



Iron Mountain Master Software and Services Agreement

This Iron Mountain Master Software and Services Agreement (“Agreement”) is entered into by and between Iron Mountain Information Management Services, Inc., or its applicable affiliate, having principal offices at One Federal Street, Boston, MA 02110 (“Iron Mountain”), and the customer (“Customer”). Iron Mountain and Customer may be collectively referred to as “Parties” and/or individually as “Party.” The applicable Schedule to this Agreement shall set forth whether Customer is licensing Software, Services, and related Equipment, Documentation, or Related Services both from Iron Mountain (collectively, the “Offering”). If Customer licenses only one Offering from Iron Mountain, all references to the Offering throughout this Agreement shall be deemed to refer only to the individual Offering set forth in the applicable Schedule, and all references to the non-elected Offering shall have no bearing on this Agreement.

By signing the initial applicable Schedule, Customer agrees to be bound by the terms set forth in this Agreement.

1. Definitions.

1.1. Defined Terms. Terms defined in this Section 1 shall have the meanings given below. Defined terms may be used in the singular or plural depending on the context.

1.2. “Agent” means the software that will enable Customer’s data to be transmitted to and retrieved from Iron Mountain’s servers for the Service described in the applicable Schedule.

1.3. “Agreement” means this Iron Mountain Master Software and Services Agreement, which includes this Agreement’s terms and conditions, Order Forms, Schedules, Exhibits, Addenda, and Amendments, if any, which are incorporated in, and form an integral part of, this Agreement.

1.4. “Authorized Contact” means named individuals trained in the use of Software and/or Services designated by Customer in the applicable Schedule as having security authorization to contact Iron Mountain’s Customer Support Department to report problems and seek assistance in the use of the Software and/or Services.

1.5. “Customer” means the legal entity specified on the Schedule, which shall include any subsidiary, division and/or affiliate in which Customer has a fifty (50%) percent or greater equity interest and/or control of a majority of the voting rights.

1.6. “Documentation” means user manuals for the Offering, the applicable installation guides, service descriptions, technical specifications, and on-line help files provided by Iron Mountain or its Suppliers.

1.7. “Enhancement” means a change or addition to the Software or Service, other than an Error Correction or a New Release, that (i) improves the function of, (ii) adds a new function to or (iii) substantially enhances the performance of the Software or Service, provided that Enhancements shall not include any improvements or new functions, in any form, that have a value or utility separate from the use of the Software or Service and that may be priced and offered separately from the Software or Service.

1.8. “Equipment” means any hardware device described in the applicable Schedule.

1.9. “Error Correction” means a change to any Software or Service that allows such Software or Service to re-establish material conformity with the specifications for such Software or Service.

1.10. “Module” means a dependant software program that works with the Software and/or Service but provides separate and optional functionality, described herein, which Iron Mountain may offer to Customer for an additional charge as reflected in the applicable Schedule.

1.11. “New Release” shall mean any revision of the Software or Service, other than an Enhancement or an Error Correction, for which the version or revision number of such Software or Service is increased by a whole number.

1.12. “Personal Data” means, generally, information relating to an identified or identifiable natural person, as defined by applicable privacy or data protections laws. Examples include address, credit card number, bank statements, criminal record, etc.

1.13. “Professional Services” means installation and/or training services performed by Iron Mountain’s personnel and/or agents for the benefit of Customer.

1.14. “Protected Data” means the data under protection by the Service as selected by Customer at any time. Protected Data may include Personal Data.

1.15. “Protected Device” means personal computer (“PC”) and Apple Macintosh computer (“Mac”) licensed to use the Service to store and protect data.

1.16. “Protected Server” means any server designated by Customer under this Agreement as being assigned to the Service.

1.17. “Related Service” means the applicable services provided in conjunction with the Software as further described in the applicable Schedule, which shall include Support Services and/or Professional Services.

1.18. “Service” means collectively or individually, the applicable subscription, managed services and/or Professional Services, as set forth in the applicable Schedule, and any Agents, Enhancements, Error Correction, and/or Updates necessary to provide Services as further described herein.

1.19. “Shipment Date” means the earliest calendar day in which Iron Mountain: (i) initially ships to Customer the Software, Equipment, and/or Documentation via a reputable overnight courier; (ii) allows Customer to access the Software and/or Documentation via a file transfer protocol (FTP) site; or (iii) actually installs the Software and provides the Documentation. Without limiting the warranties set forth herein, the Software, Equipment, and/or Documentation will be deemed accepted upon shipment.

