use the Subscription Services or for whom a profile or other record is created, processed and/or maintained using the Subscription Services. Users may only be Your employees, and Users may only use the Services in connection with Your products or services.

"User Workstations" means the computer equipment installed at Your sites allowing You to access the Subscription Services.

"Work Product" means all work product developed or created by Cegid during the course of providing support, training or configuration services to You. Work Product does not include any Client Data, Client Confidential Information or the Subscription Services. For clarity, some services may be performed under a statement of work, which statement of work will be governed by the terms and conditions of this Agreement.

2. DELIVERY OF SUBSCRIPTION SERVICES.

2.1 Subscription Services. Cegid will provide You the Subscription Services set forth on each Order, and hereby grants You the right to use the Subscription Services in accordance with the terms and conditions of this Agreement.

2.2 Privacy and Security. Cegid is committed to protecting the personal information that Cegid receives from You. As further described in the Terms of Service, Cegid will employ commercially reasonable measures to protect Your information against unauthorized access, accidental loss or damage and unauthorized destruction.

2.3 Professional Services. Cegid may provide related Services under the terms of this Agreement, as agreed to in writing by the parties and specified on one or more separately executed Orders made subject to this Agreement. Any deliverables provided by Cegid in connection with such Services shall only be used in connection with Your authorized use of the Subscription Services. Unless otherwise expressly agreed in writing by the parties, such Services shall be provided on a time and materials basis at the daily rates specified in the Order.

2.4 Suspension of Services. Cegid may suspend Services without liability if: (a) Cegid reasonably believes the Services are being used in violation of this Agreement; (b) You don't cooperate with our reasonable investigation of any suspected violation of this Agreement; (c) there is an attack on Your Subscription Services or Your Subscription Services are accessed or manipulated by a third party without Your consent; (d) Cegid is required by law, or a regulatory or government body to suspend your Services; or (e) there is another event for which we reasonably believe that the suspension of Services is necessary to protect Cegid's or its supplier's network or other customers. Cegid will use commercially reasonable efforts to give you advance notice of a suspension under this Section of at least eight (8) business hours unless we determine in our reasonable commercial judgment that a suspension on shorter or contemporaneous notice is necessary to protect us or our suppliers or customers from imminent and significant operational, legal, or security risk.

3. USE OF SUBSCRIPTION SERVICE RESTRICTIONS.

3.1 Acknowledgement. You acknowledge and agree that You have read the terms of this Agreement and that You have received, read and accepted the Terms of Service and Technical Requirements. You acknowledge Cegid may update, amend and modify the Terms of Service and/or Technical Requirements from time to time.

3.2 Your Obligations. You are responsible for all activities conducted under Your User logins and for Your Users' compliance with this Agreement. You shall be responsible for the content of all Client Data. You and Your Users shall use the Subscription Service solely for Your internal business purposes, in compliance with applicable law, and shall not: (a) resell, sublicense, lease, time-share or

otherwise make the Subscription Service available to any third party; (b) send through or store infringing or unlawful material in the Subscription Service; (c) send through or store Malicious Code in the Subscription Service; (d) attempt to gain unauthorized access to, or disrupt the integrity or performance of, the Subscription Service or the data contained therein; (e) modify, copy or create derivative works based on the Subscription Service; (f) reverse engineer the Subscription Service; (g) access the Subscription Service for the purpose of building a competitive product or service or copying its features or user interface; (h) use the Subscription Service, or permit it to be used, for purposes of product evaluation, benchmarking or other comparative analysis intended for publication without Cegid's prior written consent; or (i) permit access to the Subscription Service by a direct competitor of Cegid.

3.3 Cooperation. You shall actively and regularly cooperate with Cegid in Cegid's performance of the Services. You shall provide Cegid with all information necessary for Cegid to perform Professional Services and notify Cegid about all difficulties of which You know or should know regarding Your domain of activity, and as the Professional Services are performed. You shall ensure Users are sufficiently competent, qualified and trained.

