

MASTER SOLUTION AGREEMENT

Terms and Conditions

These Master Solution Agreement Terms and Conditions are entered into by and between your company (“**Customer**”) and the applicable Aptean legal entity (“**Licensor**,” and together with Customer, the “**Parties**”), both of whose details are set out in the applicable Order Form. Exhibit A “Privacy Terms” sets forth the terms and conditions under which Licensor will process Personal Data of Customer pursuant to the Agreement. Additional exhibits (“**Exhibits**”) may be incorporated into this Agreement from time to time through Order Forms signed by the Parties. These Master Solution Agreement Terms and Conditions, together with all amendments thereto, Statements of Work, Order Forms and Exhibits are collectively referred to as the “**Agreement**”.

By signing each Order Form you are agreeing that the Agreement governs the Order Form and the purchase and/or license of the Software, SaaS Subscription, Maintenance and/or Professional Services thereunder, and confirming that you are authorized to sign and agreeing that each Order Form shall incorporate the Agreement, except to the extent (if any) that the Agreement is expressly varied within any Order Form or amendment.

1. Definitions.

- a. “**Affiliate**” means any entity directly or indirectly controlling, controlled by or under common control by another entity. For purposes of this definition, “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of another entity, whether through the ownership of voting securities, by contract or otherwise, and the terms “controlling” and “controlled” have meanings correlative to the foregoing.
- b. “**Customer Materials**” means any data or materials, provided by Customer, that are used in connection with the Software or Service Deliverables, such as technical information and functional specifications, user data, logos, photographs, compilations of facts, artwork, animations, video or audio files, or source materials for any of the foregoing.
- c. “**Documentation**” means any technical manuals, training materials, user documentation or other written materials relating to the operation and functionality of the Software that Licensor may provide to Customer.
- d. “**Equipment**” means those items of third-party hardware, equipment, or accessories specified on an applicable Order Form to be purchased by Customer and sold by Licensor. The purchase price for the Equipment shall be as set forth on the applicable Order Form and all Equipment shall be provided and used subject to the terms of the Equipment Exhibit.
- e. “**Equipment Exhibit**” means the exhibit which governs Licensor’s provision and Customer’s use of the Equipment and is applicable to all Equipment previously and subsequently ordered by Customer and is incorporated into the Agreement via an Order Form signed by the Parties.
- f. “**Intellectual Property Rights**” means copyrights, trademarks, service marks, patents, trade secrets, database rights, design rights and other related proprietary or statutory rights that have been or subsequently exist pursuant to all applicable statutes, laws, regulations, treaties or common law in any country or jurisdiction in the world, now or hereafter existing, and whether or not perfected, filed or recorded.
- g. “**License Exhibit**” means the exhibit which governs Licensor’s provision and Customer’s use of perpetual or subscription on premise Software and is applicable to all perpetual or subscription on premise Software previously and subsequently ordered by Customer and is incorporated into the Agreement via an Order Form signed by the Parties.
- h. “**License Configuration**” means the particular components, license metrics, optional modules and languages of the Software licensed hereunder as set forth in the Order Form. License metrics may include, but are not limited to:
 - i. “**Concurrent User License**” the maximum number of users that may access the Software at any one time.
 - ii. “**Named User License**” means any individual for whom there is a unique user login account permitting such individual to access and use a component of the Software. Each Named User must be assigned a user login account and may not permit more than one person to use this user login to access or use the Software.
 - iii. “**Transaction, Server, Device, Database or Application License**” a specified number of transactions, servers, databases, applications, or other metric as set forth in the Order Form that Customer may use with the Software.
- i. “**Licensor Products and Services**” means Software (including License Configuration), SaaS Subscription, Professional Services, Service Deliverables, Maintenance Services, training services, Documentation, Equipment and any other products and services provided by Licensor under the Agreement.
- j. “**Licensor Related Parties**” means, collectively, Licensor, its Affiliates, and their respective members, shareholders, partners, owners, officers, directors, employees, licensors, agents and representatives.
- k. “**Order Form**” means Licensor’s order form signed by the Parties pursuant to which Licensor agrees to supply certain Software, SaaS Subscription, Maintenance Services, Professional Services, Equipment or other products or services pursuant to the terms and conditions of the Agreement.

