

Sumerian End User Terms

1. INTRODUCTION

By using the Software as a Service ("SaaS") and / or acknowledging receipt of the Notification Form, the end user ("End User" or "Customer") agrees to these End User Terms and any terms set out in the Notification Form (together the "SaaS Terms"). Customer understands and agrees that Customer's right to use the SaaS, whether obtained from Sumerian or via an authorized Sumerian Partner, is subject to Customer's compliance with these SaaS Terms. Sumerian reserves the right to amend these terms from time to time, and will give notice to the Customer of any material change and Customer will, where it has not communicated any reasonable written objection to Sumerian, be deemed to accept such changes after 30 days.

2. DEFINITION

- 2.1. "Affiliate" with respect to Customer, means any legal entity which Customer directly or indirectly Controls.
- 2.2. "Agreement" means the SaaS Terms and any document incorporated expressly therein by reference.
- 2.3. "Authorized Users" means Customer, its Affiliates and their employees and independent contractors, which access and use SaaS for or on behalf of the Customer, provided that they are bound by terms and conditions no less restrictive than those contained in the Agreement and solely to the extent that they are acting on behalf of Customer or its Affiliates.
- 2.4. "Authorized Use Limitation" means the limitation on usage of SaaS measured by the Billing Metric specified on the Notification Form.
- 2.5. "Authorized Sumerian Partner" means an entity having a valid, current authorization from Sumerian to market, offer and resell to Customer the right to use the SaaS. Customer may find information regarding authorized Sumerian Partners here: <http://www.sumerian.com/partners/find-a-partner/>
- 2.6. "Billing Metric" means the metric for billing SaaS to Customer (e.g., number of physical and virtual servers, etc.), as set out in Notification Form.
- 2.7. "Confidential Information" means any information, maintained in confidence by the disclosing Party, communicated in written or oral form, marked as proprietary, confidential or otherwise so identified, and/or any information that by its form, nature, content or mode of transmission would to a reasonable recipient be deemed confidential or proprietary, including, without limitation, the SaaS components (including any software), the Documentation and any benchmark data and results produced.
- 2.8. "Control" means ownership or control of greater than fifty per cent (50%) of an entity's shares or control of the board of such entity by force of law or contract, or the equivalent.
- 2.9. "Customer Data" means any information provided to Sumerian by Authorized Users in the course of accessing and using SaaS and stored by Sumerian in connection with SaaS (and over which Sumerian and/or its subcontractors have control).
- 2.10. "Documentation" means the documentation, technical specifications and/or user manuals, published by Sumerian or any entity within Sumerian group of companies that is made generally available for SaaS.
- 2.11. "Force Majeure Event" means an event that arises out of causes beyond a Party's control, including, without limitation, war, civil commotion, act of God, strike or other stoppage (whether partial or total) of labour, any law, decree, regulation or order of any government or governmental body (including any court or tribunal) and/or delays or outages caused by an internet service provider or independent (which means not a Party's subcontractor) hosting facility.

- 2.12. "Notification Form" means the form issued by Sumerian at or about the time of making SaaS available to Customer. The Notification Form shall specify details of the SaaS, the Authorized Use Limitation and Subscription Term.
- 2.13. "Parties" or "Party" means individually, and or collectively, Sumerian and or Customer.
- 2.14. "Production" means the "live" environment of SaaS that Customer uses as its primary business environment.
- 2.15. "SaaS" means the online version of the Sumerian software and or type of service stated in the Notification Form and made available to Authorized Users.
- 2.16. "SaaS Support" means support of the SaaS offering so it operates materially in accordance with the Documentation.
- 2.17. "Scheduled Downtime" means planned downtime of SaaS availability for periodic and required maintenance events, including but not limited to, upgrades and updates to the SaaS and data centre infrastructure where Sumerian provides notice to Customer at least 72 hours in advance.
- 2.18. "Security Breach" means access to Customer Data (where such Customer Data is in the possession and/or control of Sumerian) by an unauthorised person or entity.
- 2.19. "Subscription Term" means the initial or renewal period of the subscription to a SaaS as set out in the Notification Form.
- 2.20. "Sumerian" means SUMERIAN EUROPE LIMITED, a company incorporated and registered in Scotland (registered no. SC224403) with its registered office at Hobart House, 80 Hanover Street, Edinburgh EH2 1EL.
- 2.21. "Sumerian Services Policies" means the policies describing SaaS data security, business continuity, availability and any other details for the SaaS as made available by Sumerian.
- 2.22. "Trial Period" means the period of time that Customer accesses and uses SaaS for evaluation or trial for the period of time set out in the Notification Form. If no time is indicated then the period shall be thirty (30) days from the effective date of the Notification Form.