3.4 Security. You are responsible for: (a) setting up all useful processes and measures to protect Your materials, software packages, software, passwords, and to protect Yourself and Your systems against any virus and intrusions; (b) complying with the Technical Requirements, as may be updated from time to time; (c) providing Internet access to the Subscription Service and all other telecommunications support, including linking of Your remote network, wide area network infrastructure and local area network to the Subscription Service; and (d) errors committed by Your personnel during the use of the Subscription Service or procedures that allow You to connect to the Subscription Service and to perform processing using the Subscription Service.

3.5 Malicious Code. You shall employ all commercially reasonable measures to ensure that all communications with or to the Subscription Service, including Client Data uploaded by Users, shall be free of Malicious Code and all software, systems, or hardware used by You in connection with its use of the Subscription Service shall be free of Malicious Code. Cegid shall employ commercially reasonable measures to ensure the Subscription Service will not contain or transmit to You any Malicious Code (except for Malicious Code that may be uploaded by Users).

3.6 Third Party Products and Services. In addition to the terms of this Agreement, Your use of any third party products and services provided in connection with the Services, including any Microsoft software, is governed by, and You shall comply with, the applicable third party license terms that appear on Cegid's website (<http://www.cegid.us> or such other URL as specified by Cegid), as may be updated by Cegid from time to time, and any other use restrictions on your use of a third party product or service as may appear in your Order (collectively, "Third Party Terms").

4. INTELLECTUAL PROPERTY. Except for the rights expressly granted herein: (i) this Agreement does not grant to Cegid any rights in Your Content, and all right, title and interest in and to Content will remain solely with You; and (ii) this Agreement does not grant You any rights in any Cegid Technology, or any other Services delivered to You by Cegid under this Agreement or any Order, and all right, title and interest in and to Cegid Technology and the Services will remain solely with Cegid. Cegid and You each agree not to derive, or attempt to derive, directly or indirectly, source code or other trade secrets from the other party, except and only to the extent expressly permitted by, and in accordance with, applicable law. You hereby grant to Cegid the right to use the Content, solely as reasonably necessary to provide the Services. If You provide Cegid with any suggestions, enhancement requests, recommendations or other feedback regarding the Services, You also grant to Cegid a perpetual, irrevocable, worldwide, royalty-free, fully paid up, transferable and sub-licensable license to use and to incorporate Your feedback into the Services.

5. COUNTRY PACKAGE

5.1 Yourcegid Retail CBR is an international product, for which You have subscribed to Services. For a number of countries, Cegid offers a Localized version of the Cegid product Yourcegid Retail CBR.

5.2 “Localization “: refers, for a number of countries, to a set of functionalities of Cegid product Yourcegid Retail CBR, developed by Cegid at its sole discretion, in order to take into consideration local specificities as described in the last version of the Country Package Book available and downloadable on Cegidlife as may amended from time to time by Cegid. The verb “Localize” and its variants should be used and interpreted in view of this definition.

5.3 You must have acquired the “Country Package” modules corresponding to the selected countries to benefit from the Localized version of the Cegid product Yourcegid Retail CBR.

5.4 The maintenance of the Localized version of the Cegid product Package Yourcegid Retail CBR includes (i) the provision of the changes made to the Localization, unilaterally decided by Cegid and (ii) the correction of possible anomalies of the Localization with regards to its Country Package Book, to the exclusion of any installation or/and integration services which remain under Your sole responsibility.

6. TERM, FEES, PAYMENTS, & TAXES.

6.1 Term. The initial subscription term for the Subscription Services will be specified on an Order (the “Initial Term”). The Subscription Services will renew automatically for additional renewal subscription terms (“Extended Term”), each of successive twelve-month periods, unless You notify Cegid in writing at least ninety (90) days prior to the end of the then-current subscription term that You elect to discontinue such Subscription Services.