- l. **“Professional Services”** means services provided to Customer by Licensor in accordance with the Agreement and the applicable Statement of Work or Order Form.
 - m. **“Professional Services Exhibit”** means the exhibit which governs Licensor’s provision and Customer’s use of Professional Services and is applicable to all Professional Services previously and subsequently ordered by Customer and is incorporated into the Agreement via an Order Form signed by the Parties.
 - n. **“SaaS Subscription Exhibit”** means the exhibit which governs Licensor’s provision and Customer’s use of SaaS Subscription and is applicable to all SaaS Subscription previously and subsequently ordered by Customer and is incorporated into the Agreement via an Order Form signed by the Parties.
 - o. **“Service Deliverables”** means the output of Professional Services (not including Software) to be delivered to Customer pursuant to an Order Form.
 - p. **“Software”** means those components of proprietary Licensor software and Third Party Software, if any, in either executable code or object code format, as set forth in an Order Form.
 - q. **“Statement of Work”** or **“SOW”** means the Professional Services Schedule attached to an Order Form which sets forth the agreed upon scope of the Professional Services, Service Deliverables, estimated hours/work effort, billing rates and other pricing information, project schedule (if applicable) and estimated delivery dates.
 - r. **“Third Party Servicers”** means third parties hired by Customer to access the Software or the SaaS Subscription in order to provide any services to Customer, as approved in advance by Licensor in writing. Upon Customer hiring a Third-Party Servicer(s), Customer must ensure that the Third Party Servicer(s) has agreed to the following terms: (i) confidentiality terms that are substantially similar to the ones contained herein (ii) language that indicates the Software, SaaS Subscription and Deliverables are owned by Licensor; and (iii) a requirement that the Third-Party Servicer access the Software, SaaS Subscription and Service Deliverables only for providing services to the Customer in accordance with the license granted herein.
 - s. **“Third Party Software”** means software or data supplied by third parties that Licensor resells, distributes or otherwise provides access to as part of the Software. Customer’s use of Third Party Software is governed by (i) the license terms that either come with the Third Party Software, or (ii) are made available to Customer at legal.aptean.com accessed through the following link <https://legal.aptean.com/third-party-terms> which are incorporated herein by reference or (iii) are published by the applicable Third Party Software owner.
2. **Delivery of Software.** The Software shall be deemed accepted by Customer upon electronic availability. Where Customer purchases Professional Services to configure the Software or the SaaS Subscription and the relevant SOW states that acceptance testing is applicable to those Professional Services, then acceptance of those Service Deliverables shall be in accordance with the terms of the Professional Services Exhibit.
3. **Payment Terms.**
- a. Customer agrees to provide Licensor with complete and accurate billing and contact information. This information includes Customer’s legal company name, street address, e-mail address, and name and telephone number of an authorized billing contact.
 - b. Unless otherwise set forth in an Order Form, all payments are due within thirty (30) days of the invoice date. Except as expressly provided, all such payments are non-refundable. Invoices are not subject to offset or reduction by Customer unless approved in writing by Licensor. Without prejudice to Licensor’s other rights, Customer agrees to pay a finance charge an overdue amounts equal to of one and one-half percent (1.5%) per month or but subject to any maximum rate permitted by law on all over due amounts. Payment terms in the Agreement are subject to credit approval in Licensor’s reasonable discretion and may be changed based on Customer’s financial position or payment history. Customer shall reimburse Licensor for any of Licensor’s reasonable costs of collecting past due amounts. All pricing terms are confidential, and Customer agrees not to disclose them to any third party. Failure by the Customer to pay any invoice will entitle the Licensor to: (i) demand the payment of any other invoiced issued (although not expired), (ii) immediately suspend any Licensor Products and Services provided to the Customer; and/or (iv) terminate the Agreement without any need for further request and/or communication, without prejudice for any other remedy which the Licensor may be entitled to pursuant to the Agreement and/or law.
 - c. All prices and payments in the Agreement are exclusive of all taxes (including Australian GST), custom duties and levies and Customer agrees to pay all national, state and local sales, use, value-added goods and services taxes, withholding and other taxes, customs duties similar tariffs and fees and any other levies based on the Software, and any other services provided hereunder for which Customer shall be liable, other than taxes imposed on Licensor’s net income.
4. **Ownership and Copyright.**
- a. **Software and Service Deliverables.** All right, title and interest (including all Intellectual Property Rights) in and to the Software, SaaS Subscription, Service Deliverables, Documentation provided by Licensor are owned by Licensor or its suppliers, as applicable, and are protected by the applicable intellectual property laws, including copyright, patent, trademark, and/or trade secret laws. The Agreement is not a sale and does not convey to Customer any rights of ownership in or related to the Software, SaaS Subscription, Documentation, Proprietary Technology or the Intellectual Property Rights owned by Licensor and its suppliers. All Service Deliverables developed by Licensor pursuant to a SOW

shall vest in and be the property of Licensor provided, however, that Customer is hereby granted a non-exclusive and non-transferable license to use the SaaS Subscription Deliverables solely for its internal business purposes, subject to the restrictions set out in the Agreement and the applicable SOW. Any rights not expressly granted herein are reserved to Licensor and its licensors. Professional Services and Service Deliverables provided by Licensor to Customer are not performed on a “work for hire” basis.

- b. Customer Materials. Subject to Section 4(a), all right, title and interest (including all Intellectual Property Rights) in and to the Customer Materials are owned by Customer or Customer’s suppliers.

