

Eka Software Solutions Pte Ltd.

Software as a Service Subscription Agreement

This Software as a Service Subscription Agreement (this "SaaS Agreement"), dated as of _____, 2021 (the "Effective Date") is by and between _____ ("Licensee") and Eka Software Solutions Pte Ltd, having its principal place of business at 17 Phillip Street, Grand Building #05-01, Singapore 048695 ("Eka") and governs Licensee's use of the System (as defined below).

1. Definitions

(a) **Acceptable Use Policy** or **AUP** means the policies of Eka's applicable third party hosting services provider, which provider may be changed from time to time by Eka in Eka's reasonable discretion. The current AUP of Eka's current third party hosting services provider may be found at www.aws.amazon.com/aup/.

(b) **Affiliate** means an entity who directly or indirectly, has the power to control, whether through ownership of more than fifty percent of (i) the voting equity or (ii) an interest in a joint venture in which Licensee's control over the joint venture is set forth in a writing.

(c) **Authorized User** means a unique or named employee or contractor of Licensee or its Permitted Affiliate who has been granted access to use the System by and on behalf of Licensee or its Permitted Affiliate or provided a log in identification to access the System by and on behalf of Licensee or its Permitted Affiliate.

(d) **Documentation** means the applicable documentation relating to the use of the System, including usage guides and policies, as updated from time to time, that is provided by Eka and accessible via login to the System.

(e) **Error** means any reproducible material failure of the System to function substantially in accordance with its Documentation.

(f) **Licensee Data** means any of Licensee's information, documents, or electronic files that are provided to Eka hereunder.

(g) **Maintenance Window** means collectively, standard maintenance and emergency maintenance windows. Standard maintenance windows will be published in advance pursuant to Eka's schedule as provided to Licensee from time to time. Emergency maintenance will occur as needed.

(h) **Order Form** means an ordering document specifying selected features with respect to the System including modules or products to be provided hereunder that is executed by Licensee and Eka.

(i) **Permitted Affiliate** means any current or future Affiliate of Licensee for as long as such entity constitutes an Affiliate where for purposes hereof.

(j) **Services** means the Eka's propriety services related to the Software that are ordered by Licensee under an Order Form as such services may be updated from time to time in Eka's sole discretion and will include services by Eka to support the System during the Term. For purposes of this Agreement, Services are exclusive of professional services, such as training, implementation, configuration and customized development services, if any, that may be rendered from time to time by Eka pursuant to a separately executed professional services agreement.

(k) **Software** means the individual modules or products that make up the System as identified on an Order Form.

(l) **System** means the software service for which Licensee has paid to obtain the license to access and use the Software and the Documentation, including any Updates relating thereto, that may be provided hereunder or thereunder, and any derivative works of the foregoing.

(m) **Term, Initial Term and Renewal Term** are defined in Section 8 below.

(n) **Update** means any patch, bug fix, release, version modification or successor to the System that is implemented from time to time by Eka in the ordinary course of business.

(o) **Workaround** means a software patch, specific administrative steps or alternative programming calls that enable Licensee to continue to use the System but that do not actually fix the Error.

2. Use Rights

(a) **Use Rights.** During the Term and subject to the terms of this Agreement, Eka hereby grants to Licensee a limited, non-exclusive, non-transferable, non-sublicensable right to: (i) access and use the System for up to the number of Authorized Users specified in the applicable Order Form and solely for Licensee's internal business purposes; and (ii) to download and reproduce the applicable Documentation solely for internal use in association with the System. Each Authorized User shall be required as condition of use of the System to agree to the AUP, which AUP may be revised from time to time by Eka or its applicable third party hosting services provider in their discretion. Licensee is responsible for ensuring that any use of the System by Authorized Users is in compliance with the terms of this Agreement, including the AUP.

(b) **Subscriptions.** Unless otherwise provided in the applicable Order Form, (i) the use rights are purchased as subscriptions, (ii) subscriptions for additional Authorized Users or Software may be added during a subscription term by execution of an Order Form and annual fees will be prorated for the portion of that subscription term remaining at the time the subscriptions are added, and (iii) any added subscriptions will terminate on the same date as the underlying subscriptions.