1.20. “Software” means Iron Mountain software products set forth in the applicable Schedule, together with all Enhancements, Error Correction, and/or Updates which are generally made available by Iron Mountain to Customer.

1.21. “Support Services” means the service and related maintenance in support of the Software and/or Services purchased by the Customer commencing on the Shipment Date and terminating as further described as in the applicable Schedule.

1.22. “Updates” means a new maintenance release of the Software and/or Service that is not designated a New Release or Module.

2. License Grant & Restrictions.

2.1.1. License Grant for Software. If Customer is licensing Software from Iron Mountain, as set forth on the applicable Schedule, Iron Mountain hereby grants to Customer a limited non-exclusive, non-transferable, perpetual license to: (i) install the Software in executable form in an aggregate amount equal to the number and type described in the applicable Schedule; (ii) use the Software only for Customer’s internal business needs; (iii) use the Documentation to support the use of the Software and/or Related Services; and (iv) make a commercially reasonable number of copies of the Software in executable form only, for non-productive backup purposes; provided, however, that Customer will reproduce and include all of Iron Mountain’s copyright notices and proprietary legends on each such copy. At no time will Customer sublicense, sell, rent, lease, transfer, distribute or otherwise commercially exploit or make the Software, Related Services and/or Documentation available to any third party. Customer and all of its users for whom licenses are purchased hereunder shall be bound by and comply with this Agreement.

2.1.2. License Grant for Services. If Customer is licensing Services from Iron Mountain, as set forth on the applicable Schedule, Iron Mountain hereby grants to Customer a nonexclusive, non-transferable license for the term of this Agreement to: (i) install the Agent in object code/executable form on the quantity and type of Customer’s Protected Devices and/or Protected Servers equal to the number and type of Agents and/or gigabytes, ordered by Customer in the applicable Schedule; (ii) use said Agent only for Customer’s internal business needs; (iii) use the Documentation to support the use of the Services; and (iv) make a commercially reasonable number of copies of the Agent in object-code/executable form only, for nonproductive backup purposes; provided, however, that Customer reproduces and includes all of Iron Mountain’s copyright notices and proprietary legends on each such copy. At no time shall Customer sublicense, sell, rent, lease, transfer, distribute or otherwise commercially exploit or make the Agent, Services and/or Documentation available to any third-party. Customer and all of its users for whom Agents are licensed hereunder shall be bound by and comply with this Agreement, and Customer is solely responsible for all activities of its users and for the accuracy, integrity, legality, reliability, and appropriateness of all Protected Data.

2.1.3. License Grant for Equipment. If Customer is licensing Equipment from Iron Mountain, as set forth on the applicable Schedule, Iron Mountain hereby grants to Customer a nonexclusive, non-transferable license for use only under the terms of this Agreement. Iron Mountain and/or its Suppliers retain all right, title and interest to Equipment and related Documentation and reserve all rights not expressly granted to Customer. Effective upon Shipment Date, Customer will bear the risk of and shall be responsible for any loss, theft or destruction of or damage to the Equipment, except for normal wear and tear. The Equipment shall remain the property of Iron Mountain or its Suppliers and will not become a fixture or realty and shall be returned to Iron Mountain within thirty (30) days following the expiration or termination of this Agreement.

2.2. Restrictions. Customer specifically agrees to limit its use of the Offering as expressly authorized in this Agreement. Notwithstanding the foregoing, Customer specifically agrees not to (i) attempt to reverse engineer, decompile, disassemble, or attempt to derive the source code of the Software and/or Service or any portion thereof; (ii) modify, port, translate, localize or create derivative works of the Software, Agent and/or Documentation; (iii) use the Offering to knowingly (a) infringe on the intellectual property rights of any third-party or any rights of publicity or privacy; (b) violate any law, statute, ordinance or regulation (including but not limited to the laws and regulations governing export/import control, unfair competition, anti-discrimination and/or false advertising); (c) vault defamatory, trade libelous, unlawfully threatening, or unlawfully harassing data; (d) vault obscene, pornographic or indecent data in violation of applicable law; or (e) propagate any virus, worms, Trojan horses or other programming routine intended to damage any system or data; (iv) use the Offering in any application that may involve risks of death, bodily injury, property damage or environmental damage, or in any life support applications, devices or systems; (v) use the Service in violation of any applicable laws, wherever such use occurs, and not use or require Iron Mountain or its service providers to use any Protected Data obtained via the Services for any unlawful purpose; (vi) use the number per type of licenses in excess of the Agents specified in the applicable Schedule; (vii) gain or attempt to gain unpermitted access by any means to any Iron Mountain computer system, network, or database, and/or (viii) file copyright or patent applications that include the Offering or any portion thereof.