3. SAAS OFFERING

- 3.1. Sumerian provides to Customer, directly or through its subcontractors, a non-transferable and non-exclusive right for Customer and its Authorized Users to access and use SaaS during the Subscription Term in accordance with the Agreement. Sumerian may utilize subcontractors in the provision of such SaaS provided that Sumerian will be responsible to Customer for the acts and omissions of its subcontractors in connection with this Agreement. Sumerian agrees that, where applicable, any use of subcontractors in the operation of any data centre will be subject to the same security controls and audits as if performed by Sumerian employees.
- 3.2. Customer acknowledges and agrees that in order for Customer to access and/or use SaaS, Customer is required to maintain minimum requirements (such as operating system versions, browsers etc.) as stated in the Documentation.
- 3.3. If Sumerian has agreed to provide software to Customer to enable or to optimize SaaS during the Subscription Term (or for any other reason connected with this Agreement, including use on a trial basis), the Sumerian shall grant to Customer, during the Subscription Term, a non-transferable and non-exclusive right to use such software solely in connection with SaaS and for the sole purpose of allowing Customer's applications or web services to utilize SaaS. In relation to any such software, Customer agrees, that neither it nor its Authorised Users shall: (i) access or use any portion of the software not expressly authorized in the Notification Form or the Documentation of the software; (ii) cause or permit de-compilation, reverse engineering, or otherwise translate all or any portion of the software; (iii) modify, unbundle, or create derivative works of the software and/or Documentation; (iv) rent, sell, lease, assign, transfer or sublicense the software or use the software to provide hosting, service bureau, on demand or outsourcing services for the benefit of a third party; (v) remove any proprietary notices, labels, or marks on or in any copy or version of the software or Documentation; (vi) use the software beyond the rights granted. At the end of the

Subscription Term, Customer shall, at Sumerian's option, either (i) return all installed agents and software (and related tools and documentation) to Sumerian or (ii) certify in writing that all such items have been destroyed or permanently deleted from all Customer devices.

- 3.4. If the Notification Form states that SaaS is provided on a trial basis, Customer agrees to access and use SaaS solely for trial and evaluation purposes during the Trial Period, and in accordance with the usage restrictions set forth in the Notification Form. At the end of the Trial Period, Customer's right to access and use SaaS shall automatically expire. During Trial Periods, Customer agrees to access and use such SaaS on an AS IS basis and agrees that Sumerian provides no warranties, SLAs or indemnities arising out of such access and use. Any data entered or configuration of the SaaS during the Trial Period will not be stored or available after the Trial Period.

4. ORDERING AND DELIVERY

- 4.1. Sumerian will make SaaS available to Customer only upon written acceptance by Sumerian of an applicable order (including an agreed Billing Metric) from the Customer, through an Authorized Sumerian Partner if applicable.