6.2 Fees. You will pay Cegid the fees and charges set forth on the Orders. If Cegid provides Professional Services to You, the Professional Services shall be provided by Cegid pursuant to a statement of work, which if applicable, shall be fully incorporated herein by reference. Cegid reserves the right to invoice any day of Professional Services ordered but not consumed by You within twelve (12) months from the date of signature of the relevant Order if the Professional Services are delayed by reason of circumstances for which You are responsible. Additional Users and other items procured during a term will co-terminate with and be prorated through the then current end date. Fees for the Services on all subsequent Order forms and renewals shall be set at then current Cegid pricing, unless otherwise agreed to by the parties. All purchases of User subscriptions for the Subscription Service are non-cancelable and all fees are non-refundable.

6.3 Price Increases. Cegid reserves the right to increase the Subscription Service fees once per calendar year provided that each annual increase will be limited to six (6) % during the Initial Term only. In the event that You refuse the increase in the fees billed during an Extended Term, You shall be entitled to cancel/terminate the Subscription Service in question by written notice sent by registered post, received within 45 (forty-five) days following the date of the invoice containing the new fees. Provision of the Subscription Service shall remain in vigor, with the fee conditions found in the previous invoice, until the end of the 5th (fifth) month following the month during which the invoice in question was issued.

6.4 Invoicing. Except as otherwise specified in the Terms of Service Cegid shall invoice Subscription Services fees (a) monthly in advance if the Subscription Service is provided in the form of a subscription, or (b) monthly in arrears if the Subscription Service is provided in the form of consumptions; beginning on the date of provision of the access code for the Subscription Services to You. Cegid shall invoice Professional Services fees when they are performed on a monthly basis.

6.5 Payments. All amounts are due within thirty (30) days of Your receipt of the applicable invoice (excluding amounts under reasonable and good faith dispute), by direct debit for Subscription Services fees. If any amounts are withheld by You, You shall, within fifteen (15) days from receipt of invoice ("Dispute Period"), provide Cegid a reasonably detailed written explanation of the nature of the dispute, which explanation shall set forth the dollar amounts withheld and the reasons for withholding such amounts. If You don't dispute the applicable invoice during the Dispute Period, any such dispute shall be deemed waived. For clarity, You remain obligated to pay Cegid for all portions of the applicable invoice that are not under reasonable and good faith dispute. Overdue amounts are subject to interest at one and a half percent (1.5%) per month, or the maximum rate permitted by law, whichever is lower, and may result in suspension of Your ability to access the Subscription Service until payment is made. You shall reimburse Cegid for all reasonable, actual costs (including reasonable attorneys' fees) incurred by Cegid in the collection of overdue amounts.

6.6 Taxes. You will reimburse Cegid for all sales, use, excise, and property taxes, value-added tax (VAT), goods and services tax (GST), or other taxes, levies, duties, or withholdings Cegid is required to collect or remit to applicable tax authorities (except for any taxes based on Cegid's net income). If You are required by any applicable law to deduct or withhold amounts otherwise payable to Cegid hereunder, You will pay the required amount to the relevant governmental authority, provide Cegid with an official receipt or certified copy or other documentation acceptable to Cegid evidencing the payment, and pay to Cegid, in addition to the payment to which Cegid is otherwise entitled under this Agreement, such additional amount as is necessary to ensure that the net amount actually received by Cegid free and clear of all taxes equals the full amount Cegid would have received had no such deduction or withholding been required.

6.7 Reimbursable Expenses. You shall reimburse Cegid for all reasonable, pre-approved (by You in writing) and appropriately documented travel and related expenses incurred by Cegid in performing support, training or configuration services for You.

7. CEGID REPRESENTATIONS WARRANTIES

7.1 Cegid Representations and Warranties. Cegid represents and warrants that (a) it has the legal right and authority to enter into this Agreement and perform its obligations hereunder, (b) the performance of its obligations and delivery of the Services to You will not violate any applicable laws or regulations, or cause a breach of any of Cegid's agreements with any third parties; (c) the Subscription Services will conform in all material respects with Cegid's standard end user documentation for such Subscription Services; and (d) Cegid will make commercially reasonable efforts to prevent the transmission of any virus, worm, Trojan horse, time bomb, or other malicious or harmful code by the Subscription Services. In the event of a breach of the warranties set forth in this Section 6.1, Your sole and exclusive remedy will be that Cegid shall, upon receipt of written notice of breach, make diligent efforts to modify the Services to be complaint with the warranties set forth in this Section 6.1, and if Cegid does not do so within a reasonable period of time, You will be entitled to terminate this Agreement by providing thirty (30) days written notice to Cegid.

