Software License and Services Agreement
General Terms and Conditions

These General Terms and Conditions set forth the basis on which Cegid agrees to supply to the Client, and the Client agrees to license the Software Packages and Third Party Software, and purchase Hardware, Professional Services, and Support and Maintenance Services detailed in the Order above and, except as the parties otherwise agree in writing, any future Orders the parties may execute.

Article 1   DEFINITIONS

For purposes of these General Terms and Conditions, the following terms have the meaning given to them below:

AFFILIATE, in respect of any entity, means any person or entity that Controls, is Controlled by, or is under common Control with the party, and "**Control**" means ownership of more than fifty percent (50%) of the entity's outstanding shares or other equity interests.

AGREEMENT means the applicable Order together with these General Terms and Conditions, the Technical Prerequisites and, to the extent applicable, the Terms of Support and Maintenance Services and the Terms of Professional Services, in each case as Cegid may revise the same from time to time. For the avoidance of doubt, each Order is a separate Agreement between the parties.

CEGID means the Client's counterparty in the Agreement.

CEGID SOFTWARE PACKAGE means the standard version of the Cegid-branded management software package identified by the Order, including the documentation supplied by Cegid and containing procedures and instructions for its use.

CLIENT means the entity the Order identifies as the Client.

HARDWARE means the computer hardware designated in Order section "Description of the items ordered", or equivalent hardware, that enables operation of the Software Packages. The Client may purchase the Hardware from Cegid.

INTELLECTUAL PROPERTY RIGHTS means any patents, copyrights, design rights, trademarks, service marks, trade secrets, know-how, database rights and any other similar intellectual property rights, whether registered or unregistered, and all applications for the same, anywhere in the world.

LICENSE FEE means the fee for Software Packages and/or Third Party Software set out in Order section "Description of the items ordered."

ORDER means the section above (or a similar document later executed by the parties) setting out the Client's order for Software Packages, Third Party Software, Hardware, Support and Maintenance Services and/or Professional Services, and such other orders as the parties may execute from time to time.

PROFESSIONAL SERVICES means the professional services offered by Cegid and purchased by the Client under the Agreement. They are described in the Terms of Professional Services.

SOFTWARE PACKAGE means a Cegid Software Package together with one or more Third Party Components.

SUPPORT AND MAINTENANCE SERVICES means support and maintenance services provided by Cegid and described in the Terms of Support and Maintenance Services.

TECHNICAL PREREQUISITES means the document provided to the Client or available at www.cegid.com/us that, among other things, sets out the list of hardware and devices recommended by Cegid as suitable for use of the Software Package.

TERMS OF PROFESSIONAL SERVICES means the document provided to the Client or available at www.cegid.com/us and describing the content of Professional Services to be supplied by Cegid to the Client.

TERMS OF SUPPORT AND MAINTENANCE SERVICES means the document provided to the Client or available at www.cegid.com/us describing the special terms and conditions for the provision of Support and Maintenance Services.

THIRD PARTY COMPONENT means any third party software product or service provided by Cegid to the Client with the Cegid Software Package (embedded or not) or services or any open source or other publicly available software or component, other than Third Party Software.

THIRD PARTY SOFTWARE means the software products the Order identifies as such (not including any Cegid Software Package and Third Party Component) developed by a third party and for which Cegid has been granted with the right to distribute it to its own customers. Third Party Software may include, without limitation, an operating system, backup, and database management software, antivirus software and office or technical applications.

USER means a Client employee or contractor using a Software Package or a device on which the Software Package is installed.

Article 2   GRANT OF LICENSES FOR THE SOFTWARE PACKAGES; RELATED PROVISIONS

2.1. Cegid, on the terms of this Agreement, grants the Client a non-exclusive, non-sublicensable, and not transferable right to use the machine-readable (object code) version of the Software Packages for its internal business purposes and not for resale. The term of the license will begin on the effective date of this Agreement and continue unless and until terminated in accordance with the terms and conditions of this Agreement.

2.2. Cegid may make available to the Client localized versions of "YourCegid Retail Y2" for certain countries (each, a "Country Package"). The Client, to benefit from this service, must have acquired from Cegid, and paid the fees for, the Country Package modules corresponding to the selected countries and the associated maintenance services.

2.3. Except as otherwise agreed by the parties in writing, the Software Package license is accounted by named user or thresholds or ceilings as specified in Order section "Description of the items ordered." When the Software Package license is accounted by named user, "Named user" means either:

      (a)   an individual user, designated by the Client, who is provided with a user name and a personal password that can access the Software Package; and/or

(b) each physical or logical system or device having access to and using Software Package (personal computer, mobile device, points of sale, etc.).