2.3. Customer Data License Grant. Customer hereby grants to Iron Mountain and/or its Suppliers a limited non-exclusive non-transferable license to the Customer data only to the extent necessary for Iron Mountain or its vendors to perform its obligation in furtherance of this Agreement. Customer hereby authorizes Iron Mountain to use Protected Data to perform the Services pursuant to this Agreement. In the event that Iron Mountain needs to access the Protected Data to respond to any technical problems, queries, or requests from Customer, Customer shall ensure that both Customer and Iron Mountain are permitted to do so. In such events all such access will be logged by Iron Mountain.

2.4. Password Protection of Service. Customer shall be responsible for protecting and safeguarding any keys, certificates, passwords, access codes, user IDs or other login information (collectively, "Passwords") provided to Customer for the purpose of accessing and using the Service. In the event that Customer makes such Passwords available to any third-party, Customer shall be liable for all actions taken by such third-party in connection with the Services. Customer shall not disclose or make available Customer's Passwords other than to Customer's authorized employees and shall use all commercially reasonable efforts to prevent unauthorized access to, or use of, the Services, and will notify Iron Mountain promptly of any such unauthorized use.

3. Support Services.

3.1. So long as Customer has not lapsed in the Fees associated with Support Services due hereunder, as indicated on the applicable Schedule, Iron Mountain or its Suppliers shall provide Customer with the following:

3.1.1. Error Correction. Iron Mountain or its Suppliers shall use commercially reasonable efforts to correct verifiable and reproducible errors when properly reported to Iron Mountain. The error correction, when completed, may be provided in the form of a software patch or bypass around such error.

3.1.2. Updates. Iron Mountain or its Supplier shall make available to Customer a copy of each Updates.

3.1.3. Telephone Hotline Support. Iron Mountain provides telephone assistance to Customers. Telephone Support is available to answer questions related to the Software and/or Support and how they perform with compatible hardware systems. Assistance in the development of custom applications for Software and/or Support is not included in Telephone Support, rather through the purchase of Professional Services.

3.2. Commencement of Support Services. The Support Services commences on the Effective Date; therefore, Support Services overlaps the Warranty Period set forth in Section 6.1 below.

4. Prices and Payment.

4.1. Prices. Prices for the Offering shall be the prices set forth in the applicable Schedule (collectively, the "Fees"). No refunds will be made except as provided in Section 6.1 or Section 6.2 under "Warranties" set forth below. Customer shall be liable for payment of all taxes (including but not limited to the Goods and Services Tax and the Provincial Sales Tax, and all taxes, assessments, duties, tariffs, imposts, permits sales, use, excise, import, export, value-added, or other similar tax, duty or fee) that are levied upon and related to the performance of obligations or exercise of rights under this Agreement. Iron Mountain may be required to collect and remit taxes from Customer, unless Customer provides Iron Mountain with a valid tax exemption certificate. Iron Mountain shall invoice Customer for all such taxes based on the Offering provided hereunder. In no event will either Party be responsible for any taxes levied against the other Party's net income.

4.2. Payment. All invoices will be due and payable in U.S. Dollars within thirty (30) calendar days after invoice date. Invoicing will occur via email. Customers with multi-year contracts will be invoiced annually in the month preceding the renewal date. Iron Mountain may impose late charges on overdue payments at a rate equal to the lesser of one and a half percent (1.5%) per month or the highest rate permitted by law, calculated from the date payment was due until the date payment is made and all expenses incurred in collection, including reasonable attorneys' fees. Iron Mountain may decline to make any shipments or provide the Offering if in Iron Mountain's reasonable opinion, circumstances exist which raise doubt as to Customer's ability or willingness to pay as provided herein. If a Customer defaults, Iron Mountain shall have other rights and remedies as may be provided by law. If Support Services are withheld in accordance with the foregoing, in order to reinstate such Support Services, Customer will be responsible for paying all Fees associated with back Support Services from the date that such Support Services were withheld through to the then-current date.

4.3. Lapsed Fees. If Customer has lapsed in the payment of Fees due hereunder all such payments must be paid in full prior to recommencement of Services and/or Support Service by Iron Mountain. Customer will be responsible for paying all fees associated with back Service and/or Support Services from the date that such Service and/or Support Services were stopped through to the then-current date.