5. **Warranty and Australian Consumer Law**

- a. Representations and Warranties. Each Party represents and warrants that it has the legal power and authority to enter into the Agreement. Customer represents and warrants that Customer has neither falsely identified itself nor provided any false information to Licensor and that Customer’s billing information is correct.
- b. Limited Warranty. For a period of one (1) year following Customer’s entry into its production environment (*i.e.*, “Go-Live”), (“**Warranty Period**”), Licensor warrants that the Software (excluding Third Party Software) and/or SaaS Subscription will, in all material respects, conform to and perform in accordance with Licensor’s respective published documentation. Customer must report any breach of the foregoing warranty to Licensor pursuant to Section 10(d) within the Warranty Period. Delivery of revisions, enhancements, upgrades, and new versions of the Software to Customer shall not restart or otherwise affect the Warranty Period. Customer’s exclusive remedy for a breach of this warranty during the Warranty Period is the correction of any material reproducible nonconformity in the Software so that it conforms to this warranty. Customer’s use of the Software and or SaaS Subscription in breach of the Agreement shall immediately void the Software Warranty. Notwithstanding anything in the Agreement to the contrary, Licensor shall be not be liable in relation to, and does not warrant the Third Party Software, but Licensor will use commercially reasonable efforts to pass on to Customer the benefits of any warranties Licensor has received from the Third Party Software vendors. Customer acknowledges and agrees that any warranties for Third Party Software, if any, are made solely by the Third Party Software owner, and Customer shall be entitled to claim such warranty only versus the relevant third party and not Licensor. If the provider of a Third Party Software (excluding Microsoft products and services) ceases to make the Third Party Software available for interoperation with the Software features, Licensor may cease providing those Software features without entitling the Customer to any refund or other compensation, provided that Licensor shall make available a reasonable alternative.
- c. Warranty Disclaimer. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAWS, THE LIMITED WARRANTY EXPRESSLY SET FORTH IN SECTION 5(b) CONSTITUTES THE SOLE AND EXCLUSIVE WARRANTY GIVEN BY LICENSOR WITH RESPECT TO THE LICENSOR PRODUCTS AND SERVICES. LICENSOR HEREBY EXPRESSLY DISCLAIMS FOR ITSELF AND ITS LICENSORS AND THEIR RESPECTIVE SUPPLIERS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND REPRESENTATIONS OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY AND NON-INFRINGEMENT TO THE EXTENT CONSISTENT WITH LAW.
- d. Customer acknowledges and agrees that the warranty set forth in Section 5(b) shall not apply to any Software or Service Deliverables delivered to Customer prior to the date of the Agreement, if applicable, by Licensor, its Affiliates or any of its respective predecessors.
- e. Except as contemplated by section 5f, nothing in this Agreement is intended to limit or exclude any rights of Customer under any applicable sales or consumer legislation that prohibits the exclusion of any applicable consumer rights.
- f. If any applicable legislation states that there is a guarantee or implied term in relation to any good or service supplied by Licensor in connection with this Agreement and Licensor’s liability for failing to comply with that guarantee cannot be excluded but may be limited, then Section 7 does not apply to that liability and instead Licensor’s liability for such failure is limited to (at Licensor’s election):
 - i. in the case of a supply of goods, Licensor replacing the goods or supplying equivalent goods, repairing the goods, paying the cost of replacing the goods or of acquiring equivalent goods, or paying the cost of having the goods repaired; or
 - ii. in the case of a supply of services, Licensor supplying the services again or paying the cost of having the services supplied again.

6. **Indemnification.**

- a. Claims Related to Software or Service Deliverables. Subject to Section 6(b) and Section 6(e), Licensor will, at its expense and under its control (including selection of counsel), defend and/or settle any claim, suit or proceeding brought by a third party (each, a “**Claim**”) against Customer, its Affiliates, or their respective officers, directors, employees and agents alleging that the Software (excluding Third Party Software), SaaS Subscription, Documentation or any Service Deliverable, as provided by Licensor, infringes any Australia, U.S., E.U., U.K. or Canadian copyright, trademark, trade secret or patent, as applicable, issued as of the Effective Date of the Order Form. In addition, Licensor will pay any final judgment awarded against Customer for such Claim or any settlement amount agreed to by Licensor.

- b. Exclusions. Licensor will have no obligation under Section 6(a) with respect to any Claim arising out of or based upon: (i) Customer's modification of the Software or Service Deliverables; (ii) Customer's combination or use of the Software or Service Deliverable with programs not supplied or explicitly permitted by Licensor in writing; (iii) any use of the Software, SaaS Subscription or Service Deliverables that is not in accordance with the terms of the Agreement; (iv) Customer's use, reproduction or distribution of other than the most recent or a modified version of the Software or Service Deliverables provided by Licensor or available to Customer where such infringement would have been avoided by Customer's use or implementation of the most recent version of the Software or Service Deliverables; (v) Customer Materials used with or incorporated in the Software or a Service Deliverable; (vi) continued use of any infringing Software or Service Deliverable after being provided notice to cease use of such Software or Service Deliverable; (vii) Customer Data or Customer Equipment used with the Service; (viii) continued use of the Subscription Service after being provided notice to cease use of the Service. ,or (ix) any fault or negligence of Customer or its Affiliates.
- c. Enjoinment. If Customer's use of the Software, Subscription Service or Service Deliverables is or, in Licensor's determination, is likely to be enjoined, Licensor may, at its option and expense, without limiting its indemnity obligations hereunder, procure the right for Customer to continue to use the Software or Service Deliverables or modify the Software or Service Deliverables in a manner that has materially equivalent functionality so as to avoid such injunction. If the foregoing options are not available on commercially reasonable terms and conditions, In the case of Software licensed by Customer, Licensor may require the return of any such Software or Service Deliverables and refund to Customer amounts paid for such Software or Service Deliverables less a credit for use based on straight line depreciation applied on a quarterly basis over five (5) years from the date of initial delivery of the Software or a Service Deliverable. Alternatively, in the case of a SaaS Subscription purchased by Customer, Customer shall discontinue all use and receive a refund of all prepaid but unused SaaS Subscription fees.
- d. Indemnification by Customer. Subject to Section 6(e), Customer shall, at Customer's expense, defend and/or settle any claim, suit or proceeding brought by a third party against Licensor Related Parties and arising out of or related to: (i) the Customer Materials (either alone or as incorporated into a Service Deliverable); (ii) Customer's unauthorized use of the Software and/or Service Deliverables; (iii) Customer's modification of the Software and/or Service Deliverables without Licensor's explicit written consent; (iv) Third Party Servicer's negligence, acts or omissions in connection with the Software and Service Deliverables; (v) the Customer Data or Customer Equipment; and (vi) Customer's unauthorized use of the SaaS Subscription. In addition, Customer will pay any judgment awarded against Licensor or any settlement amount agreed to by Customer and any authorized expenses incurred by Licensor.
- e. Procedure. If a Party (the "Indemnitee") receives any notice of a Claim or other allegation with respect to which the other Party (the "Indemnitor") has an obligation of indemnity hereunder, then the Indemnitee will, in order to qualify for Indemnification under this Section 6, within twenty (20) days of receipt of such notice, give the Indemnitor written notice, of such Claim or allegation setting forth in reasonable detail the facts and circumstances surrounding the claim. The Indemnitee will not make any payment or incur any costs or expenses with respect to such Claim, except as requested by the Indemnitor or as necessary to comply with this procedure. The Indemnitee will not make any admission of liability or take any other action that limits the ability of the Indemnitor to defend the Claim. The Indemnitor shall immediately assume the full control of the defense or settlement of such Claim or allegation, including the selection and employment of counsel, and shall pay all authorized and documented costs and expenses of such defense.
- f. Exclusive Remedies. THE INDEMNITY AND OTHER REMEDIES SET FORTH IN THIS SECTION 6 SHALL BE THE EXCLUSIVE REMEDIES OF THE PARTIES WITH RESPECT TO ANY CLAIM FOR WHICH A PARTY HAS AN OBLIGATION OR INDEMNITY PURSUANT TO THIS SECTION 6.