2.4. The Client may not modify or otherwise make derivative works of the Software Package. The Client hereby assigns to Cegid all of its rights, title and interest in and to any such unauthorized works, and any Intellectual Property Right embodied therein. The Client will execute, and cause its employees and contractors to execute, any assignments or other documentation reasonably required to effect the intent of this article.

2.5. If the Order includes Third Party Software, the Client's license to use the Third Party Software is limited as set forth in the Order, and is granted in accordance with and subject to applicable license and other terms and conditions specified by the third party licensors.

2.6. Cegid publishes a set of complementary functionalities accessible through web services. When the Client uses said web services, it will be invoiced on the basis of the number of physical devices the Client uses to access these services (mobile devices, terminals, etc.) and/or per unit of resource consumed. The unit of resource/number of devices is specified in Order section "Description of the items ordered."

2.7. Any modifications in the number of users and/or the fixed thresholds are subject to Cegid's express written approval, and if such approval is obtained, to the payment of an additional fee on the basis of Cegid's then-current rate.

Article 3   USE BY CLIENT AFFILIATES

If the Order states, or Cegid and the Client agree in writing, that Affiliates of the Client may receive and use the Software Packages and Services, this Article 3 will apply.

3.1. Pre-conditions to the use of the Software by Affiliates

(a) An Affiliate of the Client will be authorized to use the Software Packages and Third Party Software only if, on the date of signature of this Agreement, the Affiliate complies with the conditions set out in the definition of the term "Affiliate" in Article 1 above, and no shareholder of the Affiliate is a competitor of Cegid. For the purposes of this Agreement, "competitor of Cegid" means a person or entity controlling, controlled by or under common control, directly or indirectly, with a person or entity whose primary business is similar or identical to Cegid business, *i.e.*, as software editor and services supplier in relation to the retail sector.

(b) If, after the date of signature of this Agreement, an Affiliate no longer satisfies the conditions provided in paragraph (a) above, that Affiliate will immediately and automatically lose any and all of its rights to use the Software Packages and Third Party Software under this Agreement. A license to use the Software Packages and Third Party Software may be granted to that company in Cegid's sole discretion, subject to the execution of a separate software license agreement with Cegid, which will set out, in particular, the financial terms and conditions (including the license fees) for the grant of such license.

3.2. Compliance with the provisions of the Agreement by the Client's Affiliates

(a) Subject to Article 3.1, the Client's Affiliates may use and benefit from the Software Packages and Third Party Software and Services supplied by Cegid to the Client under this Agreement on the same terms and conditions as the Client.

(b) The Client will ensure that the Affiliates comply with all the terms, conditions and obligations for which the Client is responsible under the Agreement and, in particular, that they use the Software Packages and Third Party Software in accordance with the provisions of the Agreement. The use of the Software Packages and Third Party Software by the Client and its Affiliates will not exceed the limits and restrictions identified in this Agreement, in particular, the Order and/or the applicable amendment.

(c) A breach of this Agreement by any Client Affiliate will be deemed a breach by the Client.

Article 4   DELIVERY AND INSTALLATION

4.1. Software Packages and Third Party Software will be delivered in object code form, either on a physical medium or by download. In the instance of downloads, the Client will be deemed to have accepted of delivery at the conclusion of the download. Except as otherwise provided by the Order, Cegid will deliver any physical copies of Software Packages and Third Party Software, as well as Hardware, to the address specified under the heading "Client Name and Implementation Location" indicated in the Order.

4.2. The Client, at first delivery, will accept the Software Packages, Third Party Software and/or Hardware ordered, to the extent that they conform to the Order and documentation. Any rejection must be notified to Cegid in writing stating the reasons of the rejection within forty eight (48) hours following delivery. If the Client rejects delivery and fails to notify Cegid as specified above, the Client will nevertheless be liable to Cegid for all amounts due for such delivery.

4.3. Unless Client retains Cegid for installation Professional Services, the Client will be solely responsible for installing Software Packages, Third Party Software and Hardware.

Article 5   MAINTENANCE AND SUPPORT

5.1. Support and Maintenance Services and Professional Services offered by Cegid are necessary to the proper use of the Hardware and the Software Packages. Consequently, the Client is responsible, in view of its needs and requirements, to evaluate whether the use of the Support and Maintenance Services and Professional Services is necessary or appropriate.

5.2. Except as otherwise expressly provided in the Terms of Support and Maintenance Services, Support and Maintenance Services will be contracted for an initial term of thirty-six (36) months following delivery (by download or otherwise) of the Software Package, Third Party Software or Hardware. Support and Maintenance Services will automatically renew for twelve (12) months (each, an "Extended Term") at the end of the initial term and at the end of each Extended Term, unless either party gives written notice to the other party not later than three (3) months before the end of the initial term or relevant Extended Term.

