

FUSION THE APPS PEOPLE CUSTOMER SOFTWARE AGREEMENT

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Between

FUSION THE APPS PEOPLE

("Fusion the Apps People")

Registration number	C16135554		
Physical Address	6th Floor Tower A, 1 CyberCity, Ebene, Mauritius		
Email	Alasdair.Hawley@fusiontheappspeople.com		
Signed at	Ebene	Date	
Name	Alasdair Hawley	who warrants that they are duly Authorised to enter into this Software Agreement	
Designation	Commercial Director		

and

("the Customer")

Customer Name			
Registration number			
Physical Address			
Email			
Signed at		Date	
Name		who warrants that they are duly Authorised to enter into this Software Agreement	
Designation			

These General Terms apply to all of Customer's orders under this Agreement. Capitalized terms have the meanings given under "Definitions."

FUSION THE APPS PEOPLE CUSTOMER SOFTWARE AGREEMENT

This Fusion the Apps People Customer Software Agreement (the "Customer Software Agreement") is between Customer and Fusion the Apps People and consists of these General Terms, the applicable SLAs, and any additional terms Fusion the Apps People presents when an order is placed. This Customer Software Agreement takes effect when the Customer accepts these General Terms. The individual who accepts these General Terms represents that he or she is authorized to enter into this Customer Software Agreement on behalf of the Customer.

1 GRANTS, RIGHTS AND TERMS

All rights granted under this agreement are non-exclusive and non-transferable.

- 1.1 **Customer Software Agreement.** This agreement is only for the Product. The Microsoft Online Services, or any other products is covered under a separate agreement.
- 1.2 **Grant of License.** The Product is licensed and not Sold. Fusion the Apps People hereby grants the Customer subject to the Customer's compliance with this Agreement and the Subscription, for the Term a temporary:
 - 1.2.1 license to install, run and operate the Product on the Online Environments;
 - 1.2.2 license to access and use the Product by only a Named User for its business purposes;
- 1.3 **Acceptance.** Upon acceptance of each Subscription Order in terms of Clause 2, Fusion the Apps People grants Customer a limited right to use the Product by Named Users in the quantities ordered on the Commencement Date;
- 1.4 **Duration of licenses.** Licenses granted on a Subscription basis expire at the end of the applicable Subscription Term unless renewed.
- 1.5 **Named Users.** The Customer Software Agreement only entitles the number of Named Users stipulated in the Subscription Order to have access to the Product at any one time.
- 1.6 **The Product.** The Customer Software Agreement only entitles the use of the Product stipulated in the Subscription.
- 1.7 **End Users.** Customer will control access to and use of the Product by End Users and is responsible for any use of the Product that does not comply with this Customer Software Agreement.
- 1.8 **Customer Data.** Customer is solely responsible for the content of all Customer Data. Customer will secure and maintain all rights in Customer Data necessary for Fusion the Apps People to provide the Product to Customer without violating the rights of any third party or otherwise obligating Fusion the Apps People to Customer or to any third party. Fusion the Apps People does not and will not assume any obligations with respect to Customer Data or to Customer's use of the Product other than as expressly set forth in this agreement or as required by applicable law.
- 1.9 **Source Code.** The license granted does not extend to the Product Source Code. The Product Source Code and technical documents generated during the development of the Product is not available to the Customer.
- 1.10 **License transfers.** License transfers are not permitted.