(c) **Restrictions.** Licensee shall not, directly, indirectly, alone, or with another party, or permit any third party to, (i) copy, disassemble, reverse engineer, or decompile the System or any software used to provide the Services, or otherwise attempt to derive source code or the underlying ideas, algorithms, structure or organization from the System or any software used to provide the Services of a part thereof; (ii) modify, create derivative works based upon, or translate the System; (iii) license, sell, rent, lease, transfer, grant any rights in or otherwise commercially exploit the System in any form to any other party; (iv) provide access to, sell, resell, license, sublicense, rent, lend or transfer the System to any third party or use the System to provide any paid or unpaid services on an outsourced basis or otherwise to any third party, including as an application service provider; (v) hide, remove, tamper, amend, alter, obscure or in any manner interfere with any proprietary rights notices contained on or within the System or the Documentation; (vi) use the System, or introduce code or other items to the System, in a manner that adversely affects the operation of Eka's servers or other systems; (vii) send or store on or through the System infringing, obscene, threatening, libelous or otherwise unlawful or tortious material, including material that violates any third party rights; (viii) access the System in order to (a) build a competitive product or service, or (b) copy any features, functions or graphics of the System or (ix) otherwise use the System in violation of this Agreement, the Documentation or the AUP; nor shall Licensee attempt to do any of the foregoing or cause or permit any third party to do or attempt to do any of the foregoing. Licensee acknowledge and agree that Eka shall own all right, title and interest in and to all intellectual property rights (including all derivatives or improvements thereof) in the System and any suggestions, enhancement requests, feedback, recommendations or other information provided by Licensee or any Authorized Users relating to the System.

(d) **Usage Limits.** Services are subject to usage limits, including, for example, the quantities specified in Order Forms and Documentation. Unless otherwise specified, (i) the System may not be accessed by more than that number of Authorized Users identified on the Order Form, (ii) Authorized Users' passwords may not be shared, and (iii) an Authorized User identification may only be reassigned to a new individual

replacing one who will no longer use the System. If Licensee exceeds a contractual usage limit, Licensee will execute an Order Form for additional quantities of the applicable Services promptly upon Eka's request, and pay any invoice for excess usage in accordance with this [Section 2](#).

(e) **Ownership; Reservation of Rights.** Subject to the limited rights expressly granted hereunder, Eka, its affiliates, and licensors reserve all right, title and interest in and to the System and the Documentation, including all related intellectual property rights. The Documentation is licensed and not sold. No rights are granted to Licensee hereunder other than as expressly set forth herein. Eka and its licensors reserve all rights not expressly granted herein.

(f) **Licensee Data.** As between the parties, Licensee owns all right, title and interest in Licensee Data. Licensee represents and warrants that it has the right to provide, and hereby grants to, Eka, a non-exclusive, non-transferable, non-sublicensable right and license to use, copy, transmit, modify and display Licensee Data solely for purposes of Licensee's use of the System and to use such Licensee Data internally and on any anonymized basis to improve the System and as necessary to perform its obligations hereunder.

(g) **No Sensitive Data; Licensee Responsibilities.** Licensee acknowledges that the System is not intended for use with sensitive personal information, and that Licensee assumes all risk arising from use of any such sensitive personal information with the System, including the risk of any inadvertent disclosure or unauthorized access thereto. Licensee is responsible for ensuring that its use and its Permitted Affiliates' use, if applicable, of the System are in compliance with all laws and governmental regulations applicable to Licensee and its Permitted Affiliates, if any. Licensee acknowledges that Licensee assumes all risk arising from any such use that is not compliant with applicable laws and regulations.

(h) **Security.** Licensee is solely responsible for maintaining the security of all user names and passwords granted to it, for the security of its information systems used to access the System, and for its Authorized Users' compliance with the terms of this Agreement. Eka will act as though any electronic communications it receives under Licensee's user names have been sent by Licensee. Licensee will immediately notify Eka if it becomes aware of any loss or theft or unauthorized use of any of Licensee's passwords or user names. Eka has the right at any time to terminate or suspend access to any Authorized User or to Licensee if Eka believes in good faith that such termination or suspension is necessary to preserve the security, integrity, or accessibility of the System or Eka's network.

3. Services

(a) **Services Generally.** Subject to the terms of this Agreement, Eka shall make available to Licensee, or shall engage a third party hosting services provider to make available to Licensee on Eka's behalf, hosted access to the System available to Licensee in accordance with this Section and as described in [Exhibit I](#). Licensee agrees that the Services may be performed by either Eka or its Affiliates as long as such entities remain Affiliates of Eka.