7.2 DISCLAIMER. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 6, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTION OF YOUR REQUIREMENTS, TITLE, AND ANY WARRANTY ARISING OUT OF A COURSE OF PERFORMANCE, DEALING OR TRADE USAGE. CEGID DOES NOT WARRANT THAT THE SERVICES WILL MEET ALL OF THE REQUIREMENTS OF YOU OR TO PERFORM PARTICULAR TASKS THAT MOTIVATED YOU TO PROCURE THE SERVICES. CEGID MAKES NO REPRESENTATION OR WARRANTY WITH REGARD TO ANY THIRD PARTY PRODUCT OR SERVICE. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION

6. ALL SERVICES ARE PROVIDED “AS IS”, “WHERE IS” AND “AS AVAILABLE”. CEGID DOES NOT WARRANT THAT THE SUBSCRIPTION SERVICE WILL BE UNINTERRUPTED OR ERROR FREE OR COMPLETELY SECURE.

7.3 LIMITATION OF LIABILITY. CEGID WILL HAVE NO LIABILITY FOR YOUR USE OF CLIENT DATA OR REPORTS MADE AVAILABLE THROUGH THE SUBSCRIPTION SERVICE OR FOR CEGID’S USE OF CLIENT DATA OR OTHER INFORMATION PROVIDED BY YOU OR YOUR USERS IN CONNECTION WITH THE SERVICE. YOU FURTHER ACKNOWLEDGE AND AGREE THAT CEGID HAS NO OBLIGATION TO REVIEW, APPROVE, EDIT, OR OTHERWISE CONFIRM THE ACCURACY OR VALIDITY OF ANY CLIENT DATA. CEGID ASSUMES NO LIABILITY WITH RESPECT TO THE ACCURACY OR VALIDITY OF ANY CLIENT DATA OR ANY OTHER DATA PROVIDED BY YOU OR YOUR USERS IN CONNECTION WITH THE SERVICES. CEGID HEREBY DISCLAIMS, AND WILL NOT BE LIABLE FOR, ANY LOSS OF, UNAUTHORIZED ACCESS TO OR USE OF, OR DISCLOSURE OF CLIENT DATA THAT IS NOT DUE TO A BREACH OF ANY PROVISION OF THIS AGREEMENT BY CEGID.

7.4 CLIENT DATA. CEGID SHALL NOT BE LIABLE FOR THE NATURE, INFORMATION CONTENT OR CLIENT DATA OR THE OPERATION THAT RESULTS THEREFROM. CEGID SHALL NOT BE LIABLE FOR THE QUALITY AND TRANSMISSION OF THE CLIENT DATA WHEN IT TRANSITS VIA TELECOMMUNICATIONS NETWORKS AND MORE GENERALLY, THE QUALITY AND RELIABILITY OF THE TELECOMMUNICATIONS LINKS BETWEEN THE CLIENT WORKSTATIONS AND THE SUBSCRIPTION SERVICE. You are responsible for understanding the regulatory requirements applicable to Your business and for using the Subscription Services in a manner that complies with the applicable requirements.

8. YOUR OBLIGATIONS

8.1 Your Representations and Warranties. You represent and warrant that (a) You have the legal right and authority, and will continue to own or maintain the legal right and authority, during the term of this Agreement, to place and use any Content as contemplated under this Agreement; and (b) Your performance of Your obligations and all use of the Services by You and Your Users, will not violate any applicable laws, regulations, or the prohibitions in Sections 6.2 and 6.4, or cause a breach of any of Your agreements with any third parties or unreasonably interfere with other Cegid customers’ use of Cegid services.