5.3. Cegid, on at least one year's advance notice to the Client at any time during the term of the Support and Maintenance Service, may terminate Support and Maintenance Services for a Software Package, Third Party Software or Hardware. Such termination will not result in the termination of current Support and Maintenance Services for other Software Packages, Third Party Software, or Hardware.

5.4. Maintenance Services for Country Packages:

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(a)   Covers the front office of the Country Package, and includes neither back office functionalities nor electronic payment or other peripheral to the point of sale;

(b)   Includes the provision of certain adaptations and modifications of the Country Packages which may be necessary as a result of incremental changes in laws and/or regulations in the relevant country and, with respect to those changes, Cegid will make commercially reasonable efforts to ensure the continued maintenance of any approvals so long as the approval process has not been substantially amended and made cumbersome.

(c)   Excludes the installation and/or integration services of the Country Package, which remain the sole responsibility of the Client, and major changes in laws or regulations requiring:

(i)   adaptations or modifications impacting the structure of programs that would require rewriting a substantial part of existing programs; and

(ii)   adaptations or modifications that would require the development of new specific functionalities that are additional to the previous Country Package version; or affect businesses with special requirements that are subject to legal constraints (such as, but not limited to, environment, control of hazardous products, precious metal trading, protected material etc.).

5.5. Except as provided by Section 5.4 with respect to Country Packages, Support and Maintenance Services do not include the supply of new features for maintaining or adapting the Software Package for conformity purposes as a result of changes in the applicable law and regulations and nothing in this Agreement will be construed as a covenant by Cegid that any Software Package or other software or services complies with law in the jurisdictions for which it is used, except as otherwise expressly agreed to by Cegid under the conditions applicable to the Country Package services as set forth under Article 2.2.

Article 6   MODIFICATION OF INSTALLATION

The Client acknowledges that any modification of the installation or its environment will be its sole responsibility, unless Cegid performs such modifications in the course of performing a service that is billable according to the fee schedule in force as of the date it was performed, or expressly authorizes the same in writing in advance.

Article 7   CLIENT COLLABORATION

7.1. For the purpose of proper performance of the Agreement, the Client will actively and regularly collaborate and cooperate in good faith with Cegid. The Client will be responsible for delivering to Cegid all the information necessary for the performance of the ordered Professional Services and Support and Maintenance Services, and for advising Cegid of any difficulties of which it might become aware or that its knowledge of its business sector enables it to perceive, while the Professional Services and Support and Maintenance Services are performed. Moreover, the Client will select/utilize Users that are sufficiently competent, qualified, and trained, throughout the entire period of the performance of the Agreement.

7.2. Cegid will use reasonable skill and care in the performance of this Agreement. Cegid will exert all reasonable efforts to perform its obligations under the Agreement in accordance with the industry standard practice applied in its business sector.

7.3. The Client must fulfill the Technical Prerequisites as recommended by Cegid. The Client is responsible for making changes to its hardware and software in conformance with changes in the Technical Prerequisites.

Article 8   FINANCIAL TERMS AND CONDITIONS

8.1. Prices.

(a)   Cegid will charge, and the Client will pay, the amounts set forth in the Order for Software Packages, Third Party Software, Hardware, Professional Services, and the first year of Support and Maintenance Services. All prices are stated in U.S. Dollars (US$) and exclude taxes and shipping costs.

(b)   During the term of the Support and Maintenance Services, Cegid once a year may change the fees billed. The Client may reject the change by canceling/terminating the Support and Maintenance service in question by written notice sent by registered mail and received by Cegid within forty-five (45) days following the date of the invoice containing the new fees, in which case Cegid will continue to provide Support and Maintenance Service, at the fee previously in effect, until the end of the fifth (5th) month following the month during which the invoice in question was issued. The cost of communications between Cegid and the Client outside United States will be borne by the Client and will be the subject of additional billing.

8.2. Invoices.

(a)   Cegid will invoice the Client for:

(i)   Software Packages when Cegid makes physical delivery or makes the Software Packages available for download;

(ii)   Hardware and Third Party Software when Cegid makes physical delivery or makes the Third Party Software available for download;

(iii)   Standard Support and Maintenance Services, at the option of the Client as specified in the Order (A) annually in advance, starting from the date when the Hardware, Software Packages, or Third Party Software are delivered, or (B) quarterly in advance, starting from the date when the Hardware, Software Packages, or Third Party Software are delivered; and

(iv)   Professional Services and Support and Maintenance Services outside of the scope of Cegid's standard services, in arrears following the end of the calendar month in which the services are performed.

(b)   The Client will reimburse Cegid for reasonable travel and out-of-pocket expenses incurred in performing this Agreement.