5. CONFIDENTIAL INFORMATION

- 5.1. Each Party agrees that when receiving Confidential Information from a disclosing Party, the receiving Party shall hold it in confidence and shall not disclose or use such information except as permitted under the Agreement. The receiving Party shall treat the disclosing Party's Confidential Information confidentially and in the same manner as it treats its own proprietary and or confidential information, which shall not be less than a reasonable standard of care. The receiving Party shall only be entitled to use Confidential Information in connection with the Agreement. Confidential Information may only be disclosed to receiving Party's employees, agents, financial advisors, contractors and attorneys if such disclosure is reasonably required in connection with the Agreement (or in the circumstances set out in Section 5.2), and the receiving Party shall ensure that such persons maintain such Confidential Information pursuant to the terms of the Agreement.
- 5.2. The receiving Party shall be permitted to disclose Confidential Information in connection with a judicial or administrative proceeding to the extent that such disclosure is required under applicable law or court order, provided that the receiving Party shall, where reasonably possible, give the disclosing Party prompt and timely written notice of any such proceeding and shall offer reasonable cooperation in any effort of the disclosing Party to obtain a protective order.
- 5.3. For the purposes of the Agreement, Confidential Information shall exclude: (i) information which the receiving Party has been authorized in writing by the disclosing Party to disclose without restriction; (ii) information which was rightfully in the receiving Party's possession or rightfully known to it prior to receipt of such information from the disclosing Party; (iii) information which was rightfully disclosed to the receiving Party by a third party having proper possession of such information, without restriction; (iv) information which is part of or enters the public domain without any breach of the obligations of confidentiality by the receiving Party; and (v) information which is independently developed by the receiving Party without use or reference to the disclosing Party's Confidential Information.
- 5.4. Nothing in the Agreement will (i) preclude Sumerian or any entity within Sumerian group of companies from using the ideas, concepts and know-how which are developed in the course of providing any SaaS to Customer or (ii) be deemed to limit Sumerian's rights to provide similar SaaS to other customers. Customer agrees that Sumerian may use any feedback provided by Customer related to any SaaS for any Sumerian business purpose, without requiring consent including reproduction and preparation of derivative works based upon such feedback, as well as distribution of such derivative works.
- 5.5. The receiving Party agrees that it shall at the end of the Subscription Term (or earlier where appropriate), upon request of the disclosing Party, return to the disclosing Party all Confidential Information in its possession or certify the deletion or destruction thereof.

- 5.6. In the event of a breach of this Section, it is agreed that the disclosing Party may not have an adequate remedy in damages. The Parties therefore agree that the disclosing Party may be entitled to seek the remedies of temporary and permanent injunction, specific performance or any other form of equitable relief deemed appropriate by a court of competent jurisdiction.
- 5.7. The confidentiality undertakings set out in this Section 5 shall, in relation to SaaS functionality (including software) and Documentation, the material terms of the Agreement, and any information expressly designated in writing as perpetually confidential, survive termination of this Agreement on a perpetual basis. For all other Confidential Information, the confidentiality obligations shall survive for five (5) years from the date of expiry or earlier termination of this Agreement.

6. FEES & RENEWAL

- 6.1. Unless otherwise stated, Sumerian will monitor Customer's SaaS usage. In the event Customer exceeds the Authorized Use Limitation, the overage will be treated as an order for excess use and Customer will be billed by Sumerian, or through its Authorized Sumerian Partner if applicable, for the overage. Where the overage is due to a permanent change in Customer configuration and/or requirements, then Sumerian shall be entitled to increase its fees accordingly and the overage will be included in the Authorized Use Limitation for the remainder of the Subscription Term. Customer agrees that the purchase of SaaS is not contingent on Sumerian providing any future features or functionalities.
- 6.2. Expiration or termination of any particular SaaS shall not impact the validity of any other SaaS Customer may be subscribing to.
- 6.3. Sumerian may update, improve, modify or add new functionality to SaaS during the Subscription Term. In the event any update will materially change either the administrator or user experience, Sumerian will provide Customer reasonable prior notice (not less than 30 days) and will provide a preview where Customer can observe such changes where applicable, provided however, that Sumerian may make a change with shorter or no notice if the change is required by law or to fix a security vulnerability.

7. TITLE

- 7.1. Sumerian and / or its licensors retains all right, title, copyright, patent, trademark, trade secret and all other proprietary interests to all SaaS, Sumerian software, Sumerian Confidential Information and any derivatives thereof. No title, copyright, patent, trademark, trade secret or other right of intellectual property (including any licence) not expressly granted under the Agreement is granted by the Parties.