8.2 Compliance with Laws and Regulations. You agree (a) to use the Services only for lawful purposes and in accordance with this Agreement; (b) to comply with all then-current export and import laws and regulations of the United States and such other governments as are applicable to any software, application services or Cegid Technology that You may receive from Cegid; and (c) not to, directly or indirectly, export, re-export, or transship such software, application services or Cegid Technology, or related information media, or products in violation of any applicable laws and regulations.

8.3 Content. You acknowledge that You are responsible for all Content, and that Cegid exercises no control whatsoever over the content of the information passing through Your site(s), and that it is Your sole responsibility to ensure that the information that You and Your Users transmit and receive complies with all applicable laws, rules and regulations, including without limitation all legal requirements regarding privacy, security, and the collection, use, transmission and retention of data within or between any jurisdiction(s). For the avoidance of doubt, You have the right to retrieve Your Content following termination of this Agreement, pursuant to the provisions of Section 12.3 (a)).

8.4 Restricted Use. Except as expressly permitted on an Order, You may not sell, rent or lease the Services provided hereunder to others, in any way whatsoever, including without limitation, using the

Services for the purpose of operating a service bureau or application service provider, or other revenue generating activities.

9. CONFIDENTIALITY.

9.1 Confidential Information. As used herein, "Confidential Information" means all confidential and proprietary information of a party ("Disclosing Party") disclosed to the other party ("Receiving Party"), whether orally or in writing, that is designated or identified as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances surrounding the disclosure, including, but not limited to, the terms and conditions of this Agreement (including pricing and other terms reflected in Orders hereunder), the Client Data, the Services, business and marketing plans, technology and technical information, product designs, trade secrets and business processes. Confidential Information (except for Client Data) shall not include any information that: (a) is or becomes generally known to the public without breach of any obligation owed to Disclosing Party; (b) was known to Receiving Party prior to its disclosure by Disclosing Party without restriction on use or disclosure; (c) was independently developed by Receiving Party without breach of any obligation owed to Disclosing Party; or (d) is rightfully received from a third party without restriction on use or disclosure.

9.2 Non-Disclosure. Receiving Party shall not use or disclose any Confidential Information of Disclosing Party other than to exercise its rights and/or perform its obligations under this Agreement, except with Disclosing Party's prior written consent or as otherwise required by law or legal process. Notwithstanding the foregoing, each party may disclose the Confidential Information of the other party to its employees, consultants, subcontractors, Affiliates or other agents who have a bona fide need to know such Confidential Information; provided, that each such employee, consultant, subcontractor, Affiliate or agent is bound by confidentiality obligations at least as protective as those set forth herein. Receiving Party shall protect the confidentiality of Disclosing Party's Confidential Information in the same manner that it protects the confidentiality of its own confidential information of like kind (but in no event using less than reasonable care). Receiving Party shall promptly notify Disclosing Party if it becomes aware of any actual or reasonably suspected breach of confidentiality of Disclosing Party's Confidential Information.

9.3 Compelled Disclosure. If Receiving Party is compelled by law or legal process to disclose Confidential Information of Disclosing Party, it shall provide Disclosing Party with prompt prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at Disclosing Party's expense, if Disclosing Party wishes to contest the disclosure.

9.4 Remedies. If Receiving Party discloses (or threatens to disclose) any Confidential Information of Disclosing Party in breach of this Section 8, Disclosing Party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being acknowledged by the parties that any other available remedies may be inadequate.

9.5 Effect of Termination. Upon any termination of this Agreement, the Receiving Party shall continue to maintain the confidentiality of the Disclosing Party's Confidential Information for three (3) years and, upon request, return to the Disclosing Party or destroy (at the Disclosing Party's election) all materials containing such Confidential Information, provided that Your final export of Client Data shall be conducted in accordance with Section 12.3. Notwithstanding the foregoing, to the extent Cegid retains any Client Data, it shall be maintained as confidential in accordance with the terms of this Section 8, in perpetuity.

9.6 Residuals. Cegid shall be free to utilize the know-how gained or other intellectual property that it created during the performance of this Agreement and to perform similar services for other customers.