(b) **Provision of Support and Service Levels.** Eka will make the System available to Licensee pursuant to this Agreement and any applicable Order Forms, provide applicable standard support for the System to Licensee at no additional charge, and/or upgraded support if purchased, and, will use commercially reasonable efforts to ensure that the System is available to Authorized Users at least 99.5% of the time during any calendar month on a 24 hour per day, 7 day per week basis, except for: (i) Maintenance Windows, and (ii) any unavailability caused by a Force Majeure Event. Eka will not be liable for any downtime caused in whole or part by a third party data center provider nor for any downtime that Licensee experiences as a result of Licensee own network connectivity issues. If Licensee experiences a System outage and is unable to access the System, Licensee must immediately contact Eka's help desk, providing all necessary information that may assist Eka in determining the cause of the outage. Eka will determine in good faith whether the outage was within Eka's reasonable control.

(c) **Updates and Error Correction.** Eka shall deliver Updates to the System during standard Maintenance Windows where reasonably possible, from time to time in its reasonable discretion, at no additional charge. Eka shall use commercially reasonable efforts to correct all high priority Errors or to

provide a Workaround as soon as is possible using its reasonable efforts during Eka's normal business hours. Licensee shall provide such access, information, and support as Eka may reasonably require in the process of resolving any Error. This Section sets forth Licensee's sole and exclusive remedy for Errors.

(d) **Support Exclusions.** Eka is not obligated to correct any Errors or provide any other support to the extent such Errors or need for support was created in whole or in part by (i) the acts, omissions, negligence or willful misconduct of Licensee, including any unauthorized modifications of the System or its operating environment; (ii) any failure or defect of Licensee's or a third party's equipment, software, facilities, third party applications, or internet connectivity (or other causes outside of Eka's firewall); (iii) Licensee's use of the System other than in accordance with the Documentation; and (iv) a Force Majeure Event. Eka has the right to bill Licensee at its standard services rates for any support issues excluded by this section that have been pre-approved in writing (including in an email) by Licensee.

(e) **Hosting Services.** If Licensee elects to obtain Hosting Services as indicated on the applicable Order Form, then Eka will provide, or cause its third party hosting service provider to provide, the following services (collectively, the "Hosting Services"): application management, end to end application deployment, data storage infrastructure services, environment management, backup and restoration, and database support.

(f) **Professional Services.** Professional services, such as training, configuration, implementation and customized development are not included in this Agreement. Licensee may procure such professional services by executing Eka's Professional Services Agreement and Statements of Work associated therewith.

4. Fees and Payment Terms

(a) **Fees.** In return for access to the System, and rights provided by Eka to Licensee hereunder, Licensee shall pay to Eka the non-refundable fees in the amount set forth in the applicable Order Form (the "Fees"). Fees for the first annual period of the Initial Term are due upon the Effective Date and each anniversary date thereafter. Additional invoicing and payment terms are as specified in the Order Forms. Fees are nonrefundable. Fees for any Renewal Term shall not increase by more than ten percent annually. Licensees selecting annual pricing will receive notice of changes in pricing at least 45 days before each anniversary date of the Effective Date and invoices will be issued at least 30 days before each anniversary date of the Effective Date.

(b) **Payment Terms.** Eka shall invoice Licensee yearly in advance for all recurring charges, which invoices will also include all non-recurring charges and expenses incurred since the previous invoice. Eka shall also invoice Licensee for any other Fees due hereunder, such as the exercise of any options under the Order Form, at the time such Fee becomes due. For avoidance of doubt the Fee for the initial subscription term is due upon execution of this Agreement and Fees for subsequent annual subscription terms shall be due and payable within 30 days of Eka's invoice. Licensee shall pay all Eka invoices within 30 days of the invoice date. If Licensee is delinquent in payment of any portion of an undisputed invoice, Eka may, in addition to any other remedies it may have, including termination, suspend access to the System and provision of all Services to Licensee. Licensee agrees to pay interest on delinquent undisputed fees at the rate of 1½% per month (or, if lower, the maximum amount permitted by law) that a payment is overdue. A fee will be deemed undisputed unless Licensee notifies Eka in writing within 30 days of receipt of the applicable invoice, describing in reasonable detail, the nature of the dispute and cooperates in good faith to resolve the dispute promptly. If Licensee is delinquent in payment of any undisputed Fee, Eka may, in addition to any other available remedies, suspend Licensee's access to the System and the provision of Services; provided that Eka will give prior written notice of any such suspension.