7. Limitation of Liability.

- a. SUBJECT TO 7(d) BELOW, IN NO EVENT SHALL LICENSOR OR LICENSOR RELATED PARTIES BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE LOSS OR DAMAGES, OR ANY LOSS OR DAMAGES FOR, OR COSTS INCURRED AS A RESULT OF, LOSS OF TIME, LOSS OR INACCURACY OF DATA, LOSS OF ANTICIPATED SAVINGS, LOSS OF PROFITS OR REVENUE, LOSS OF GOOD WILL, BUSINESS INTERRUPTION, OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, HOWEVER ARISING, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- b. b. EXCEPT FOR PERSONAL INJURY OR DEATH CAUSED BY LICENSOR OR LICENSOR RELATED PARTIES' NEGLIGENCE AND SUBJECT TO 7(d) BELOW, IN NO EVENT SHALL LICENSOR'S OR LICENSOR RELATED PARTIES' AGGREGATE, CUMULATIVE LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE GREATER OF THE AGGREGATE PAYMENTS MADE BY CUSTOMER DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO SUCH CLAIM AND THE FEES PAID OR PAYABLE UNDER THE FIRST ORDER FORM.
- c. WITH THE EXCEPTION OF PAYMENT OBLIGATIONS TO UNDISPUTED INVOICES, IN NO EVENT SHALL CUSTOMER'S AGGREGATE, CUMULATIVE LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE AGGREGATE PAYMENTS MADE BY CUSTOMER DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO SUCH CLAIM. THE

FOREGOING LIMITATION SHALL NOT APPLY TO ANY LIABILITY ARISING FROM CUSTOMER'S MISUSE OF THE LICENSOR PRODUCTS AND SERVICES.

- d. NOTHING IN THIS AGREEMENT SHALL LIMIT OR EXCLUDE THE LIABILITY OF EITHER PARTY IN RELATION TO ANY LIABILITY WHICH CANNOT BE LIMITED OR EXCLUDED PURSUANT TO APPLICABLE LAW.

8. Confidential Information.

- a. "**Confidential Information**" means: (i) a Party's proprietary technology or computer software, in all versions and forms of expression, whether or not the same has been patented or the copyright thereto registered, is the subject of a pending patent or registration application, or forms the basis for a patentable invention (collectively the "**Proprietary Technology**"); (ii) manuals, notes, documentation, derivative works, technical information, drawings, diagrams, specifications, formulas or know-how related to any of the Proprietary Technology; (iii) information regarding current or proposed products, customers, contracts, the Agreement, business methods, financial data or marketing data, financial results and projections, company and market strategy, product and competitive sales analysis and plans, product or marketing plans, pricing plans or structures, personnel and recruiting matters, and future releases; and (iv) offers or proposals which are provided by a Discloser (as defined below), including the fees charged by Discloser and such Confidential Information is in written or other form.
- b. A Party receiving Confidential Information ("**Recipient**") of the other Party ("**Discloser**") shall: (i) not disclose the Confidential Information to any third party at any time and Recipient shall limit disclosure of Confidential Information within its own organization to its employees or its legal, financial and accounting advisors having a need to know and who have agreed to be bound by the terms of the Agreement; and (ii) protect the confidentiality of the Confidential Information with at least the same degree of care as Recipient uses to protect its own Confidential Information of a like nature, but no less than a reasonable degree of care. Recipient shall only otherwise be entitled to disclose Confidential Information solely to the extent necessary to comply with a court order or as otherwise required by law or by a regulatory agency or government body, provided that Recipient shall first give notice to Discloser so as to allow Discloser a reasonable opportunity to obtain a protective order for protecting the confidentiality of such information (unless such notice would violate applicable law). If such protective order is not obtained, Recipient agrees to disclose only that portion of the Confidential Information which it is legally required to disclose. Recipient shall immediately notify Discloser of any actual or suspected unauthorized disclosure of Confidential Information. For the avoidance of doubt, the Customer may disclose the Agreement without notice to Licensor in order to comply with applicable law.
- c. The obligations described in Section 8(b) impose no obligation upon Recipient with respect to any Confidential Information that (i) is or becomes a matter of public knowledge through no fault of Recipient; (ii) is rightfully received by Recipient from a third party without a duty of confidentiality to a third party by, or with the authorization of, Discloser; (iii) is disclosed by Discloser without a duty of confidentiality; or (iv) is independently developed by Recipient. The burden of proving any of the above exemptions is on Recipient.
- d. Upon the written request of Discloser, Recipient shall immediately destroy or return to Discloser, as requested by Discloser, all Confidential Information of Discloser in its possession, together with all records in any manner pertaining to any of Discloser's Confidential Information and, upon request, provide a certificate from an authorized officer of completion of the foregoing.
- e. The terms set forth in this Section 8 replace any prior non-disclosure or similar confidentiality agreement executed between the Parties.