10. INDEMNIFICATION BY CEGID.

10.1 Indemnity. Cegid shall defend, indemnify and hold You harmless against any claims, demands, suits or proceedings ("Claims") made or brought against You by a third party alleging that the use of the Subscription Services as contemplated hereunder infringes any United States patents, copyrights, trademarks or trade secrets of such third party; provided, that You (a) promptly give written notice of the Claim to Cegid; (b) give Cegid control of the defense and settlement of the Claim (provided that You may participate in such defense at its own expense and that Cegid may not settle any Claim in a manner that admits liability on behalf of You); and (c) provide to Cegid, at Cegid's expense, reasonable assistance in connection with the defense and settlement of the Claim. Cegid shall pay You any damages finally awarded against You, settlements agreed to in accordance with Section 9.1(a) and reasonable costs and expenses (including reasonable legal fees) directly attributable to such Claim.

10.2 Cegid Options. In the event a Claim is made or in Cegid's reasonable opinion is likely to be made against You, Cegid or any of Cegid's suppliers or its or their other customers, Cegid may, at its sole option and expense: (a) procure for You the right to continue using the Subscription Services under the terms of this Agreement; or (b) replace or modify the Subscription Services to be non-infringing without material decrease in functionality. If the foregoing options are not reasonably practicable, Cegid may terminate this Agreement and refund to You all prepaid fees for the remainder of Your subscription term after the date of termination.

10.3 Exceptions. Furthermore, Cegid shall have no liability for any Claim under Section 9.1 to the extent such liability is the result of (a) modifications to the Subscription Services by You or Your agents or representatives; (b) the use or combination of the Subscription Services with any other item not provided by Cegid where in the absence of such use or combination, the Subscription Services alone would not have given rise to the Claim; or (c) Your continued use of an infringing version of the Subscription Services when the then-current version of the Subscription Services has been modified to be non-infringing and made available to You.

10.4 Limitation. This Section 9 represents Cegid's entire obligation and Your exclusive remedy regarding any third party intellectual property claims. Cegid's maximum aggregate liability under this Section 9 shall not exceed an amount that is six (6) times one month's recurring fee under this Agreement for the Services that are the subject of the Claim as of the time of the occurrence of the events giving rise to the claim.

11. INDEMNIFICATION BY YOU. You shall defend, indemnify and hold Cegid harmless against any Claims made or brought against Cegid by a third party alleging that (a) the Client Data or Cegid's transmission or hosting thereof infringes or violates the rights of such third party; (b) Your use of the Subscription Services in violation of this Agreement or any applicable Third Party Terms infringes or violates the rights of such third party; or (c) You failed to comply with applicable laws, rules or regulations in Your performance of this Agreement; provided, that Cegid (i) promptly gives written notice of the Claim to You; (ii) gives You control of the defense and settlement of the Claim (provided that Cegid may participate in such defense at its own expense and that You may not settle any Claim in a manner that admits liability on behalf of Cegid); and (c) provides to You, at Your expense, reasonable assistance in connection with the defense and settlement of the Claim. You shall pay Cegid any damages finally awarded against Cegid, settlements agreed to in accordance with Section 10(i) and reasonable costs and expenses (including reasonable legal fees) directly attributable to such Claim.

12. LIMITATION OF LIABILITY.

12.1 LIMITATION OF LIABILITY. CEGID SHALL BE LIABLE ONLY FOR DIRECT AND FORESEEABLE DAMAGES RESULTING FROM A BREACH OF ITS OBLIGATIONS UNDER THIS AGREEMENT. IN NO EVENT SHALL CEGID'S TOTAL AGGREGATE LIABILITY ARISING OUT OF THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE AMOUNTS ACTUALLY PAID AND/OR PAYABLE BY YOU HEREUNDER OVER THE SIX (6) MONTHS PRECEDING THE INCIDENT GIVING RISE TO LIABILITY (OR OVER THE FIRST SIX (6) MONTHS IF SUCH INCIDENT ARISES DURING THE FIRST SIX (6) MONTHS).