5. Intellectual Property; Ownership; Data Disclaimer.

5.1. Intellectual Property. Iron Mountain, or its Suppliers, are the sole and exclusive owner of all right, title, and interest in and to the Offering (excluding any open source third party software), and all copies thereof including all Enhancements, Error Correction, New Releases, Updates, derivations, and modifications thereto including, but not limited to, ownership of all intellectual property rights (collectively, "Intellectual Property"). This Agreement does not provide Customer with title or ownership of the Intellectual Property, but only a right of limited use. Modification of the source code will void Customer's Software or Agent warranty set forth herein. Customer agrees to inform Iron Mountain promptly of any infringement or other improper action with respect to the Intellectual Property that comes to Customer's attention. Customer recognizes and acknowledges the exclusive right of Iron Mountain and/or its Suppliers in and to all patents, trademarks, service marks, trade names, copyrights, and other intellectual property and proprietary rights in and to Intellectual Property and that such Intellectual Property is the sole and exclusive property of Iron Mountain and/or its Suppliers. Customer waives its right to contest the validity and/or ownership of such Intellectual Property.

5.2. Ownership of Customer Data. All rights, title, and interest in Customer data will remain with Customer. This Agreement does not provide Iron Mountain with title or ownership of the Customer data and Protected Data, but only a right of limited use as set forth in Section 2.3.

5.3. DATA DISCLAIMER. CUSTOMER EXPRESSLY RECOGNIZES THAT IRON MOUNTAIN DOES NOT CREATE, OPERATE, CONTROL OR ENDORSE ANY DATA, INFORMATION, OR THIRD-PARTY PRODUCTS PROCESSED BY OR USED IN CONJUNCTION WITH THE SOFTWARE OR SERVICES PROVIDED HEREUNDER.

6. Warranties.

6.1. Iron Mountain's Limited Warranty. Iron Mountain warrants to Customer that for a period of ninety (90) days from the Shipment Date, or from commencement of provision of Service ("Warranty Period"), the Software and/or Service will perform in all material respects with the technical specifications provided by Iron Mountain or its Supplier where the Products and Services are loaded onto or used in connection with suitably configured equipment and set up to process data in accordance with such technical specifications ("Limited Warranty"). Iron Mountain does not warrant that the Software and/or Service will be error-free in all circumstances. Customer will provide prompt written notice of any non-conformity. Customer's exclusive remedy and Iron Mountain's exclusive obligation with respect to a material breach of this Limited Warranty will be for Iron Mountain or its Suppliers to use commercially reasonable efforts to repair or replace such Software and/or Service so as to make such Software and/or Service substantially conforming to the technical specifications. Iron Mountain will have no obligation with respect to any failure of the Software and/or Service to perform as warranted under this Section 6.1 if such failure results from: (a) improper use, (b) unauthorized changes, repairs, or modifications to the Software and/or Service, or (c) force majeure events set forth in Section 14.3 below.

6.2. Iron Mountain's Professional Services Warranty. Iron Mountain warrants that all Professional Services shall be performed in a professional and workmanlike manner, consistent with then-current industry standards ("Professional Services Warranty"). Customer's sole remedy for a breach of the Professional Services Warranty shall be, at Iron Mountain's option, either to (i) re-perform such professional services and/or training, or (ii) provide Customer a refund

for the allegedly defective Professional Services. Such remedy shall only be available if Customer notifies Iron Mountain in writing within thirty (30) calendar days of the completion of such Professional Services.

6.3. Warranty Exclusions & Exclusive Remedy. EXCEPT FOR THE WARRANTIES SET FORTH IN THIS SECTION 6, IRON MOUNTAIN MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED. IRON MOUNTAIN DISCLAIMS ANY AND ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE PROVISIONS SET FORTH IN SECTION 6 STATE IRON MOUNTAIN'S ENTIRE RESPONSIBILITY AND CUSTOMER'S EXCLUSIVE REMEDY WITH RESPECT TO ANY AND ALL BREACH OF WARRANTY.

6.4. Customer's Ownership Warranty. Customer warrants that it (i) shall conform with the privacy statement set forth in Section 12, "Data Protection"; and (ii) is the owner or legal custodian of the Protected Data transmitted to Iron Mountain pursuant to the terms of this Agreement and that it has full authority to vault and transmit said Protected Data, and direct its disposition according to the terms of this Agreement. Customer shall reimburse Iron Mountain for any expenses reasonably incurred by Iron Mountain (including reasonable attorneys' fees) by reason of Iron Mountain's complying with the instructions of Customer in the event of a dispute concerning the ownership, custody or disposition of the Protected Data stored by Customer with Iron Mountain.