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- 1.11 **Restrictions.** Customer may use the Product only in accordance with this agreement. Customer may not (and is not licensed to): (1) reverse engineer, decompile or disassemble any of the Product or Fix, or attempt to do so; (2) install or use non-Fusion the Apps People Product or technology in any way that would subject Fusion the Apps People's Intellectual Property or technology to any other license terms; or (3) work around any technical limitations in a the Product or Fix or restrictions in documentation. Customer may not disable, tamper with, or otherwise attempt to circumvent any billing mechanism that meters Customer's use of the Product. Except as expressly permitted in this agreement, Customer may not distribute, sublicense, rent, lease, lend, resell or transfer and the Product, in whole or in part, or use them to offer hosting services to a third party.
- 1.12 **Preview eases.** Fusion the Apps People may make Previews available. Previews are provided "as-is," "with all faults," and "as-available," and are excluded from the SLA and all limited warranties provided in this agreement. Previews may not be covered by customer support. Previews may be subject to reduced or different security, compliance, and privacy commitments, as further explained in any additional notices provided with the Preview. Fusion the Apps People may change or discontinue Previews at any time without notice. Fusion the Apps People also may choose not to release a Preview into "General Availability."
- 1.13 **Product License Key.**
- 1.13.1 On or before the Commencement Date, Fusion the Apps People will provide a Product License Key to enable the Customer to commence or continue, as the case may be, use of the Product pursuant to this Customer Software Agreement.
- 1.13.2 The Customer hereby acknowledges that it is aware of the fact that the Product License Key is required to operate and use the Product.
- 1.14 **Affiliates.** Customer may order Product for use by its Affiliates. If it does, the Licenses granted to Customer under this Agreement will apply to such Affiliates, but Customer will have the sole right to enforce this Agreement against Fusion the Apps People. Customer will remain responsible for all obligations under this Agreement and for its Affiliates' compliance with this Agreement.
- 1.15 **Verifying compliance for Product.**
- 1.15.1 **Right to verify compliance.** Fusion the Apps people may install code or reports to verify the number of Named Users using the Product. This code and reports must be deployed in the Customers Production Environment at all times during the Term of a Subscription. The code or reports will automatically be sent to Fusion the Apps People, but should this not work, Fusion the Apps People may request the Customer to run the code or report and send it to Fusion the Apps People. Customer must keep records relating to the Product it and its Affiliates use or distribute. At Fusion the Apps People's expense, Fusion the Apps People may verify Customer's and its Affiliates' compliance with this Agreement at any time upon 30 days' notice. To do so, Microsoft may engage an independent auditor (under nondisclosure obligations) or ask Customer to complete a self-audit process. Customer must promptly provide any information and documents that Fusion
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the Apps People or the auditor reasonably requests related to the verification and access to systems running the Product.

Remedies for non-compliance. If verification or self-audit reveals any unlicensed use, Customer must, within 30 days, order sufficient licenses to cover the period of its unlicensed use. Without limiting Fusion the Apps People's other remedies, if unlicensed use is 5% or more of Customer's total use of the Product, Customer must reimburse Fusion the Apps People for its costs incurred in verification and acquire sufficient licenses to cover its unlicensed use at 125% of the then-current Customer price or the maximum allowed under applicable law, if less. All information and reports related to the verification process will be Confidential Information and used solely to verify compliance.

2 SUBSCRIPTIONS, ORDERING

2.1 **Choosing a Reseller.** Customer may authorize a Reseller to place orders on Customer's behalf and manage Customer's purchases by associating the Reseller with its account. If the Reseller's distribution right is terminated, Customer must select an authorized replacement Reseller or purchase directly from Fusion the Apps People. Resellers and other third parties are not agents of Fusion the Apps People and are not authorized to enter into any agreement with Customer on behalf of Fusion the Apps People.

2.2 **Partner Administrator privileges and access to Customer Data.** If Customer purchases the Licenses from a Reseller or chooses to provide a Reseller with administrator privileges, that Reseller will be the primary administrator of the Licenses and will have administrative

privileges and access to Customer Data and Administrator Data. Customer consents to Fusion the Apps People and its Affiliates providing the Reseller with Customer Data and Administrator Data for purposes of provisioning, administering and supporting (as applicable) the Licenses. Reseller may process such data according to the terms of Reseller's agreement with Customer, and its privacy commitments may differ from Fusion the Apps People's. Customer appoints Reseller as its agent for purposes of providing and receiving notices and other communications to and from Fusion the Apps People. Customer may terminate the Reseller's administrative privileges at any time.

2.3 **Support and Professional Services.**

Customer's Reseller will provide details on support services available for the Product purchased under this agreement. Support services may be performed by Reseller or its designee, which in some cases may be Fusion the Apps People. If Customer purchases Professional Services under this agreement, the performance of those Professional Services will be subject to the terms and conditions in this Agreement.

2.4 **Available Subscription offers.** The Subscription offers available to Customer will be established by its Reseller and generally can be categorized as one or a combination of the following:

2.4.1 **Online Services Commitment Offering.**

Customer commits in advance to purchase a specific quantity of the Licenses for use during a Term and to pay upfront or on a periodic basis in accordance with the Subscription.

2.4.2 **Limited Offering.** Customer receives a limited quantity of the Licenses for a limited Term without charge (for example, a free trial). Provisions in this Customer Software Agreement with respect to any SLA included in the Subscription and data retention may not apply.

2.5 **Pricing and payment.** If Customer orders from a Reseller, the Reseller will set Customer's pricing and payment terms for that order, and Customer will pay the amount due to the Reseller. Pricing and payment terms related to orders placed by Customer directly with Fusion the Apps People are set by Fusion the Apps People.