12.2 CONSEQUENTIAL DAMAGES. IN NO EVENT SHALL EITHER PARTY OR ANY OF ITS AFFILIATES, LICENSORS OR SUPPLIERS HAVE ANY LIABILITY TO THE OTHER FOR ANY LOST PROFITS OR SPECIAL, INCIDENTAL, PUNITIVE, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12.3 EXCEPTIONS. NOTWITHSTANDING THE ABOVE, FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED UNDER THIS AGREEMENT, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE YOUR SOLE AND EXCLUSIVE REMEDY AND CEGID'S SOLE AND EXCLUSIVE LIABILITY. CEGID'S LIABILITY, AND YOUR RECOURSE, SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID UNDER THIS AGREEMENT ARE LIQUIDATED, YOU ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OBTAINING AN ADEQUATE REMEDY IS OTHERWISE INCONVENIENT, AND THE DAMAGES CALCULATED THEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS. YOU CONFIRM THAT THE EXPRESS REMEDIES AND MEASURE OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES THEREOF.

12.4 ACKNOWLEDGEMENT. THE PARTIES ACKNOWLEDGE THAT THE SERVICE PRICE REFLECTS THE SHARING OF RISK RESULTING FROM THIS AGREEMENT, AS WELL AS THE ECONOMIC BALANCE DESIRED BY THE PARTIES, AND THAT THE SERVICE WOULD NOT HAVE BEEN CONTRACTED FOR WITHOUT THESE LIMITATIONS OF LIABILITY. THE LIMITATIONS SET FORTH IN THIS SECTION 11 SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

13. TERMINATION.

13.1 No Liability for Termination. Neither party will be liable to the other for any termination or expiration of any Services for this Agreement in accordance with its terms.

13.2 Termination for Cause. Either party may terminate this Agreement (a) if the other party materially breaches this Agreement and does not cure such breach within thirty (30) days after receipt of written notice of such breach from the non-breaching party or (b) immediately upon written notice if the other party becomes the subject of a bankruptcy, insolvency, receivership, liquidation, assignment for the benefit of creditors or similar proceeding. Cegid may terminate provision of some or all of the Subscription Services or this Agreement if required by any law, rule or regulation or any regulatory or governmental body. You may terminate this Agreement upon thirty (30) days after receipt of written notice if the Subscription Services fail to meet the service levels set forth in the Terms of Service for three (3) consecutive months. Such termination shall be Your sole and exclusive remedy and our exclusive liability for any breach of the Terms of Service.

13.3 Effect of Termination. Upon the effective date of termination of this Agreement:

(a) Cegid will immediately cease providing the Services and will provide You with the last backup of Client Data. You shall be responsible for recovering Client Data either by using the software tools provided, or if necessary, by requesting Cegid to transfer the Client Data to digital media on terms and conditions, including the fees for such service, to be mutually agreed;

(b) Any and all of Your payment obligations under this Agreement for the Services provided through the effective date of termination will immediately become due; and

(c) In the event of termination for cause or failure to meet the service levels set forth in the Terms of Service pursuant to Section 12.2, Cegid will refund any subscription fees pre-paid by You, prorated for the remainder of Your subscription term after the effective date of termination.

13.4 Survival. Any terms and conditions of this Agreement that by their nature extend beyond expiration or termination hereof, shall survive, including, but not limited to, Sections 4-13.

14. MISCELLANEOUS.

14.1 Severability; Waiver. No amendment or waiver of any provision of this Agreement shall be effective unless in writing and signed by authorized representatives of the parties hereto. Notwithstanding any language to the contrary therein, no terms stated in a purchase order or in any other order document (other than a purchase order, statement of work or other mutually executed order document expressly incorporated herein) shall be incorporated into this Agreement, and all such terms shall be void. No failure or delay in exercising any right hereunder shall constitute a waiver of such right. Except as otherwise provided, remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions shall remain in full force and effect.

14.2 Policies and Entitlements. The policies and provisions to the Services, as referenced in this Agreement, are available at www.egid.us or such other URL as specified by Cegid.