8. SECURITY

- 8.1. Sumerian will maintain and administer a security policy with physical and technical safeguards designed to protect the security, integrity and confidentiality of the Customer Data. Sumerian shall adhere to and subject such policies and practices to audit as described in the Sumerian Services Policies. Upon written request, Customer may review the audit reports, redacted to comply with security requirements or for commercial sensitivity, subject to Customer designating a security officer or similar individual who has executed a security non-disclosure agreement with Sumerian prior to such review.
- 8.2. Sumerian will not be responsible for any unauthorised access to, or alteration, theft or destruction of Customer Data, unless caused as a result of Sumerian's negligence or intentional misconduct, in which case Sumerian's only obligation and Customer's exclusive remedy is for Sumerian to use commercially reasonable efforts to restore the Customer Data from the most recent back-up. Sumerian is not responsible for unauthorised access to, or alteration, theft or destruction of Customer Data arising from Customer's own or its Authorized Users' actions or omissions in contravention of the Documentation.

- 8.3. In the event that Sumerian has determined that a Security Breach will or is likely to cause harm to the Customer or an Authorized User, Sumerian will within five (5) working days provide Customer with notice of the Security Breach. After initial notification, Sumerian will keep Customer updated at periodic intervals on the steps taken by Sumerian to investigate the Security Breach including providing a reasonably detailed incident report, including measures to be taken by the Customer to minimize potential damages. Such report will be provided promptly but no later than thirty (30) days following completion of the report. The Parties understand and agree that if Sumerian is prevented by law or regulation from providing such notice(s) and or reports within the time frames, such delay shall be excused.

9. SAAS SUPPORT

- 9.1. Upon the start of the Subscription Term, Sumerian will send an email to Customer's technical contact, identified on the Notification Form, providing any information required by the Customer to connect and access SaaS.
- 9.2. The Customer shall be provided with SaaS Support during the Subscription Term. To access SaaS Support, Customer may utilize the Sumerian website, or other site or notification mechanism as Sumerian may designate from time to time.
- 9.3. For any SaaS Support requests, Customer should be prepared to provide to support personnel all pertinent information, in English, including but not limited to, Customer number or site identification number, incident severity, SaaS offering, incident description, and a technical contact familiar with Customer's environment and the problem to be solved. Customer must use reasonable efforts to communicate with Sumerian in order to verify the existence of the problem and provide information about the conditions under which the problem could be re-created.
- 9.4. Upon receiving Customer's technical contact information, SaaS Support will be provided in a timely and professional manner by qualified support engineers. SaaS Support shall consist of:
 - 9.4.1. access to Sumerian help desk and the ability to open and manage support incidents via Sumerian support online or by telephone; and
 - 9.4.2. support as detailed in the Sumerian Services Policies at <http://www.sumerian.com/legals/>, which may be subject to change with notice to Customer.

10. CUSTOMER RESPONSIBILITIES

- 10.1. Customer is responsible for all activities that occur in, or are related to, user accounts including the data, information stored or transmitted when accessing SaaS. All applications residing within Customer environment or installed on third party service providers on behalf of Customer that integrate to SaaS shall be the responsibility of Customer. Customer is also responsible for any components that are downloaded onto their environment such as web browser based software plug-ins that extend or integrate with SaaS.
- 10.2. Customer may integrate or utilize third party links to other software, hardware or other services which are associated with, or otherwise available through SaaS, provided that Customer agrees that it and/or its Affiliates, its Authorized Users and anyone acting on their behalf shall use such third party links at their sole risk and discretion. Sumerian shall have no responsibility or liability with respect to such third party products or services or for any act or omission of any such third party provider.
- 10.3. Customer shall not: (i) make SaaS available to any third party not authorized or otherwise contemplated by the Agreement; (ii) send or store code that may harm or result in damage to SaaS (including but not limited to malicious code and malware); (iii) wilfully interfere with or disrupt the integrity of SaaS or any related data; (iv) attempt to gain unauthorised access to the SaaS or its related system or networks; (v) use SaaS to provide services to third Parties except as expressly permitted by the Agreement; or (vi) use SaaS in order to damage or disrupt or otherwise harm the business or operations of a third party.

- 10.4. Customer acknowledges that Sumerian may wish to amend and/or correct and/or upgrade components of the SaaS from time to time and will co-operate with Sumerian to facilitate the timely implementation of such amendments, corrections and upgrades (at no additional cost to Customer and subject to any reasonable Customer security requirements).