8.3. Payment. Except as the parties otherwise agree, the Client will pay the prices and fees detailed in the Order via check or bank transfer, as follows:

Cegid North America Inc., 74 MADISON AVENUE, SUITE 1404, NEW YORK, NY 10016 USA

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(a)   for the Software Package, Third Party Software, Hardware and the Professional Services, 30% of the full amount due, including taxes, net and without discount, on execution of the Order, and the remainder within thirty (30) days of the invoice date;

(b)   for the Support and Maintenance Services in full amount, including taxes, net and without discount, within thirty (30) days of the date of the invoice.; and

8.4. <u>Late Payments</u>. Once the due date has passed, a late payment penalty calculated on the basis of an interest rate set at 15% per annum on the outstanding amount will be payable to Cegid without the need for any reminder. Cegid reserves the right, fifteen (15) days after sending a formal payment notice, in response to which there has been no corrective action or only partial corrective action, to suspend its Professional Services until payment in full of the amounts due, and to terminate immediately the Agreement or the Support and Maintenance Services currently in force. All financial charges resulting from a bank's rejection of a Client payment will be paid by the Client.

Article 9   TITLE AND RISK

9.1. Title to the Hardware and media containing the Software Package and Third Party Software media and documentation will not pass to the Client until payment in full (in cleared funds) is received.

9.2. Risk (including all risk of loss, damage, destruction or liability) in all items ordered will pass to the Client upon delivery. Until Cegid receives payment in full for any Hardware ordered, the Client will insure the same at full replacement value.

Article 10   TERMINATION

Either party may terminate this Agreement at any time upon written notice if the other party commits a material breach of this Agreement and fails to cure such breach within ten (10) business days (in the case of non-payment) or thirty (30) days (in the case of other breaches) after written notice specifying such breach. On termination of this Agreement for any reason, all rights and licenses granted to the Client will immediately terminate, and the Client will discontinue use of the Software Package and, at Cegid's option, return to Cegid or destroy all copies of the Software Package in the Client's possession or control and provide written certification of such return or destruction. Provisions of this Agreement which by their terms or nature survive termination, will survive any termination of this Agreement.

Article 11   WARRANTIES; DISCLAIMERS

11.1. Cegid, for a period of six (6) months following delivery or download, warrants that each Cegid Software Package will conform in all material respects to its documentation. The warranty will not apply (i) if the Cegid Software Package is not used in accordance with the terms of these General Terms and Conditions and/or this Agreement or (ii) in the event of an unauthorized modification of the Cegid Software Package.

11.2. Cegid further warrants that it will use reasonable skill and care in the performance of this Agreement. Cegid will exert all reasonable efforts to perform its obligations under the Agreement in accordance with the industry standard practice applied in its business sector.

11.3. Cegid makes no representations or warranties regarding Third Party Software or Hardware. Hardware is covered by the applicable manufacturer's factory warranty.

11.4. EXCEPT AS EXPRESSLY SET FORTH IN THIS ARTICLE 11 AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE CEGID SOFTWARE PACKAGE, THIRD PARTY COMPONENTS, THIRD PARTY SOFTWARE, HARDWARE AND THE SERVICES ARE PROVIDED "AS IS" WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS, STATUTORY OR IMPLIED, AND CEGID DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, IMPLIED WARRANTY OF TITLE, IMPLIED WARRANTY OF NON-INFRINGEMENT, ANY WARRANTY THAT THE SOFTWARE PACKAGES WILL OPERATE UNINTERRUPTED OR ERROR-FREE, OR ANY WARRANTY ARISING FROM COURSE OF DEALING OR TRADE USAGE. CLIENT ACKNOWLEDGES AND AGREES THAT CEGID DOES NOT PROVIDE LEGAL SERVICES, AND IT IS CLIENT'S OBLIGATION TO COMPLY WITH ALL LAWS, RULES AND REGULATIONS APPLICABLE TO ITS USE OF THE SOFTWARE PACKAGE AND ITS BUSINESS.   CEGID DISCLAIMS ANY, AND MAKES NO, REPRESENTATION, WARRANTY OR COVENANT THAT THE SOFTWARE PACKAGE OR ANY OTHER SOFTWARE OR SERVICES PROVIDED HEREUNDER COMPLIES WITH ANY LAW IN THE JURISDICTIONS FOR WHICH IT IS USED.

11.5. The Client's sole and exclusive remedy for any breach of the limited warranty set forth in this Article 11 will be for Cegid to use commercially reasonable efforts to remedy any material Cegid Software Package defects and failures determined in relation to their failure to conform in all material respects to applicable documentation.

Article 12   CHANGES TO SOFTWARE PACKAGES

12.1. The Client acknowledges that changes in legislation may, at any time, make the Software Packages' features and functionalities unsuitable or not in conformity with the applicable law and regulations. If Client orders Country Package services for the Country Package Countries, the Client will benefit from the Country Package services in the Country Package Countries under the conditions set out in Article 2.2.