9. Term and Termination

- a. Term. The Agreement shall commence on the Effective Date of the Order Form and remain in force until terminated pursuant to Section 9(b). Conversely, the term for Maintenance Services, SaaS Subscription and any License term shall be limited to the specific period set forth in the relevant Order Form, or other separate agreement between the Parties, subject to any renewals. Upon expiration of any term as set forth in an Order Form the corresponding Maintenance Services, Hosting Services, SaaS Subscription and/or term license shall automatically renew for successive one-year periods, unless Customer provides Licensor with at least ninety (90) days' advance written notice prior to the expiration of the then current term that it desires not to renew. Licensor shall invoice Customer on an annual basis in advance for each annual renewal period which Customer agrees to pay in accordance with Section 3 and in any event within thirty (30) days of receipt of the corresponding invoice or the day prior to the contract renewal date, whichever is sooner, and all such payments are non-refundable.
- b. Termination. If either Party fails to materially comply with any of the terms and conditions of the Agreement and such Party fails to correct such non-compliance within thirty (30) days following written notice thereof ("**Cure Period**") by the other Party (the "**Non-Breaching Party**"), then such Non-Breaching Party may terminate the Agreement with written notice to the other Party. Failure to make timely payments is a material breach of the Agreement. Subject to applicable law, either Party may terminate the Agreement with written notice to the other Party (the "**Affected Party**") if: (i) a controller is appointed for the Affected Party or Affected Party's property; (ii) Affected Party makes an assignment for the benefit of Affected Party's creditors; (iii) any proceedings are commenced by, for or against the Affected Party under any bankruptcy, insolvency or debtor's relief law; or (iv) the Affected Party commences steps to liquidate, dissolve or

wind-up its business. Subject to applicable law, Licensor may, at its sole discretion, temporarily suspend Customer's rights to any Software, service or deliverable prior to exercising its right to terminate the Agreement pursuant to this [Section 9\(b\)](#).

- c. [Effect upon Termination](#). Upon termination of the Agreement, all licenses granted herein shall automatically cease and Customer shall discontinue all use of the Licensor's Confidential Information, the Software, SaaS Subscription and Service Deliverables, and destroy or return (where requested) any copies of Software or Service Deliverables in Customer's possession or control. Upon Licensor's request, Customer shall deliver to Licensor a certificate executed by an authorized officer of the Customer stating that Customer has destroyed or returned all such copies of the Software and Service Deliverables. Any obligation of either Party which accrued prior to termination, including without limitation, any payment due and owing, and [Sections 1](#) (Definitions), [3](#) (Payment Terms), [4](#) (Ownership and Copyright), [5](#) (Warranty), [6](#) (Indemnification), [7](#) (Limitation of Liability), [8](#) (Confidential Information), and [10](#) (Miscellaneous) shall survive. Termination of the Agreement shall also automatically terminate any active Statements of Work or Maintenance Terms.

10. Miscellaneous.

- a. [Audit](#). During the term of the Agreement and upon Licensor's reasonable suspicion that Customer is misusing the Licensor Products and Services, Customer will permit Licensor to perform an audit of Customer's records and computer systems that are relevant to Customer's use of the Software or Equipment in order to confirm Customer's compliance with the Agreement. Licensor will conduct any audit during Customer's normal business hours and upon reasonable advance notice.
- b. [Information Collection and Use](#). Notwithstanding anything to the contrary in the Agreement, Licensor may collect and disclose anonymized information about Customer's use of Licensor Products or Services. Customer hereby grants to Licensor a perpetual, non-cancelable, worldwide, royalty-free, non-exclusive right to utilize any anonymized Customer Data that arises from the use of the Licensor Products and Services by Customer whether disclosed on or prior to the Effective Date of the Order Form for any legitimate purpose, including the right to sublicense such data to third parties, subject to all legal restrictions regarding the use and disclosure of such information.
- c. [Governing Law](#). The Agreement shall be governed exclusively by the laws of New South Wales. The courts of New South Wales shall have exclusive jurisdiction to adjudicate any dispute arising out of or relating to the Agreement. Each Party hereby consents to the exclusive jurisdiction of such courts.
- d. [Notices](#). All notices under the Agreement shall be in writing and shall be deemed to have been given upon: (i) personal delivery; (ii) two next business day after mailing via overnight courier; or (iii) the first business day after sending by email, except that notices of termination, breach of the Agreement or an indemnifiable Claim may not be sent by email. All notices to Customer shall be addressed to the primary contact person as designated by Customer or if no contact person is designated, the current address in Licensor's customer relationship system. Notices to Licensor shall be addressed to the attention of its General Counsel at the following address:

c/o Aptean Limited
Lincoln House, Wellington Crescent,
Fradley Park Lichfield,
United Kingdom,
WS13 8RZ Attn: Legal Department
Email: EMEA.Legal@aptean.com