7. Limitation of Liability; Exclusion of Consequential Damages.

7.1. LIMITATION OF LIABILITY. IRON MOUNTAIN (INCLUDING ANYONE FOR WHOM IRON MOUNTAIN IS LEGALLY LIABLE) SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE THAT CUSTOMER SUFFERS OR CLAIMS TO HAVE SUFFERED (INCLUDING WITHOUT LIMITATION ANY LOSS OR DAMAGE TO CUSTOMER DATA OR THE PROTECTED DATA) UNLESS SUCH LOSS OR DAMAGE IS CAUSED BY IRON MOUNTAIN'S NEGLIGENCE. THE PARTIES AGREE THAT IRON MOUNTAIN ASSUMES NO LIABILITY WHATSOEVER FOR THE CUSTOMER DATA OR THE PROTECTED DATA THAT IS MODIFIED OR DELETED BY CUSTOMER (where the Services described in the applicable Schedule allows for such functionality.).

IF IRON MOUNTAIN IS FOUND LIABLE, THE AMOUNT OF IRON MOUNTAIN'S MAXIMUM LIABILITY FOR ANY AND ALL LOSS AND/OR DAMAGE (IN CONTRACT, TORT, OR OTHERWISE) FOR ANY REASON ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED, IN THE AGGREGATE, THE TOTAL AMOUNT OF ALL FEES PAID TO IRON MOUNTAIN FOR THE SERVICE WITHIN THE PRIOR SIX (6) MONTHS FROM WHICH SUCH CLAIM ARISES. IF THE CUSTOMER DATA OR PROTECTED DATA TRANSMITTED IS INSURED BY CUSTOMER, THE CUSTOMER SHALL CAUSE ITS INSURERS OF SUCH CUSTOMER DATA OR PROTECTED DATA TO WAIVE ANY RIGHT OF SUBROGATION AGAINST IRON MOUNTAIN.

7.2. EXCLUSION OF CONSEQUENTIAL DAMAGES. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE AND/OR INCIDENTAL DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION, OR OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSSES OR DAMAGES. THE FOREGOING SHALL NOT APPLY TO CUSTOMER'S BREACH OF SECTIONS 2 AND 4.

7.3. ESSENTIAL PURPOSE. THE LIMITATION OF LIABILITY AND EXCLUSION OF CERTAIN DAMAGES STATED HEREIN SHALL APPLY REGARDLESS OF THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY. BOTH PARTIES HEREUNDER SPECIFICALLY ACKNOWLEDGE THAT THESE LIMITATIONS OF LIABILITY ARE REFLECTED IN THE PRICING.

7.4. Shipping Media. If set forth in the applicable Schedule, Iron Mountain may transport Protected Data on media with a common carrier. Customer agrees that the terms of this Agreement apply only to the Protected Data in Iron Mountain's possession in the performance of the Services. Data shall only be deemed to be in Iron Mountain's possession when it is in an Iron Mountain facility, in an Iron Mountain vehicle, or in the custody of an Iron Mountain employee or employees of Iron Mountain's subcontractors. Protected Data in the custody of third-party "common carrier" overnight delivery services, such as Federal Express and UPS, is not in Iron Mountain's possession, and Iron Mountain shall have no liability for loss, damage or destruction that occurs while Protected Data is in the custody of such common carrier.

7.5. Customer Environment. Iron Mountain shall bear no liability to Customer or any third-party resulting from Customer's decision not to implement any reasonable change to Customer's technical environment that supports the Offering that may be advised by Iron Mountain in writing; and Customer shall hold Iron Mountain harmless from and

against any suit or proceeding (including reasonable attorneys' fees) brought against Iron Mountain arising directly from such a failure to provide the necessary access and/or support for Iron Mountain to implement any such change. Further, Customer agrees to inform Iron Mountain of any Customer system change that may reasonably be expected to affect Iron Mountain's ability to provide the Offering.

7.6. Risk Allocation. Customer acknowledges and agrees that the allocation of risk contained in this Section 7 is reflected in the Service Fees and is also recognition of the fact that, among other things, it is not within Iron Mountain's control how and for what purpose the results of the Services are used by Customer.