12.2. The Client acknowledges that changes in technologies and the requests of its clients may prompt Cegid to make updates to Cegid Software Packages, or may result in updates to Third Party Software and/or Third Party Component, and as a result all or part of the Client's hardware may no longer support or be adapted to an update to the Software Packages and Third Party Software. The Client is solely responsible for updating, upgrading or replacing the affected hardware.

Article 13   INDEMNITY

13.1. Cegid, subject to the terms and conditions of this Agreement will defend and indemnify the Client against a claim that any of the Cegid Software Packages used within the scope of this Agreement infringe a European Union, United States or Canadian copyright or patent or other intellectual property right, provided that: (a) the Client informs Cegid in writing within twenty (20) days of the claim, unless failure to notify in such time does not have a material adverse effect in the defense; (b) the Client grants to Cegid sole control of the defense and all related settlement negotiations; and (c) at Cegid's reasonable requests, cooperates with Cegid in the defense or settlement of the Claim. If these conditions are met, Cegid will pay all costs and damages finally awarded.

Initialing Cegid :   Initialing Client :

13.2. In the defense or settlement of such claims (or if Cegid reasonably believes the Cegid Software Package might infringe), Cegid may at its option and expense (a) modify the Cegid Software Package so that it becomes non infringing, or (b) obtain for Client a license to continue using the Cegid Software Package. If it is not commercially reasonable to perform either of the above options, then Cegid may terminate the license for the affected Cegid Software Packages and refund amounts up to the license fees paid for the affected Cegid Software Package, prorated over five (5) years from the date of delivery.

13.3. Cegid has no indemnity obligation with respect to Third Party Software or Hardware. Cegid's sole obligation with respect to those items is to make commercially reasonable efforts to assist the Client in enforcing such indemnity obligation as may have been undertaken by the manufacturer or distributor of the item.

Article 14 LIABILITY

14.1. The Software Packages, Third Party Software, and Hardware delivered under this Agreement will be used by the Client under its sole control, supervision, management, and under its sole responsibility. During any possible service work performed by Cegid, the Client will remain the custodian of its hardware and software packages, data, files, programs or databases, and consequently Cegid (unless such damage or destruction is due to its own gross negligence or fraud) cannot be found liable for any damage suffered including destruction of same, whether total or partial.

14.2. Without limiting the foregoing, the Client is responsible for:

(a)   the previous or future selection and purchase from third parties of hardware, software packages, and other software intended for use with the Software Packages, Third Party Software, and Hardware. Cegid cannot be held liable for their possible incompatibility with the items ordered pursuant to the Agreement, and the malfunctions, interference and disruptions that result from their use;

(b)   project management for its IT system, in the event it has selected multiple suppliers;

(c)   compliance with (present and future) Technical Prerequisites, in order to prevent harmful and damaging consequences such as slowdowns, shutdowns, alteration of data; and

(d)   all consequences, with respect to Software Packages, Hardware, Third Party Software, and Professional Services covered by the Agreement, resulting from modifications of their installation or environment decided and/or carried out by the Client.

14.3. Cegid is not responsible for the availability and reliability of telecommunications networks, data transmission or Internet access, even when the Internet service provider was recommended by Cegid.

14.4. In the event Cegid should be found liable for breach of the terms of this Agreement or under the applicable law relating to the supply of any software products, Hardware, Support and Maintenance Services or Professional Services pursuant to this Agreement, the total cumulative liability of Cegid under this Agreement in any way whatsoever arising or incurred under or in connection with this Agreement including in tort, contract (including indemnities) or otherwise, will be limited to the direct and foreseeable damage suffered by the Client, and will not exceed the amount of the fees that Client paid to Cegid under this Agreement for the Hardware, or software product (Software Packages or Third Party Packages) or Professional Services or Support and Maintenance Services in relation to which such liability arises, during the twelve (12) calendar months immediately prior to the events giving rise to such liability.

14.5. CEGID WILL NOT BE LIABLE TO THE CLIENT OR ANY THIRD PARTY, FOR ANY SPECIAL, EXEMPLARY, PUNITIVE, UNFORESEEABLE DAMAGES AND FOR ANY INDIRECT DAMAGES AND FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES SUCH AS TRADING LOSSES, OPERATING LOSSES, LOSS OF PROFITS, OR ANY OTHER FINANCIAL LOSS RESULTING FROM THE CLIENT'S USE OR INABILITY TO USE CEGID SOFTWARE PACKAGES AND/OR THIRD PARTY SOFTWARE OR A FAILURE IN THE PROVIDING OF THE SUPPORT AND MAINTENANCE SERVICES OR PROFESSIONAL SERVICES, AS WELL AS ANY LOSS OR DAMAGE OF DATA AND INFORMATION, WHETHER ARISING IN CONTRACT, TORT OR OTHERWISE, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