- e. [Force Majeure](#). Except for Customer's payment obligations and notwithstanding anything to the contrary in the Agreement, neither Party shall be liable for failure to perform or for delay in performance hereunder due to causes beyond its reasonable control, including acts of God, fires, floods, earthquakes, accidents, non-availability of Microsoft products and services, Internet service interruptions or slowdowns, vandalism or "hacker" attacks, strikes (other than those involving either Party's employees), acts of war, acts of terrorism, riot, embargoes, acts of civil or military authorities, or intervention by governmental authority; provided that such Party gives prompt written notice thereof to the other Party. Any failure occasioned by the foregoing shall be remedied as soon as reasonably possible.
- f. [Customer Lists and Press](#). Licensor is permitted to use Customer's name, logo and related marks in i) lists with other customers, ii) investor presentations, iii) internal presentations, iv) required governmental filings including, but not limited to, SEC filings, earnings announcements or financial presentations, and v) listings of other similar relationships.
- g. [Injunctive Relief](#). Customer acknowledges that the breach or threatened breach of the Agreement could give rise to irreparable injury to Licensor which would be inadequately compensated in monetary damages. Notwithstanding anything in the Agreement to the contrary, Licensor shall retain the right to seek a restraining order and/or injunctive relief in any court of competent jurisdiction in addition to any other legal remedies which may be available. Customer agrees that Licensor will not be required to post a bond in seeking injunctive relief under the Agreement.
- f. [Anti-Bribery Compliance; Trade Controls](#). Customer agrees to comply with all applicable laws (national and international law), including, without limitation, (i) laws and regulations prohibiting bribery, facilitation payments to government officials, representative of public authorities or their associates, families or close friends and corruption

(e.g. the Commonwealth Criminal Code Act 1995 (*Cth*), Crimes Act 1900 (*NSW*), the U.S. Foreign Corrupt Practices Act of 1977 and the UK Bribery Act 2010, both as amended); (ii) export, re-export, transfer and re-transfer control laws and regulations (e.g. the Export Administration Regulations maintained by the U.S. Department of Commerce and the International Traffic in Arms Regulations maintained by the Department of State); (iii) trade and economic sanctions maintained by the Commonwealth of Australia, the Treasury Department's Office of Foreign Assets Control, the U.S. Department of State, the European Union, and HM Treasury and (iv) laws relating to modern slavery. Customer hereby indemnifies and holds harmless on demand, subject to Section 6(e), to the fullest extent permitted by law, Licensor Related Parties and its assigns from and against any fines, penalties, judgments, settlements, and reasonable documented costs, including attorneys' fees, that may arise as a result of Customer's and Customer's agents', officers', directors' or employees' breach of this provision.

- g. Assignment. Customer may not assign or transfer the Agreement, Customer's interest herein or the license granted to Customer herein without Licensor's prior written consent and payment to Licensor of a transfer fee based on Licensor's then-current prevailing rates and any purported assignment in violation of this Section shall be void.
- h. Relationship of the Parties. The Agreement does not create a partnership, franchise, joint venture, agency, and fiduciary or employment relationship between the Parties.
- k. Non-Solicitation of Employees. For the term of the Agreement and a period of one (1) year thereafter, neither Party shall solicit or attempt to entice away any person employed or contracted by the other Party or any of its Affiliates who was assigned to and worked with it in furtherance of the Agreement and/or had access to Confidential Information, without first obtaining the prior, written consent of the other Party. Notwithstanding the forgoing, this provision shall not: i) restrict the right of a Party to solicit or recruit generally in the media; ii) prohibit a Party from hiring an employee of the other Party who answers any advertisement or who voluntarily applies for hire without having been initially solicited or recruited; iii) prevent the hiring of a former employee of the other Party whose employment ended at least six (6) months prior to the hire date. In the event a Party breaches this provision, it shall pay the other Party an amount equivalent to fifty percent (50%) of the hired employee's annual salary. In no event shall the hiring of any employee alter or change either Party's confidentiality obligations as set out in Section 8.
- l. Entire Agreement, Modifications, Severability, Waivers, Reservation of Rights. These General Terms and Conditions, together with all exhibits, schedules, Order Forms, Statements of Work, addenda and other amendments hereto, collectively, contains the entire agreement with respect to the subject matter hereof and supersedes all previous agreements between the Parties. All such ancillary documents are incorporated into the Agreement by reference. The Parties acknowledge that in entering into the Agreement they have not relied on any representation, warranty or undertaking, whether oral or in writing, except for those expressly incorporated herein. The Agreement may not be modified except by written instrument signed by both Parties. All terms, conditions, or provisions which may appear as preprinted language or otherwise be inserted within any purchase order shall be of no force and effect and acceptance of a purchase order will not constitute as a written instrument modifying the Agreement. If any provision of the Agreement is declared invalid or unenforceable the remaining provisions of the Agreement shall remain in full force and effect. Failure by either Party to enforce any provision of the Agreement will not be deemed a waiver of future enforcement.
- m. Headings, Advice of Counsel, and Drafting. Headings used these Terms and Conditions are provided for convenience only and will not in any way affect the meaning or interpretation of each Section. Wherever the term "including" is used, it shall mean "including, but not limited to." All references to "Sections" and "Exhibits" refer to the corresponding Sections and Exhibits of the Agreement. The Parties acknowledge that they have been advised by counsel of their own choosing, played equal parts in negotiating these Terms and Conditions which shall be interpreted without any bias against one Party as drafter
- n. Previous License Agreements. If applicable, the Agreement shall supersede any license agreement previously executed between the Parties and any such previously executed license agreement shall be terminated (the "**Previous License Agreement**"); provided that any claims Licensor may have against Customer under the Previous License Agreement shall survive such termination. Any Software, Service Deliverables, Professional Services, Maintenance Services or other similar products or services previously delivered or provided by Licensor to Customer shall now be governed by the Agreement.
- o. Data Privacy. Customer and Licensor acknowledge that Apteam may from time to time process personal data provided by the Customer in connection with the Agreement. Customer and Apteam agree that the provisions of Exhibit A (Data Privacy) shall apply in relation to the processing of any such personal data.
- p. Contracts Rights of Third Parties. A person who is not a party to the Agreement shall have no right under law including under the UK Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms. Notwithstanding any rights that may be conferred upon third parties under the Agreement, the Parties may, by agreement, rescind the Agreement or vary it in any way without the consent of any third party.