11. WARRANTY

- 11.1. Sumerian warrants that during the Subscription Term, the SaaS shall, subject to compliance by Customer with all terms in this Agreement relating to use of SaaS, perform materially in accordance with the applicable Documentation. During any Trial Period, this warranty shall not apply.
- 11.2. Except as expressly set forth above, to the extent permitted by law, no other warranties, whether express or implied, including, without limitation, third party warranties, implied warranties or conditions of merchantability, suitability or satisfactory quality, or the warranty of fitness for a particular purpose are made by Sumerian in connection with the provision of SaaS. In addition, Sumerian makes no warranties hereunder with respect to any hardware equipment or third party software which Sumerian may use to provide SaaS.
- 11.3. Customer warrants that it has the right to provide Customer Data (and any other data or information as may be required) to Sumerian, but only to the extent that such provision is required for the purposes of accessing and using SaaS.

12. WARRANTY REMEDY

- 12.1. If it is established that Sumerian has breached the warranty set out in Section 11, Sumerian may, at its option, (i) use reasonable efforts to cure the defect in the SaaS; (ii) replace the SaaS with SaaS that materially conforms to the specifications in the Documentation; (iii) in the event Sumerian cannot, after commercially practicable attempts to do so, achieve the remedies in (i) or (ii), Sumerian may terminate the subscription to the SaaS and arrange for a pro-rated refund to the Customer, through its Authorized Sumerian Partner if applicable, of the fees received by Sumerian during the Subscription Term for the SaaS which gave rise to the warranty claim. The pro-rata refund shall be calculated against the number of months left remaining on the Subscription Term. Customer must report any alleged breach of warranty with reasonable specificity in writing within thirty (30) days of its occurrence to benefit from this warranty and the remedies stated herein. The warranty remedy set out in this Section is Customer's sole and exclusive remedy for breach of the warranty set out in Section 11.

13. SERVICE LEVEL AVAILABILITY (SLA)

- 13.1. If Customer cannot access SaaS during the Subscription Term, Customer should contact Sumerian to receive SaaS Support. Sumerian will not be responsible for any unavailability of which it has not been notified.
- 13.2. The Sumerian Services Policies describe the Service levels for availability operated by Sumerian.
- 13.3. The following events shall be excluded from the calculation of Service Level Availability: (i) Force Majeure Event; (ii) outages due to Scheduled Downtime; (iii) outages based on Customer networks or domain name server issues; (iv) Customer's configuration, scripting, coding drafted by Customer without Sumerian's authorization or knowledge; (v) internet service provider outages; (vi) outages requested by Customer; (vii) Customer changes to its environment which hinder SaaS production; (viii) interfacing of SaaS to non-approved and/or non-specified third party products; and (ix) inability for Customer to log in to or use SaaS service because of dependence on non Sumerian provided services or components (e.g. Lightweight Directory Access Protocol (LDAP) in customer environment).

14. INDEMNIFICATION

- 14.1. Sumerian will indemnify, defend and/or, at its option, settle any third party claims that Sumerian's provision of the specific SaaS purchased by Customer under the Agreement infringes any valid patent or copyright within the jurisdictions where Customer is authorized to use the SaaS. Sumerian may, at its option and expense: (i) procure the right to continue to provide the SaaS; (ii) repair, modify or replace the SaaS so that it is no longer infringing; or (iii) arrange for a pro-rated refund to the Customer, through its Authorized Sumerian Partner if applicable, of the fees received by Sumerian during the Subscription Term for the SaaS which gave rise to the indemnity. The pro-rata refund shall be calculated against the number of months remaining on the Subscription Term.
- 14.2. Sumerian shall have no liability: (i) in the event the allegation of infringement is a result of a modification of the SaaS except a modification by Sumerian or unauthorized access of the SaaS, (ii) if the SaaS is not being used in accordance with the SaaS Listing, applicable Documentation and or published Sumerian guidelines, (iii) if the alleged infringement would be avoided or otherwise eliminated by the use of a Sumerian published update or patch for the software used in the SaaS, (iv) if the alleged infringement is a result of use of the SaaS in combination with any third party product, or (v) if the applicable fees due for the specific SaaS have not been paid by Customer to Sumerian or its Authorized Sumerian Partner. The foregoing provisions state the entire liability and obligations of Sumerian regarding claims of infringement, and the exclusive remedy available to Customer with respect to any actual or alleged infringement or misappropriation of any intellectual property or other proprietary rights.
- 14.3. Customer shall indemnify Sumerian against any claim that any data, materials, items or information supplied to Sumerian under the Agreement infringes any patent, copyright or trademark within the jurisdictions where Sumerian is provided with such information.
- 14.4. The above indemnities are contingent upon: (i) the indemnified Party providing prompt notice of any claim of infringement and assistance in the defence thereof, (ii) the indemnifying Party's sole right to control the defence or settlement of any such claim, provided that the settlement does not require a payment or admission of liability on the part of the other Party, and (iii) the indemnified Party not taking any actions or failing to take actions that hinder the defence or settlement process as reasonably directed by the indemnifying Party.