Article 15 OWNERSHIP

15.1. THE CLIENT EXPRESSLY ACKNOWLEDGES AND AGREES THAT THIS AGREEMENT DOES NOT TRANSFER TO THE CLIENT ANY INTELLECTUAL PROPERTY RIGHT IN THE SOFTWARE PACKAGES OR THIRD PARTY SOFTWARE, AND THE CLIENT IS PROHIBITED FROM PERFORMING ANY CORRECTIONS OF ERRORS/DEFECTS, MODIFICATIONS, ADAPTATIONS OR TRANSLATIONS OF THE SOFTWARE PACKAGES AND THIRD PARTY SOFTWARE. CEGID WILL BE FREE TO UTILIZE THE KNOW-HOW ACQUIRED ON THE PERFORMANCE OF THE AGREEMENT, AND PERFORM SIMILAR PROFESSIONAL SERVICES FOR OTHER CLIENTS.

15.2. All Intellectual Property Rights relating to or subsisting in any Software Package and/or Third Party Software supplied under the Agreement will remain the sole and exclusive property of Cegid or its third party licensor.

15.3. The Client will not infringe, either directly or indirectly, the Intellectual Property Rights of Cegid and the respective third party licensors of the Third Party Components and Third Party Software and will indemnify and hold Cegid harmless against any loss or damage (including reasonable attorney's fees) which it may suffer or incur as a result of the Client's breach of this article. Specifically, the Client will:

(a)   use the same in conformance with their associated documentation and as permitted under this Agreement and solely for the internal business purposes of the Client;

(b)   not remove any copyright or trademark ownership indications or markings or other indications or markings;

(c)   not make available the Software Packages or Third Party Software to third parties, either directly or indirectly, on any basis whatsoever, in any form (especially as an ASP or "Application Service Provider") or using the Software Packages or Third Party Software to provide services to third parties, by any means including but not limited to by lease, loan or shared use, or copy, for any reason whatsoever, either free of charge or for consideration, except with Cegid's express prior written consent or express authorization stated in the Terms of Support and Maintenance Services;

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(d)   not copy all or any part of the Software Packages or Third Party Software, except to make one (1) backup copy, solely for backup and security purposes. In the event that the Client shares a site with third parties, it will adopt all necessary measures to ensure that said third parties cannot use, or access the Software Packages and Third Party Software;

(e)   not disclose the content of any Software Package or Third Party Software and will not assign, transfer or sublicense its license, on any basis whatsoever; and

(f)   be responsible and liable for, and hereby guarantees, its personnel's compliance with the above provisions.

15.4. The Client will not decompile or disassemble or reverse engineer the Software Packages or Third Party Software for any purpose including for interoperability needs and requirements. Cegid will deliver to the Client, within a reasonable period of time, all the information necessary for the interoperability of the Software Packages and Third Party Software with the Client's information system existing at the time of execution of the Agreement. The Client will not use the knowledge obtained during the above-indicated operations for any purpose other than interoperability, in particular this knowledge must not be used for the creation, production, configuration or marketing of a software package with basic principles and expression similar to those of the Software Packages and Third Party Software.

15.5. Without prejudice to Cegid's other remedies under this Agreement or in law, any breach by the Client of these obligations will enable Cegid to terminate the Agreement with immediate effect by giving written notice by courier or registered mail to the Client.

Article 16 CONFIDENTIALITY

16.1. "Confidential Information" includes information provided by one party to the other, or to which the other party gains access, in the performance of this Agreement, that is marked Confidential or Proprietary or that the receiving party should reasonably know to be confidential to the first part, regardless of the medium for same. The Software Packages and Third Party Software, as between the parties, will be considered to be Confidential Information of Cegid. For the avoidance of doubt, all documentation, specifications and other technical materials supplied by Cegid in connection with this Agreement are the Confidential Information of Cegid.

16.2. Each of the parties will protect the other party's Confidential Information and will not disclose the same to any third party without the prior written consent of the other party.

16.3. Each of the parties will be released from its confidentiality obligations with respect to all information (i) that was in the possession of the receiving party prior to disclosure under this Agreement without any such possession being a direct or indirect result of unauthorized disclosure of said information by a third party, (ii) that is in the public domain as of the date of execution of the Agreement or which should fall into the public domain after said date, without the cause being attributable to the receiving party's breach of its confidentiality obligations under the Agreement, (iii) that has been independently developed by said party, or (iv) disclosure of which is required by law or a judicial or governmental authority with competent jurisdiction, or is made necessary for the needs and requirements of a legal action and/or legal proceeding provided that disclosure is only to the extent required by law and the disclosing party gives as much notice as possible to the other party.

16.4. The parties will comply with the obligations arising from this article throughout the entire term of the Agreement as well as for five (5) years following the expiration or termination of the Agreement.