EXHIBIT A

DATA PRIVACY

1.1 Defined Terms. The following new definitions shall be inserted into the Agreement (in place of any existing definition for any such term, where applicable).

"Data Protection Laws" means any applicable laws and regulations relating to privacy or the use or processing of data relating to natural persons, including: (a) Australia Privacy Law Act 1988 (b) EU Directive 95/46/EC and any legislation implementing or made pursuant to it; and (b) EU Regulation 2016/679 ("**GDPR**") and any laws or regulations ratifying, implementing, adopting, supplementing or replacing GDPR; and (c) The Data Protection Act 2018; in each case, to the extent in force, and as such are updated, amended or replaced from time to time. Where reference is made to specific articles in GDPR throughout this Exhibit the parties acknowledge that this shall also be deemed to be a reference to the corresponding section in the Data Protection Act 2018.

"DP Regulator" means any governmental or regulatory body or authority with responsibility for monitoring or enforcing compliance with the Data Protection Laws.

The terms "**Data Controller**", "**Data Subject**" and "**processing**" shall have the meanings set out in the GDPR.

"Personal Data" shall have the meaning set out in the applicable Data Protection Law and relates only to such personal data, or any part of such personal data, of which the Customer or its Affiliates is the Data Controller and in relation to which Licensor is providing services under this Agreement;

1.2 The Parties agree that to the extent that Licensor, in the course of performing its obligations under the Agreement, processes any Personal Data provided by or on behalf of the Customer, the provisions of this Exhibit A shall apply.

1.3 The Parties shall comply with the provisions and obligations imposed on them by the applicable Data Protection Laws at all times when processing Personal Data in connection with the Agreement, which processing, as at the Effective Date, shall be in respect of the types of Personal Data, categories of Data Subjects, nature and purposes, and duration, set out in the Appendix to this Exhibit A as amended from time to time.

1.4 Each Party shall maintain records of all processing operations under its responsibility that contain at least the minimum information required by the applicable Data Protection Laws, and shall make such information available to any DP Regulator on request.

1.5 The Customer shall:

- (a) ensure that any instructions it issues to Licensor shall comply with all applicable Data Protection Laws; and
- (b) have sole responsibility for the accuracy, quality and legality of Personal Data and the means by which the Customer acquired the Personal Data, and shall establish the legal basis for processing under the applicable Data Protection Laws; and
- (c) in relation to any Personal Data that the Customer provides or makes available to the Licensor, ensure that the Customer has made all disclosures and obtained all consents required under the applicable Data Protection laws so that: (i) the Customer is able and entitled to lawfully (including specifically in accordance with the applicable Data Protection Laws) disclose, provide or make available the relevant Personal Data to the Licensor in connection with this Agreement; and (ii) the Licensor able and entitled to lawfully (including specifically in accordance with the applicable Data Protection Laws) collect, store, use, disclose and process the relevant Personal Data in accordance with, and for the purposes of fulfilling its obligations under, this Agreement.

1.6 To the extent Licensor processes any Personal Data on behalf of the Customer, Licensor shall:

- (a) process such Personal Data (i) only in accordance with the Customer's written instructions from time to time (including those set out in the Agreement) provided such instructions are reasonable and lawful and unless it is otherwise required by applicable law (in which case, unless such law prohibits such notification on important grounds of public interest, Licensor shall notify the Customer of the relevant legal requirement (if any) before processing the Personal Data), and (ii) only for the duration of the Agreement; provided that if such processing instructions require Licensor to implement any measures or processes over and above those in place at the time of receiving the processing instructions, Licensor shall not be required to implement such measures and processes unless and until the Customer agrees in writing to bear the cost for implementing such measures and processes.

- (b) take commercially reasonable steps to ensure only Licensor Personnel who need access to the Personal Data to meet Licensor's obligations under the Agreement are authorised to have access to such Personal Data, and ensure that any such Licensor Personnel are committed to confidentiality or are under an appropriate statutory obligation of confidentiality when processing such Personal Data;
- (c) taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the processing, implement technical and organisational measures and procedures to ensure a level of security for such Personal Data appropriate to the risk, including the risks of accidental, unlawful or unauthorised destruction, loss, alteration, disclosure, dissemination or access;
- (d) inform the Customer without undue delay upon becoming aware of any such Personal Data (while within Licensor's control) being subject to a personal data breach (as defined in Article 4 of GDPR);
- (e) not disclose any Personal Data to any Data Subject or to a third Party other than at the written request of the Customer or as expressly provided for in this Agreement;
- (f) except for Personal Data of which Licensor is also a Data Controller, and except as required by law or in order to defend any actual or possible legal claims, as the Customer so directs, take reasonable steps to return such Personal Data and/or irretrievably delete all Personal Data on termination or expiry of the Agreement, and not make any further use of such Personal Data;
- (g) permit the Customer or its representatives on reasonable written notice to carry out a remote audit of all relevant information relating to the processing of Personal Data by Licensor, which may take the form of conference calls and/or Licensor's completion of information security or other questionnaires submitted by or on behalf of the Customer in order to verify compliance with this paragraph 1.6 of Exhibit A, subject to the following requirements:
 - (i) the Customer may perform such audits no more than once per year unless required by the applicable Data Protection Laws;
 - (ii) the Customer may use a third Party to perform the audit on its behalf, provided such third Party executes a confidentiality agreement acceptable to Licensor ("**NDA**") before the audit;
 - (iii) audits must be conducted during regular business hours, subject to Licensor's policies, and may not unreasonably interfere with Licensor's business activities. Due to the multi-tenant nature of some of Licensor's business systems, Licensor may limit the scope of audit activities and relevant reporting to ensure customer confidentiality;
 - (iv) the Customer must provide Licensor with any audit reports generated in connection with any audit at no charge unless prohibited by applicable law. The Customer may use the audit reports only for the purposes of meeting its audit requirements under the applicable Data Protection Laws and/or confirming compliance with the requirements of this paragraph 1.6 of Exhibit A. The audit reports shall be confidential;
 - (v) to request an audit, the Customer must first submit a detailed audit plan to Licensor at least 6 (six) weeks in advance of the proposed audit date. The audit must describe the proposed scope, duration and start date of the audit. Licensor will review the audit plan and inform the Customer of any concerns or questions (for example, any request for information that could compromise Licensor's confidentiality obligations or its security, privacy, employment or other relevant policies). Licensor will work cooperatively with the Customer to agree a final audit plan;
 - (vi) the person carrying out the audit shall be supervised by Licensor at all times;
 - (vii) nothing in this paragraph 1.6(h) shall require Licensor to breach any duties of confidentiality owed to any of its clients, employees or third parties;