8. Intellectual Property Indemnification.

8.1. If a third-party claims that the original, unaltered, unmodified Software and/or Service infringes any U.S. patent, copyright or trade secret, Iron Mountain will (as long as Customer is not in material default under this Agreement) indemnify, defend and hold Customer harmless against such claim at Iron Mountain's expense and pay all damages that a court finally awards, provided that Customer promptly notifies Iron Mountain in writing of the claim, allows Iron Mountain to control the defense or any related settlement negotiations and cooperates with Iron Mountain in the defense of any claim, provided that Iron Mountain will not effect any settlement unless such settlement provides Customer with a full release. If such a claim is made or appears possible, Iron Mountain may, at its option, secure for Customer the right to continue to use the Software and/or Service, modify or replace the Software and/or Service so it is non-infringing, or, if neither of the foregoing options is available, in Iron Mountain's reasonable judgment, require Customer to return the Software and/or Agent for a refund or credit, at Iron Mountain's sole option, equal to the portion of previously paid Fees allocable to the remaining term. However, Iron Mountain has no obligation for any claim based on a modified version of the Software and/or Agent or the combination, operation, or use of the Software and/or Service with any software, product, data, or apparatus not provided by Iron Mountain. THIS PARAGRAPH STATES IRON MOUNTAIN'S ENTIRE OBLIGATION TO CUSTOMER AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIMS OF INFRINGEMENT.

8.2. Customer will defend and indemnify Iron Mountain against all damages and losses (including reasonable legal fees) arising from a third-party claim alleging that Customer's (including any user using the Services through Customer's account) use of the Services (as opposed to the Service itself) is used to download or share electronic media in violation of such third-party's intellectual property rights in such electronic media or has otherwise harmed the third-party. Iron Mountain shall provide Customer prompt notice in writing of any such claim or action. Customer shall have sole control of the defense and all related settlement negotiations and Iron Mountain shall provide the assistance, information and authority necessary to perform the above. Reasonable, documented, out-of-pocket expenses incurred by Iron Mountain in providing such assistance will be reimbursed by Customer. Iron Mountain shall be entitled to participate in the defense with its own counsel at its own expense.

9. Term, Termination and Suspension.

9.1. Term, Services and Support. The Agreement shall be in effect as of the date of Customer's signature ("Effective Date") applicable Schedule and shall remain in effect (i) for Services for so long as the applicable Schedule is in effect, and (ii) for Software, until terminated as set forth in this Section 9,. The Initial Term and subsequent renewal period of each Schedule (if any) will constitute the "Term."

9.2. Term, Support Services. The Term for all Support Services will be for an Initial Term of twelve (12) months, and shall automatically renew for additional terms of twelve (12) months each unless either party provides written notice of non-renewal at least ninety (90) days prior to the anniversary date of the Effective Date of the applicable Schedule as per Section 14.2, "Notices."

9.3. Termination for Material Breach. This Agreement and/or any applicable Schedule may be terminated by either Party upon thirty (30) calendar days written notice for a material breach by the other Party, unless such other Party cures the breach within the thirty (30) day notification period. Customer agrees upon any termination to return promptly any Equipment and to destroy the Agent, together with all copies in any form. Termination of this Agreement or any Schedule does not relieve Customer of any outstanding payments due or any liability arising prior to termination.

9.4. Termination for Convenience. Unless otherwise stated in the applicable Schedule, either party may terminate any applicable Schedule for convenience after the conclusion of the Initial Term by providing not less than ninety (90) calendar days advance written notice per Section 14.2, "Notices." If any Schedule is so terminated, Customer shall be responsible for all Fees incurred during the Initial Term and any subsequent Term up and until the date of termination. Customer acknowledges and agrees that all prepaid Fees are non-refundable, regardless of a termination that occurs according to this Section.

9.5. Termination for Changes to Applicable Law. This Agreement and/or any Schedule may be terminated by either Party if the continued relationship, the provision of the services, and/or the transactions hereunder would violate any applicable law (whether such law is existing at the time of this Agreement or thereafter modified or enacted) or result in material costs or liabilities to the terminating Party that were not anticipated as part of the Agreement.

9.6. Termination or Suspension by Iron Mountain. Iron Mountain may terminate and/or suspend Customer's license grant and/or suspend, terminate or limit any of Customer's use of the Offering without liability, with or without notice, based on Iron Mountain's reasonable belief that: (i) the Offering is being used in breach of Section 2 or otherwise in a potentially harmful or unlawful manner; (ii) the use of Offering adversely affects Iron Mountain's (or its Suppliers') equipment, security network infrastructure or its service to others; (iii) a court or other governmental authority having jurisdiction issues an order prohibiting Iron Mountain from furnishing the Offering to Customer; or (iv) Customer fails to pay undisputed charges for the Offering after being given notice; provided storage Fees will continue to accrue for Customer's Protected Data notwithstanding any suspension and Customer will remain liable for all Fees. In the event the Offering is suspended, Iron Mountain will use commercially reasonable efforts to inform Customer and will work with Customer to resolve such issues and re-instate the Offering.