Article 17 DATA PROTECTION

17.1. The Client is solely responsible for the backup of the data that it processes or stores, and it acknowledges and accepts that it is responsible for:

(a)   performing backups of its data with a frequency that is regular and appropriate for its business activity;

(b)   verifying at least once a week the content of the backups performed; and

(c)   utilizing backup media that are suitable, in good condition, and dust-free.

17.2. The Client must perform a backup of all its data, prior to any Cegid service action.

17.3. The Client must take all necessary action to protect its information system, particularly with respect to protection against viruses, worms, and other hostile intrusion processes.

17.4. All operations for the recovery or restoration of lost or damaged data, programs, or files are not covered under this Agreement.

17.5. Client has sole responsibility, and Cegid disclaims responsibility, for compliance with laws and industry standards relating to the privacy and security of financial and personally identifiable data of customers of the Client such as the Payment Card Industry Data Security Standard (PCI-DSS) and the Europay, MasterCard and Visa ("EMV") requirements.

Article 18 AUDIT

18.1. The Client is informed that Cegid may incorporate a security process into Cegid Software Package in order to control its use and to verify whether the Client complies with its obligations under this Agreement. Client will not circumvent or defeat such security process nor will it attempt to do so.

18.2. Cegid, no more than once in any twelve (12) month period may perform an on-site audit in order to verify the rightful use of its licenses as well as whether the Client is performing all of its obligations under the terms and conditions of this Agreement. Cegid will send a written notification of its intent to carry out the audit at least fifteen (15) days prior to the commencement of its performance. The notification will include the following:

(a)   the identity of the auditor if he is a third-party auditor; and

(b)   the Software Packages, Third Party Software and licenses and any other relevant and applicable area/material which fall under the scope of said audit.

18.3. The information of the Client collected during the audit operations will be considered the Client's Confidential Information, and Cegid may use the information only for the purposes of the audit and for the calculation of any required adjustments in the price or in the terms of the licenses (*e.g.*, number of Users, effective usage) or the Services and/or in case of any judicial proceedings.

Cegid North America Inc., 74 MADISON AVENUE, SUITE 1404, NEW YORK, NY 10016 USA
Initialing Cegid :   Initialing Client :

18.4. The Client will undertake to cooperate closely with the audit by granting Cegid with full and complete access to any relevant material. The cost of the expenses incurred by the Client to prepare the audit will remain fully at the Client's expenses.

18.5. The results of the audit will be formalized in a report drafted by Cegid and will be communicated to the Client for informational purposes. Furthermore, the Client may insert its own comments within a period of seven (7) days. In the event of any dispute, the Parties will attempt to find an amicable solution in good faith before initiating any judicial proceedings. If the audit reveals that the use of Software Packages and Third Party Software is less than 10% higher (by number of Named Users or other applicable units) than the rights acquired, additional license fees will be invoiced directly to the Client. If the audit reveals use at least 10% higher than the rights acquired, Cegid may invoice the Client for 150% of the additional license fees and the audit expenses   Moreover, in the event that the Client is using a function or option for which the Client did not acquire the rights, Cegid shall be allowed to bill the extra license fees therefor at the then-current listed price. The Client will pay within thirty (30) days of the invoice.

Article 19   ACCESS CONTROL DEVICE FOR CEGID SOFTWARE PACKAGE

Cegid reserves the right to incorporate a computer-based interlocking system or a licensing authorization key in order to limit access to the Cegid Software Package. The Client will not interfere, disrupt or defeat such measures nor will it attempt to do so.

Article 20   GENERAL

20.1. Force Majeure. Under no circumstances, may liability on the part of Cegid be claimed in *Force Majeure* circumstances. *Force Majeure* circumstances are these circumstances beyond a party's reasonable control which could not have been reasonably foreseen or if it could have been foreseen was unavoidable, including, but not limited to, total or partial strikes internal or external to Cegid, shutdowns of means of transport for any reason whatsoever, the unavailability or out of stock status of hardware ordered from Cegid's suppliers or subcontractors, the placement of any of its suppliers or subcontractors in court-ordered liquidation, the shutdown or disruption of communications or telecommunications media or postal services. *Force Majeure* circumstances will suspend performance of the Agreement. If *Force Majeure* circumstances last longer than three (3) months, the Agreement will automatically be terminated, unless the parties reach a written agreement.

20.2. Assignment. Under no circumstances may the Client assign the Agreement, in part or in whole, for consideration or free of charge, without Cegid's express, prior written consent. A change of Control (as defined in Article 1) in the shareholding of the Client will be considered an assignment under this Article 20.2. Cegid may freely assign the Agreement without formalities. In the event of assignment, the assignee will be substituted for Cegid effective as of the date of the assignment.