(viii) all audits are at the Customer's sole cost and expense; and

(ix) information provided by or on behalf of Licensor pursuant to an audit will be Licensor's Confidential Information. If Customer's Agreement does not include a provision protecting Licensor's Confidential Information, then such Confidential Information will be made available to Customer subject to an NDA. Customer hereby agrees to use the Confidential Information in accordance with the terms of the confidentiality provision contained in the Agreement or the NDA as applicable, and agrees to delete such Confidential Information on the earlier of (i) the date when Customer concludes its evaluation of the Licensor Confidential Information and (ii) 30 days after receiving such Confidential Information from Licensor.

1.7 Licensor agrees that it shall:

- (a) notify the Customer as soon as reasonably practicable if it receives a request from a Data Subject to exercise its rights under the applicable Data Protection Laws in relation to that person's Personal Data; and
- (b) provide the Customer with reasonable co-operation and assistance in relation to any request made by a Data Subject to exercise its rights under the applicable Data Protection Laws in relation to that person's Personal Data provided that the Customer shall be responsible for Licensor's reasonable costs and expenses arising from such co-operation and assistance.

1.8 If Customer receives any complaint, notice or communication from a DP Regulator which relates directly to the processing of Personal Data by Licensor, it shall as soon as reasonably practicable notify Licensor and Licensor agrees to provide Customer with commercially reasonable co-operation and assistance in relation to any such complaint, notice or communication.

1.9 The Customer generally agrees that Licensor may engage third parties to support Licensor in its provision of the Licensor Products and Services where processing of Personal Data is involved ("**Sub-Processors**"). Sub-Processors for the purpose of this Agreement do not include companies providing ancillary services such as back-ups, telecommunication services, postal/transport services, maintenance and user support services, nor measures to ensure the confidentiality, availability, integrity, and resilience of the hardware and software of processing equipment.

1.10 If Licensor engages a new Sub-Processor ("**New Sub-Processor**"), Licensor shall inform the Customer of the engagement and the Customer may object to the engagement of such New Sub-Processor by notifying Licensor within 10 Business Days of such notification, provided that such objection must be on reasonable, substantial grounds, directly related to such New Sub-Processor's ability to comply with substantially similar obligations to those set out in this Exhibit A, and must include sufficient detail as Licensor may reasonably request to enable Licensor to consider properly the objection. If the Customer does not so object, the engagement of the New Sub-Processor shall be deemed accepted by the Customer.

1.11 Licensor shall ensure that its contract with each New Sub-Processor shall impose obligations on the New Sub-Processor that are materially equivalent to the obligations to which Licensor is subject to under this Exhibit A.

1.12 Any sub-contracting or transfer of Personal Data pursuant to this Exhibit A shall not relieve Licensor of any of its liabilities, responsibilities and obligations to the Customer under the Agreement and Licensor shall remain liable for the acts and omissions of its Sub-Processor.

1.13 Where Personal Data is processed by Licensor under or in connection with this Agreement on behalf of the Customer, the Customer agrees that Licensor may disclose the Personal Data to such Licensor Personnel and Sub-Processors as Licensor reasonably considers necessary for the performance of its obligations under the Agreement, for compliance with applicable law and is required to defend any actual or possible legal claims. Licensor shall take reasonable steps to ensure the reliability of any Licensor Personnel or Sub-Processor who has access to the Personal Data and ensure that such persons are aware of Licensor's obligations under this Agreement.

1.14 For the avoidance of doubt, clause 7 of the Terms and Conditions shall apply in relation to this Exhibit A.

**APPENDIX TO
EXHIBIT A**

The Personal Data processing activities carried out by Licensor under the Agreement may be described as follows:

1. Subject matter of processing

Processing relating to the Customer during the term of the Agreement.

2. Nature and purpose of processing

Processing of Personal Data incidental to, and limited to the extent necessary, for Licensor to supply the Software, provide the Maintenance Services, Professional Services and Service Deliverables, and fulfil its obligations to the Customer under the Agreement.

3. Categories of Personal Data

Personal data including:

- **personal details**
- **family, lifestyle and social circumstances**
- **goods and services**
- **financial details**
- **education and employment details**

4. Categories of data subjects

Customers, complainants and enquirers.

5. Duration

Continuously during the term of the Agreement.