15. LIMITATION OF LIABILITY

- 15.1. Customer shall assume sole responsibility for results obtained from the use of the Services, SaaS and Documentation by it, and for conclusions drawn from such use. The SaaS involves predictions based on assumptions and while the SaaS may be used as a tool to guide conclusions, forecasted outcomes are not guaranteed.
- 15.2. All warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement and the SaaS and Documentation are provided to you on an "as is" basis.
- 15.3. Neither Party shall be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, loss of anticipated savings, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Agreement.
- 15.4. Nothing in this Agreement excludes the liability of Sumerian (a) for death or personal injury caused by its negligence; or (b) for fraud or fraudulent misrepresentation; or (c) to the extent that such liability cannot be limited or excluded by law. Subject to the foregoing, the aggregate liability of Sumerian under this Agreement shall in no circumstances exceed the aggregate fees paid by Customer to Sumerian (or the relevant Sumerian Partner) under this Agreement.
- 15.5. Customer acknowledges that the SaaS may be hosted by third party service provider(s) ("Third Party Provider(s)"). To the extent that any claim arises out of an act, error, omission or negligence by any such Third Party Provider(s), Sumerian's aggregate liability to its customers in relation to such

claim shall not exceed the total liability of such Third Party Provider(s) (if any) to Sumerian in respect of such act, error, omission or negligence.

- 15.6. Customer shall defend, indemnify and hold harmless Sumerian against claims, actions, proceedings, losses, damages, expenses and costs (including court costs and reasonable legal fees) arising out of or in connection with its use of the SaaS and/or Documentation, provided that: Customer is given prompt notice of any such claim; Sumerian co-operates reasonably with Customer in the defence and settlement of such claim, at Customer's expense; and Customer is given sole authority to defend or settle the claim.
- 15.7. Customer acknowledges and agrees that Sumerian shall be entitled to enforce the terms of this Agreement against it pursuant to and in accordance with the Contracts (Rights of Third Parties) Act 1999.

16. TERM & TERMINATION

- 16.1. The Agreement shall continue in effect for the duration of the Subscription Term unless otherwise terminated in accordance with this Section.
- 16.2. The Agreement may be terminated by either Party (a) upon a material breach by the other Party, provided that, in each instance of a claimed breach: (i) the non-breaching Party notifies the breaching Party in writing of such breach; and (ii) the breaching Party fails to cure such breach within thirty (30) days (or such other period as mutually agreed by the Parties) from receipt of such notice; or (b) upon insolvency of (or equivalent event in relation to) the other Party, if permitted by law.
- 16.3. Termination does not release either Party from any liability which, at the time of such termination, had already accrued to the other Party or which is attributable to a period prior to such termination, nor preclude either Party from pursuing any rights or remedies it may have under law or in equity with respect to any breach of the Agreement.

17. DISPUTE RESOLUTION

- 17.1. Any dispute, controversy or claim arising out of the Agreement or the interpretation thereof (a "Dispute") shall be resolved as provided in this Section. Prior to the initiation of formal dispute resolution procedures, the Parties shall first meet as often, and for such duration and as promptly as the Parties reasonably deem necessary to discuss the Dispute and negotiate in good faith in an effort to resolve the Dispute. If Customer and Sumerian are unable to resolve the Dispute within thirty (30) days after the referral of the Dispute to them, then each Party will appoint one (1) senior executive who is not involved on a day-to-day basis with the subject matter of the Agreement and will negotiate the matter in good faith in an effort to resolve the Dispute without the necessity of any formal proceedings.
- 17.2. Formal proceedings for the resolution of a Dispute may not be commenced until the earlier of: (i) the good faith determination by the appointed senior executives that amicable resolution through continued negotiation of the matter does not appear likely; or (ii) thirty (30) days following the date that the Dispute was first referred to the appointed senior executives. The provisions of paragraphs (i) and (ii) will not be construed to prevent a Party from instituting formal proceedings to the extent necessary to avoid the expiration of any applicable limitations period or to pursue equitable rights or injunctive remedies deemed reasonable necessary to protect its interests.