9.7. Effect of Termination. Upon termination of any Service hereunder, Customer shall (i) return or destroy the applicable Software, Documentation and/or Agent, and any other software or materials licensed to Customer for such Offering hereunder, and (ii) return or the applicable Equipment, and related materials licensed to Customer hereunder.

10. Confidentiality.

"Confidential Information" means any proprietary, confidential and/or trade secret information of the Party disclosing such information relating to, among other things, the Offering, technology, specifications, manufacturing methods, know-how, business or marketing plans, business relationships, and the terms of this Agreement and/or Schedule. Confidential Information shall not include information that: (i) was in the public domain when disclosed; (ii) becomes public domain after disclosure, other than as a result of the violation of this Agreement; (iii) was in the receiving Party's possession when disclosed and was not acquired directly or indirectly from the disclosing Party; (iv) is shown by written evidence to have been developed by the receiving Party independently after disclosure without benefit of the Confidential Information; or (v) was received after disclosure from a third-party who did not require it to be held in confidence and who did not acquire it directly or indirectly from the disclosing Party. Confidential Information shall be used only in the manner contemplated by this Agreement and/or Schedule and shall not be intentionally disclosed to third-parties without the disclosing Party's written consent. The receiving Party will use at least the same degree of care to safeguard Confidential Information that it uses to protect its own confidential and proprietary information, but in no event less than reasonable care under the circumstances.

11. Subpoena.

Iron Mountain is authorized to comply with any subpoena or similar order related to the data in its possession, provided that Iron Mountain notifies Customer promptly upon receipt thereof, unless such notice is prohibited by law. Customer shall pay Iron Mountain's applicable charges as set forth in a Schedule for such compliance, which may include copying data onto CD, DVD or other media. Iron Mountain will cooperate with Customer's efforts to quash or limit any subpoena, at Customer's expense.

12. Data Protection.

The Parties acknowledge that the Offering may be used to process information regulated by privacy or data protection laws. Iron Mountain shall act only on the instructions of Customer in processing any Personal Data. Customer hereby instructs Iron Mountain to take such steps in the processing of Personal Data as are reasonably necessary to the performance of Iron Mountain's obligations under this Agreement, and agrees that such instructions constitute its full and complete instructions as to the means by which Personal Data shall be processed by Iron Mountain. To the extent that any privacy or data protection laws impose an obligation upon Iron Mountain to comply with an individual's request for access to or correction of their Personal Data, Customer agrees that it shall satisfy such obligations.

Iron Mountain agrees that it shall forward any such individual requests that it receives to Customer and reasonably assist Customer, at Customer's expense, in their satisfaction. Iron Mountain agrees that it shall:

12.1. not use Personal Data save for the purposes of delivering the Agent, Equipment or Services as instructed by this Agreement;

12.2. upon termination of this Agreement, return Personal Data to the Customer or destroy such Personal Data in accordance with Customer's written instructions;

12.3. implement security measures reasonably designed to safeguard Personal Data against unauthorized access, loss, destruction, damage or disclosure; and

12.4. provide reasonable support to Customer in complying with any legally mandated request or demand made by any court or governmental authority responsible for enforcing privacy or data protection laws.

13. Audit.

During the Term of this Agreement, Customer will maintain records reasonably required to verify its compliance with this Agreement. Upon at least thirty (30) calendar days notice to Customer, and not less than twelve (12) months since a prior audit, Iron Mountain may audit and inspect the applicable records of Customer, at Customer's principal place of business, during Customer's normal business hours and in such a manner as to avoid unreasonable interference with Customer's business operations. In the event that Iron Mountain determines that Customer has underpaid any payment due under this Agreement, Iron Mountain will notify Customer in writing of this alleged discrepancy. Any undisputed underpayment by Customer will be paid to Iron Mountain (plus interest at the lesser of one percent (1.0%) per month or the highest rate permitted by law), within thirty (30) calendar days of such determination.

14. General Provisions.

14.1. Entire Agreement; Integration. This Agreement and all Schedule and Exhibits hereto represent the entire agreement between the Parties on the subject matter hereof and supersede all prior discussions, agreements and understandings of every kind and nature between the Parties. No modification of this Agreement shall be effective unless in writing and signed by both Parties. All additional or conflicting terms and conditions presented with or in any communication, including but not limited to Customer's purchase order ("P.O."), except with respect to price, quantity and location specified in a P.O., are hereby rejected and shall be deemed *null and void*.