20.3. Entire Agreement. This Agreement, including the Order, these General Terms and Conditions and, if applicable, the Term of Support and Maintenance and the Terms of Professional Services, constitutes the entire agreement of the parties with respect to the Software Packages, Third Party Software and Hardware specified by the Order. The Terms of Support and Maintenance Services may differ depending on the Support and Maintenance Services selected by the Client and to be supplied by Cegid. Certain Support and Maintenance Services may be subject to special provisions regarding term, billing, and liability that, in the event of a conflict with these General Terms and Conditions, will take precedence over the provisions of these General Terms and Conditions.

20.4. Amendment. No amendment, alteration or modification of this Agreement will be binding unless made in writing and signed by an authorized representative of each party.

20.5. Waiver. The terms and conditions hereof may be waived only by a written instrument signed by the party waiving compliance. The waiver by either party of a breach of any provision of this Agreement will not operate or be construed as a waiver of any subsequent breach.

20.6. Subcontracting. Cegid may, without restriction or prior formalities, subcontract all or part of its obligations under this Agreement, provided, that Cegid remains responsible to the Client for the performance of this Agreement.

20.7. Modifications. The Client acknowledges that Cegid, in order to correct any error, after having so informed the Client, may make any suitable modification, on condition that the latter does not substantially alter the proper performance of the Agreement. If it should, the Parties will use commercially reasonable efforts to negotiate and to jointly find a solution.

20.8. Compliance with Laws. The Client will be responsible for taking all action, and making the declarations and authorization applications required by applicable laws and regulations currently in force, with respect to the processing that it performs and the data processed.

20.9. Cooperation. The fees and financial terms hereunder have been agreed upon, taking into account the strategic importance of the Client to Cegid, as well as both parties' desire for a strong collaboration. Consequently, the Client agrees:

    (a)   that Cegid may use Client's name or trademark as a reference in press releases, commercial documents or else, as from the signature of the Agreement;

    (b)   to testify and present its experience with Cegid for a mutually agreed case study;

    (c)   to assist, at the request of Cegid and subject to its availability, with demonstrations of the type "seminars/testimonials" in order to present to third parties its experience with Cegid's solutions and with Cegid; and

    (d)   to receive at the request of Cegid, and subject to its availability, prospective clients showing an interest in Cegid's solutions and which would wish to meet with the Client's representatives within the framework of "reference visits", unless the prospective client is a direct competitor of the Client. The number of references which the Client agrees to make is limited to one (1) telephone reference call per month and four (4) reference visits per year.

20.10. Nonsolicitation. The Client during the Term and for twelve (12) months thereafter, will not approach, recruit, or employ, either directly or indirectly, a member of Cegid's staff, except with the latter's prior written authorization. Without prejudice to any other remedies available to the Client, in the event of a violation of this article, the Client must immediately pay Cegid lump-sum compensation representing the hired employee's salary for the twelve (12) months prior to his hiring, including employee and employer charges and contributions. Cegid may also claim indemnification of the damage actually suffered, if the latter exceeds the salary and payroll charges alone.

20.11. Statute of Limitations. All legal proceedings that are brought by the Client against Cegid under or in connection with this Agreement will be commenced within one year of the Client becoming aware of the matters to which the legal claim in question relates but nothing in this article will have the effect of extending the limitation period during which any legal proceedings may be brought.

20.12. No Third Party Beneficiaries. No person other than a party to this Agreement will have any rights to enforce any term of this Agreement.

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20.13. <u>Severability</u>. If any court or competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal, unenforceable or void, this provision or part-provision will, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Agreement will not be affected. If any invalid, unenforceable or illegal provision of this Agreement would be valid, enforceable and legal if some part of it were deleted, the provision will apply with the minimum modification necessary to make it legal, valid and enforceable.

20.14. <u>No Partnership or Agency</u>. Nothing in this Agreement is intended to, or will be deemed to, establish any partnership or joint venture between the parties, constitute any party as an agent of another party, or authorize any party to make or enter into any commitments for or on behalf of any other party.

20.15. <u>Governing Law and Competent Jurisdiction</u>. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) will be governed by and construed in accordance with the law of the State of New York, United States of America, without regard to its conflicts of laws rules. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. The parties irrevocably agree that the federal and state courts of New York, New York will have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims), and the parties will submit to the jurisdiction of such courts. EACH PARTY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT.

20.16. <u>Counterparts; Electronic Signature</u>. This Agreement and/or any Order may be executed in two or more counterparts, each of which will be deemed an original and together will be a single executed Agreement. Faxes and scanned copies bearing the signature of the party to be bound are valid as written proof of the party's execution of this Agreement. Acceptance of the Agreement through an electronic means is fully enforceable like an acceptance through a hard copy. Electronic records stored in computer systems will be kept under reasonable conditions designed to protect the security of the transaction and may be used freely as proof of communications that occurred between the Parties. Storage of contractual documentation will be effectuated on a reliable and sustainable support which will enable the documents to be used as proof.