(c) **Taxes.** Eka shall not be liable for any taxes, including (a) withholding, value added, personal property, excise, export, import, sales, use or franchise taxes, (b) taxes based upon sales or use, whether domestic or foreign, or (c) levies, fees, tariffs, duties or charges (collectively, "Taxes") incurred in each case in connection with the Agreements. The Fees payable hereunder are exclusive of all Taxes. Licensee shall file any returns required to be filed with respect to any Taxes and pay any Taxes in accordance with

applicable law. Licensee may not deduct or withhold any Taxes from any payment due to Eka except as required by law. If Licensee withholds or retains Taxes, then Licensee will increase the amount payable as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 4(c)) Eka receives an amount equal to the amount it would have received had no such deductions been made and Licensee shall thereupon timely remit the full amount deducted to the governmental authority in accordance with applicable law. If, and to the extent that, Eka recovers any withheld amount from the governmental authority, then Eka will remit such amount, less reasonable expenses associated with such collection effort, to Licensee. Licensee shall not be responsible for taxes or fees based on Eka's net income.

(d) **Monitoring.** Eka shall have the right to monitor Licensee's usage of the System to allow Eka to verify Licensee's compliance with the terms of this Agreement, including the number of users accessing the System. Without limiting Eka's other rights and remedies, in the event that Eka's applicable monitoring system reveals any underpayment of the correct amount of fees due to Eka, Eka may elect to suspend Licensee's access to the System until Licensee pays the shortfall in Fees and applicable interest fees in accordance with this Section 4. For the avoidance of doubt, any underpayment of the Fees may be deemed a material breach, thereby allowing Eka to terminate this Agreement in accordance with Section 8 below.

5. Confidentiality

(a) **Confidential Information.** "Confidential Information" means any and all tangible and intangible information (whether written or otherwise recorded or oral) of a party that: (i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; or (ii) the disclosing party designates as confidential or, given the nature of the information or the circumstances surrounding its disclosure, reasonably should be considered as confidential. Confidential Information includes nonpublic information relating to a party's technology, customers, business plans, promotional and marketing activities, finances and other business affairs; third-party information that Licensee or Eka is obligated to keep confidential; the material terms and conditions of this Agreement; and (iii) any nonpublic information relating to any activities conducted hereunder.

(b) **Exclusions.** Notwithstanding the above, the term "Confidential Information" does not include any information that is either readily discernible from publicly-available products or literature or approved for disclosure by prior written permission of an executive officer of the disclosing party.

(c) **Use of Confidential Information.** Each party shall maintain in confidence all Confidential Information furnished to it hereunder and only use such Confidential Information furnished to it hereunder in furtherance of the activities contemplated by this Agreement, and, except as authorized in this Agreement, it shall not disclose the Confidential Information to any other persons without the disclosing party's express written authorization. Each party will use at least the same standard of care as it uses to protect its own confidential information of similar nature to protect the confidentiality of the Confidential Information of the other party, and in no event less than reasonable care. Each party agrees to promptly notifying the other party upon discovery of any unauthorized use or disclosure of the Confidential Information.

(d) **Required Disclosures.** A receiving party may disclose Confidential Information of the disclosing party as required to comply with binding orders of governmental entities that have jurisdiction over it or as otherwise required by law, provided that the receiving party (i) gives the disclosing party reasonable written notice, if permissible, to allow it to seek a protective order or other appropriate remedy, (ii) discloses only such information as is required by the governmental entity or otherwise required by law, and (iii) uses commercially reasonable efforts to obtain confidential treatment or a protective order for any Confidential Information so disclosed.

(e) **Return of Information.** Except as set forth otherwise in the specific provisions, if a disclosing party so requests at any time, the receiving party shall return promptly all copies, extracts, or other reproductions in whole or in part of the Confidential Information in its possession.

(f) **Survival.** The parties hereto covenant and agree that this Section 5 will survive the expiration, termination, or cancellation of this Agreement for a period of three years, except for Confidential Information constituting a trade secret, with respect to which this Section will survive the expiration, termination, or cancellation of this Agreement for so long as such Confidential Information remains a trade secret.