14.2. Notices. All notices relating to this Agreement shall be in writing and shall be delivered (i) by overnight courier or hand, (ii) postage prepaid certified or registered first-class mail with return receipt requested, (iii) electronic transmission or (iv) facsimile. Notices shall be sent to the address of the other Party set forth in this Agreement or the applicable Schedule and shall be deemed given upon personal delivery, five (5) calendar days after deposit in the mail, or upon acknowledgment or receipt of electronic transmission.

14.3. Force Majeure. Neither Party shall be liable for any failure or delay in performing services or any other obligation under this Agreement, nor for any damages suffered by the other or an end user by reason of such failure or delay, which is, indirectly or directly, caused by an event beyond such Party's foreseeable control including but not limited to strikes, riots, natural catastrophes, terrorist acts, governmental intervention, or other acts of God, or any other causes beyond such Party's reasonable control.

14.4. Relationship with Third Parties. No Customer, end user or other person or entity not a Party to this Agreement shall be considered a third-party beneficiary of this Agreement.

14.5. Severability & Survival. The illegality or unenforceability of any provision of this Agreement shall not affect the validity and enforceability of any legal and enforceable provisions hereof. The following provisions shall survive any termination of this Agreement: Sections 2, "License Grant & Restrictions"; Section 4, "Prices & Payment"; Section 5, "Intellectual Property; Ownership; and Data Disclaimer"; Section 7, "Limitation of Liability; Exclusion of Consequential Damages"; Section 8, "Intellectual Property Indemnification"; Section 9.7, "Effect of Termination"; Section 10, "Confidentiality"; Section 11, "Subpoena", Section 14 "General Provisions."

14.6. Assignment. Neither party may assign this Agreement except to an affiliate without the prior written consent of the other party, which shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, Customer may not assign this Agreement to a direct competitor of Iron Mountain. Any attempt to assign this Agreement without such written consent shall be null and void. This Agreement binds the Parties, their respective participating subsidiaries, affiliates, successors and permitted assigns.

14.7. Applicable Law. This Agreement and all resulting claims and/or counterclaims shall be governed, construed, enforced and performed in accordance with the laws of the Commonwealth of Massachusetts, USA, without reference and/or regard to its conflicts of laws principles. Each Party hereby submits to the exclusive jurisdiction of the courts of Massachusetts and hereby waives any objections to venue with respect to actions brought in such courts.

14.8. Export Restrictions. Customer agrees and certifies that software, products, services, and/or all related technical information and materials that Customer receives from Iron Mountain will not be exported or re-exported outside of the United States ("U.S.") except as authorized and permitted by the laws and regulations of the U.S., and export or re-export contrary to U.S. laws is prohibited. Customer agrees to comply, at its own expense, with any and all foreign governmental requirements relating to Customer's exports from the U.S., importation and use outside of the

U.S., and/or re-exports from abroad of such products, services, and/or all technical information and materials. Customer will indemnify, defend, and hold harmless Iron Mountain from and against any claim, loss, liability, or damage suffered by Iron Mountain related to Customer's breach of this provision. Customer also agrees that Iron Mountain may withhold provision of software, products, services, and/or technical information and materials under this Agreement if Iron Mountain believes, in good faith, that Customer has breached this provision.

14.9. Affiliates. Certain lines of service may be performed by an affiliate of Iron Mountain. In such event, such affiliate will perform such service as a subcontractor to Iron Mountain. The subcontracting entity may invoice Customer directly.

14.10. Government End-User Notice. The Agent is a "Commercial Item," as that term is defined at 48 C.F.R. § 2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation," as such terms are used in 48 C.F.R. § 12.212 and 48 C.F.R. § 227.7202, as applicable. Consistent with 48 C.F.R. §§ 12.212, 227.7202-1 through 227.7202-4, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end-users (i) only as Commercial Items and (ii) with only those rights as are granted to all other end-users pursuant to the terms and conditions herein.

14.11. ITAR. Customer understands that employees of Iron Mountain and/or its Suppliers may have access to native data to perform the Services herein and represents that none of this data requires protection from access by foreign persons because it contains technical information regarding defense articles or defense services within the meaning of the International Traffic in Arms Regulations (22 CFR 120) or technical data within the meaning of the Export Administration Regulations (15 CFR 730-774). If any of this data does contain any such information, Customer will notify Iron Mountain of the specific data that contains such information and acknowledges that special storage and service rates will apply thereto.

14.12. Waiver. Each Party agrees that the failure of the other Party at any time to require performance by such Party of any of the provisions herein shall not operate as a waiver of the rights of such Party to request strict performance of the same or like provisions, or any other provisions hereof, at a later time.

14.13. Headings. All headings used herein are for convenience of reference only and shall not in any way affect the interpretation of this Agreement.