18. GENERAL TERMS

- 18.1. Amendments. The terms of the Agreement may only be amended by mutual written agreement of the Parties.
- 18.2. Force Majeure. Except obligations pertaining to non-disclosure, notwithstanding any contrary provision in the Agreement, neither Party will be liable for any action taken, or any failure to take any action required to be taken, in the event and to the extent that the taking of such action or such failure arises out of a Force Majeure Event.

- 18.3. **Assignment.** If Sumerian assigns or sells or otherwise transfers its rights to a business or product line or substantially all of its assets and provided the transferee agrees to perform the obligations under the Agreement, then Sumerian may transfer its rights and obligations under the Agreement upon written notice to Customer. Except as permitted herein, neither Party may transfer or assign, whether by operation of law or otherwise, the Agreement without prior written consent of the other Party, and consent shall not be unreasonably withheld. Attempts to transfer or assign in contravention of this section shall be deemed null and void. The Agreement shall be binding on the Parties hereto and their respective successors and assigns.
- 18.4. **Import Export.** Sumerian will both comply with all applicable import, re-import, export, and re-export control laws and regulations. Customer is solely responsible for compliance related to the manner in which it chooses to use the SaaS (including the jurisdiction from which it uses the SaaS), including transfer and processing of its data.
- 18.5. **Announcements.** Neither Party may issue press releases relating to the Agreement without approving the content with the other Party. Either Party may include the name and logo of the other Party in lists of customers or vendors in accordance with the other Party's standard guidelines.
- 18.6. **Notice.** All notices hereunder shall be delivered to the other Party identified in the Notification Form either personally, via certified mail, email or overnight courier. If delivered personally, notice shall be deemed effective when delivered; if delivered via email, notice shall be deemed effective upon electronic confirmation; and if delivered via certified mail or overnight courier, notice shall be deemed effective upon confirmation of delivery.
- 18.7. **Waiver.** A Party will not be treated as having: (a) waived a right or remedy arising under this Framework Agreement or otherwise in law; and/or (b) elected to abandon a right or remedy arising under this Agreement or otherwise in law; and/or (c) where applicable, thereby affirmed this Framework Agreement; except if and to the extent that it has expressly documented such waiver or election (and any resultant affirmation) in writing signed and delivered or sent in accordance with Section 18.6 (Notices) to the Party in favour of which such waiver or election is granted or made.
- 18.8. **Headings.** The section headings used herein are for information purposes only and shall not affect the interpretation of any provision of the Agreement.
- 18.9. **Validity.** In the event any term or provision of the Agreement shall be held to be invalid, the same shall not affect in any respect whatsoever the validity of the remainder of the Agreement.
- 18.10. **Third Parties.** The Agreement shall not create any rights in favour of, or any obligations owed by, any third party unless otherwise expressly defined in the Agreement. The Parties agree that any action arising from the Agreement shall solely be brought by Customer or Sumerian.
- 18.11. **Choice of Law.** The laws of England & Wales (excluding its conflict of laws provisions) shall govern the construction and enforceability of the Agreement. The Parties agree that any action arising under or relating to the Agreement shall lie within the exclusive jurisdiction of the English courts.
- 18.12. **Survival.** Sections pertaining to Definitions, Confidential Information, Title, Customer Data, Customer Responsibilities, Indemnification, Limitation of Liability, Termination, and General Terms shall survive termination of the Agreement.
- 18.13. **Entire Agreement.** The Agreement and all documents incorporated by reference therein shall comprise the entire agreement as pertaining to the subject matter thereof and all other prior representations, proposals, and other such information exchanged by the Parties concerning the subject matter is superseded in their entirety by the Agreement.

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