6. Indemnification

(a) **Indemnification by Eka.** Eka shall defend Licensee from and against all from any third-party claim, suit or proceeding that arises from Licensee's authorized use of the System in accordance with this Agreement that, to Eka's knowledge, infringes or misappropriates any trade secret, trademark, or copyright and hold harmless Licensee from and against all damages, liabilities, losses and expenses, including reasonable attorneys' fees and expenses, finally awarded in a settlement or finally awarded by a court of competent jurisdiction resulting from any such third party claim. Eka will have no indemnity obligation to Licensee if the alleged infringement or misappropriation is based on (i) any combination, operation, or use of the System with products, services, information, materials, technologies, business methods or processes not furnished by Eka to the extent the infringement or misappropriation is based on such combination, operations or use; (ii) any modification (other than by Eka) to the System to the extent the infringement or misappropriation is based on such modification; or (iii) Licensee's failure to promptly install or use any Update that is provided by Eka that would have eliminated the actual or alleged infringement or misappropriation. In the event the System is held to, or Eka believes is likely to be held to, infringe or misappropriate, Eka shall have the right at its sole option and expense to (x) substitute or modify the System so that it is non-infringing, while retaining substantially equivalent features and functionality as set forth in the Documentation; (y) obtain a license to continue offering the System under commercially reasonable terms; or (z) if (x) and (y) are not reasonably practicable as determined by Eka in its sole discretion, terminate this Agreement as to the infringing Software. The remedies set forth in this Section 6 (a) are Licensee's sole and exclusive remedy, and Eka's sole and exclusive obligation regarding any claims of infringement or misappropriation under this Agreement.

(b) **Indemnification by Licensee.** Licensee shall defend, indemnify and hold harmless Eka from and against all damages, liabilities, losses and expenses, including reasonable attorneys' fees and expenses, resulting from any third-party claim, suit or proceeding that arises from Licensee's use of the System (other than to the extent indemnified by Eka under Section 6(a)).

(c) **Indemnification Process.** The indemnified party shall promptly notify the indemnifying party in writing of any third party claim, stating the nature and basis of the third party claim, to the extent known. The indemnifying party shall have sole control over the defense and settlement of any third party claim, provided that, within 15 days after receipt of the above-described notice, the indemnifying party notifies the indemnified party of its election to so assume full control. The foregoing notwithstanding, the indemnified party shall be entitled to participate in the defense of such third party claim and to employ counsel at its own expense to assist in the handling of such claim, except that the indemnified party's legal expenses in exercising this right shall be deemed legal expenses subject to indemnification hereunder to the extent that (i) the indemnifying party fails or refuses to assume control over the defense of the third party claim within the time period set forth above; (ii) the indemnified party deems it reasonably necessary to file an answer or take similar action to prevent the entry of a default judgment, temporary restraining order, or preliminary injunction against it; or (iii) representation of both parties by the same counsel would, in the opinion of that counsel, constitute a conflict of interest. The indemnifying party shall not settle any such third party claim without the written consent of the indemnified party, except for a complete settlement requiring only the payment of money damages to be paid by the indemnifying party.

(d) **Sole Remedy.** Indemnification pursuant to this Section is the parties' sole remedy for any third party claim against the other party in the nature of intellectual property infringement or misappropriation.

7. Warranties and Limitations

(a) **Warranty.** Eka represents and warrants that the System as made available and when accessed in accordance with the Documentation, will perform in material respects in accordance with the applicable Documentation. The foregoing warranty shall not apply to the extent that the System has been modified by Licensee or by a third party on Licensee's behalf or has been accessed or used in a manner not specified by Eka. In the event of a breach of the foregoing limited warranty, Licensee shall notify Eka in writing, providing details of the alleged non-conformity, and Eka will use commercially reasonable efforts to correct any identified Error or provide Updates or Workarounds that address the identified issue so as to cause the System to perform in accordance with this limited warranty. The foregoing sets forth Eka's sole and exclusive obligation and Licensee's sole and exclusive remedy in the event of any material breach of this limited warranty.