14.3 Publicity. The pricing terms have been agreed, taking into account the strategic importance of You to Cegid, as well as both parties' desire for a strong collaboration. Consequently, You agree that Cegid as well as its commercial partners are entitled to use Your name and/or trademark and/or logo as a reference in press releases, commercial documents or other such documents, as of the execution of this Agreement. You furthermore agree to:

- testify and reference Your experiences with Cegid on a mutually agreed upon number of case studies;
- assist, at the request of Cegid, and subject to Your availability, with "seminars/testimonials" in order to better present to third parties Your experience with Cegid in general and with Cegid's solutions, products and services;
- receive, at the request of Cegid, and subject to Your availability, prospective customers wishing to meet Your representatives and demonstrating an interest in Cegid's solutions, product and services within the framework of "reference visits", unless the prospective customer is Your direct competitor. The number of "references" which You agree to make is limited to one (1) telephone reference call per month and four (4) "reference visits" per year; and
- participate in Cegid's annual user conference entitled "Retail Connections".

14.4 Force Majeure. Neither party shall be liable to the other for any delay or failure to perform hereunder (excluding payment obligations) due to circumstances beyond such party's reasonable control, including acts of God, acts of government, flood, fire, earthquakes, war, riot, insurrection, epidemic, civil unrest, acts of terror, strikes or other labor problems (excluding those involving such party's employees), internet or other service disruptions involving hardware, software or power systems not within such party's possession or reasonable control, any disruption, suspension or failure of any third party hardware, software or services, and denial of service attacks or other events of a magnitude or type for which precautions are not generally taken in the industry ("Force Majeure Event").

14.5 Assignment. You may not assign any of Your rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of Cegid (not to be unreasonably withheld). A change of control shall be deemed an assignment under this Agreement. Cegid may assign its obligations, liabilities and benefits hereunder freely. In case of assignment by Cegid, the assignee shall be substituted for Cegid as of the assignment date. You expressly acknowledge that the assignee shall become Your counterparty and agree to release Cegid from all obligations and liabilities hereunder. Any attempted assignment in breach of this Section 13.5 shall be void. This Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

14.6 Subcontractors. You acknowledge that Cegid may subcontract all or part of its obligations arising hereunder at its sole discretion. In such event, Cegid shall remain liable for the performance of its obligations hereunder.

14.7 Governing Law. This Agreement and any claims related thereto shall be governed exclusively by the internal laws of the State of New York, without regard to its conflicts of laws rules, and all disputes hereunder shall be subject to the exclusive jurisdiction of the state or federal courts located in the City of New York, New York regardless if there are multiple defendants or third party proceedings.. The parties hereby irrevocably consent to the jurisdiction of such courts. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.

14.8 Remedies. The parties agree in the event of a material breach of this Agreement, the non-breaching party will be entitled to seek immediate injunctive relief and other equitable relief, in addition to whatever remedies it might have at law or under this Agreement. All rights and remedies hereunder are cumulative, may be exercised singularly or concurrently and will not be deemed exclusive except as expressly provided herein. If any legal action is brought to enforce any obligations hereunder, the prevailing party will be entitled to receive its attorneys' fees, court costs and other collection expenses, in addition to any other relief it may receive.

14.9 Counterparts. An Order may be executed by facsimile, by electronic signature or in .PDF format (with the same force and effect as an original signature) and in counterparts.

14.10 Entire Agreement. This Agreement, the Order, the Terms of Service, the Technical Requirements, the Third Party Terms, and any other schedules and attachments hereto and policies referenced herein represent the entire agreement between the parties, and supersede all prior or contemporaneous agreements, proposals or representations, written, oral or otherwise, concerning its subject matter. In the event of a conflict between the Order, this Agreement, the Terms of Service, the Technical Requirements, and any schedule or attachment to this Agreement or between any such schedule or attachment, the order of precedence shall be as follows: the Order, this Agreement, the Terms of Service, the Technical Requirements, and other schedules and attachments.