(b) **Disclaimer of Warranties.** EXCEPT AS EXPRESSLY SET FORTH IN SECTION 7(a), EKA MAKES NO, AND HEREBY DISCLAIMS ANY, REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE SYSTEM OR THE AVAILABILITY, FUNCTIONALITY, PERFORMANCE OR RESULTS OF USE OF THE SYSTEM. WITHOUT LIMITING THE FOREGOING, EXCEPT AS SPECIFICALLY SET FORTH IN THE LIMITED SERVICE LEVEL COMMITMENTS IN SECTION 3, EKA DISCLAIMS ANY WARRANTY THAT THE SYSTEM, THE SERVICES PROVIDED BY EKA, OR THE OPERATION OF THE SYSTEM ARE OR WILL BE ACCURATE, ERROR-FREE OR UNINTERRUPTED. EKA MAKES NO, AND HEREBY DISCLAIMS ANY, IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF NON-INFRINGEMENT, MERCHANTABILITY, OF FITNESS FOR ANY PARTICULAR PURPOSE OR ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE.

(c) **Disclaimer of Consequential Damages.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EKA BE LIABLE TO LICENSEE WITH RESPECT TO THE SYSTEM, SERVICES, OR ITS OTHER OBLIGATIONS UNDER THIS AGREEMENT OR OTHERWISE FOR ANY LOST PROFITS, LOST DATA, EQUIPMENT DOWNTIME OR FOR ANY CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL, INDIRECT OR PUNITIVE DAMAGES, EVEN IF EKA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(d) **Limitations of Remedies and Liability.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EKA'S TOTAL AGGREGATE LIABILITY TO LICENSEE UNDER THIS AGREEMENT FOR ANY REASON AND UPON ANY CAUSE OF ACTION, INCLUDING BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY OR TORT, EXCEED AN AMOUNT EQUAL TO ALL FEES PAID TO EKA BY LICENSEE PURSUANT TO THIS AGREEMENT DURING THE TWELVE MONTHS IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE LIABILITY.

8. Term and Termination

(a) **Term.** The term of this Agreement commences on the Effective Date and will continue for the duration of the initial term indicated on the Order Form (the "Initial Term"), and thereafter will automatically renew for additional terms of one year each (each, a "Renewal Term" and together with the Initial Term, the "Term") unless either party gives the other party written notice of its intention not to renew at least 90 days in advance of the Initial Term or the Renewal Term, as the case may be.

(b) **Termination.** A party may terminate this Agreement (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors and such petition or proceeding is not dismissed within 60 days of filing.

(c) **Obligations Upon Termination.** Upon termination of this Agreement, (i) the licenses granted herein shall terminate; (ii) provided that Licensee has paid all amounts owed to Eka hereunder, Eka shall,

upon written request received within 30 days of termination, provide such Licensee access to the System for a period of 72 hours for the limited purpose of exporting Licensee Data; (iii) Eka shall immediately terminate access to the System by Licensee except for the limited purpose set forth herein; and (iv) Licensee shall immediately pay Eka any amounts payable or accrued but not yet payable to Eka. Each party shall, within 30 days after termination of this Agreement, return to the other party, or destroy, the other party's Confidential Information and any copy thereof. LICENSEE ACKNOWLEDGES THAT UPON TERMINATION OF THIS AGREEMENT, EKA IS UNDER NO OTHER OBLIGATION TO EITHER MAINTAIN LICENSEE DATA OR TO PROVIDE LICENSEE WITH ACCESS TO OR A COPY OF THE LICENSEE DATA.

9. General

(a) **Notices.** Notices in connection with this Agreement by either party will be in writing and will be sent by an express delivery service (such as UPS, FedEx or DHL) to the other party's address set forth on the signature page hereto. Notices will be effective upon receipt in the case of notices by courier or five days after sending by regular post delivery service, in each case to the address provided.

(b) **Assignment.** Licensee shall not assign any of its rights under this Agreement, except with the prior written approval of Eka, which shall not be unreasonably withheld. The preceding sentence applies to all assignments of rights, except in the event of a voluntary transfer of substantially all assets by Licensee to a transferee which executes Eka's form of agreement agreeing to be bound all of the terms and conditions of this Agreement. Any change of control transaction is deemed an assignment hereunder. Any purported assignment of rights in violation of this Section is void.

(c) **Governing Law; Venue.** The laws of the Republic of Singapore (without giving effect to its conflict of laws principles) govern all matters arising out of or relating to this Agreement and the transactions it contemplates. Any claims or actions regarding or arising out of this Agreement must be brought exclusively in a court of competent jurisdiction sitting in the Republic of Singapore, and each party to this Agreement submits to the jurisdiction of such courts for the purposes of all legal actions and proceedings arising out of or relating to this Agreement.

(d) **Recovery of Litigation Costs.** If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the unsuccessful party shall pay to the successful party its reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which the successful party may be entitled.

(e) **Entire Agreement.** This Agreement, together with the Order Forms and any Exhibits attached hereto, constitute the complete agreement between the parties concerning its subject matter and supersede all prior or contemporaneous agreements or understandings, written or oral, relating to such subject matter. This Agreement may not be modified or amended except in a writing signed by both parties.

(f) **Force Majeure.** Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder (except for the payment of money) on account of events beyond the reasonable control of such party, which may include without limitation Internet denial-of-service attacks, strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, terrorism, governmental action, labor conditions, internet service provider failure or delay, earthquakes and material shortages (each a "Force Majeure Event"). Upon the occurrence of a Force Majeure Event, the non-performing party will be excused from any further performance of its obligations affected by the Force Majeure Event for so long as the event continues and such party continues to use commercially reasonable efforts to resume performance.

(g) **Relationship between the Parties.** Nothing in this Agreement shall be construed to create a partnership, joint venture, employer/employee or agency relationship between the parties. Neither party will

have the power to bind the other or to incur obligations on the other's behalf without such other party's prior written consent.

(h) **Counterparts.** This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same instrument and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party. Executed counterparts may be transmitted electronically (via .pdf) provided that each party will deliver manually executed originals upon the request of the other party.

(i) **Third Party Beneficiaries.** This Agreement is intended for the sole and exclusive benefit of the signatories and is not intended to benefit any third party.

(j) **Non-Solicitation.** During the Term and for 12 months thereafter, Licensee shall not, without the prior written consent of Eka, solicit, offer to employ or in any manner endeavor or attempt to employ any Eka employee.

(k) **Public Announcement.** The parties agree to issue a mutually-acceptable joint press release announcing this Agreement and the decision by Licensee to use the System. In addition, Licensee agrees to permit Eka to list Licensee as a customer of the System in Eka's marketing materials, including its website. Upon reasonable request from Eka, Licensee agrees to act as a reference account for the System. All other press and media releases, public announcements and public disclosures by either party relating to this Agreement shall be coordinated with and approved by both parties prior to the release thereof, with such consent not to be unreasonably withheld.

(l) **Compliance with Law.** In exercising its rights under this Agreement, Licensee shall at all times comply with all applicable international, federal, state and local laws and shall not engage in any illegal or unethical practices, including any anti-boycott laws, as amended, and any implementing regulations. Without limiting the foregoing, Licensee agrees that Licensee shall not download, export, or re-export any software or technical data received hereunder, regardless of the manner in which received, (i) into, or to a national or resident of, any country to which the United States has embargoed goods, or (ii) to anyone on the United States Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Denial Orders. The parties will comply with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

(m) **Order of Priority.** In the event of any conflict with respect to the terms of this Agreement, the following order of priority shall apply: this Agreement, each Order Form, the Professional Services Agreement and each Statement of Work. Notwithstanding the foregoing, the provisions of Sections 4(c), 6 and 9 of this Agreement may not be amended without the express written consent of an authorized officer of each party

(n) **Survival.** Those sections which by their nature are intended to survive termination or expiration of this Agreement shall so survive.

***** SIGNATURE PAGE TO FOLLOW *****

IN WITNESS WHEREOF, the parties have caused this SaaS Agreement to be executed by their authorized representatives as of the Effective Date.

EKA SOFTWARE SOLUTIONS PTE LTD.

[INSERT LICENSEE NAME AND INFORMATION]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Address for Notices:

Address for Notices:

Eka Software Solutions Pte Ltd
17 Phillip Street
Grand Building #05-01
Singapore 048695

With a copy to:

Finance Controller
Eka Software Solutions, Embassy Tech Village
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Outer Ring Road, Devarabeesanahalli, Bengaluru,
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EXHIBIT I

**PRODUCTION SUPPORT AND SERVICE LEVEL
AVAILABILITY POLICY (SLA)**