2.6 **Subscription cancellation.** If a Customer's Subscription is cancelled or expires for any reason, the Customer Data will only be available if there is an active Subscription. Upon cancellation, Customer will have ninety (90) days during which there must be an active monthly Subscription to migrate any Customer Data to either a new Subscription with Reseller, with Fusion the Apps People directly, or some other service. Upon request, Fusion the Apps People may assist Customer with migration of its Customer Data at an additional charge agreed to between Customer and Fusion the Apps People.

2.7 **Renewal.**

2.7.1 Upon renewal of a Subscription, Customer may be required to sign a new agreement, a supplemental agreement or an amendment to this Customer Software Agreement. Unless stated otherwise in a Subscription, all auto-renewals or renewals are subject to the then current Price List of the Reseller.

2.8 **Taxes.**

2.8.1 Fusion the Apps People prices exclude applicable taxes unless identified as tax inclusive. If any amounts are to be paid to Fusion the Apps People, Customer shall also pay any applicable value added, goods and services, sales, gross receipts, or other transaction taxes, fees, charges, or surcharges, or any regulatory cost recovery surcharges or similar amounts that are owed under this Agreement and that Fusion the Apps People is permitted to collect from Customer. Customer shall be responsible for any applicable stamp taxes and for all other taxes that it is legally obligated to pay including any taxes that arise on the distribution or provision of Product by Customer to its Affiliates.

2.8.2 If any taxes are required to be withheld on payments invoiced by Fusion the Apps People, Customer may deduct such taxes from the amount owed and pay them to the appropriate taxing authority, but only if Customer promptly provides Fusion the Apps People an official receipt for those withholdings and other documents reasonably requested to allow Fusion the Apps People to claim a foreign tax credit or refund. Customer will ensure that any taxes withheld are minimized to the extent possible under applicable law.

3 **TERM, TERMINATION**

3.1 **Term.** This Customer Software Agreement is effective until terminated by a party, as described below.

3.2 **Termination without cause.** Either party may terminate this Customer Software Agreement without cause on 60 days'

notice. Termination without cause will not affect, and Licenses granted on a Subscription Order will continue for the duration of the Subscription Term(s), subject to the terms of this Customer Software Agreement.

3.3 **Termination for cause.** Without limiting other remedies it may have, either party may terminate this Customer Software Agreement on 30 days' notice for material breach if the other party fails to cure the breach within the 30-day notice period. Upon such termination, the following will apply:

3.3.1 All Licenses granted under this Customer Software Agreement will terminate immediately.

3.3.2 All amounts due under any unpaid invoices shall become due and payable immediately. For metered Product billed periodically based on usage, Customer must immediately pay for unpaid usage as of the termination date.

3.3.3 If Fusion the Apps People is in breach, Customer will receive a credit for any Subscription fees, including amounts paid in advance for unused consumption for any usage period after the termination date.

3.4 **Suspension.** Fusion the Apps People may suspend use of a Product and or the Microsoft Online Service without terminating this Customer Software Agreement during any period of material breach.

3.5 **Termination for regulatory reasons.** Fusion the Apps People may modify, discontinue, or terminate a Product in any country or jurisdiction where there is any current or future government regulation, obligation, or other requirement, that (1) is not generally

applicable to businesses operating there; (2) presents a hardship for Fusion the Apps People to continue offering the Product without modification; or (3) causes Fusion the Apps People to believe these terms or the Product may conflict with any such regulation, obligation, or requirement. If Fusion the Apps People terminates a subscription for regulatory reasons, Customer will receive, as its sole remedy, a credit for any Subscription fees, including amounts paid in advance for unused consumption for any usage period after the termination date.

4 MICROSOFT PRODUCTS AND THE PRODUCT

4.1 **Microsoft Products and the Product.** The Product is an Embedded Unified Solution that can be purchased as Licenses Embedded or Licenses Non-Embedded.

4.2 **Microsoft Products Licenses Embedded subscription.** The Subscription for the Microsoft Online Services is included in the Licenses Embedded subscription but subject to the Microsoft Online Services and Microsoft Product Terms.

4.3 **Microsoft Products Licenses Non-Embedded subscription.** The Subscription for the Microsoft Online Services is excluded from this Customer Software Agreement as well as any other third-party software. The Subscription must be in full force and effect in accordance with Microsoft Product Terms, for the Product to run.

4.4 **Deployable Package.** The Product is deployed into the Microsoft Products as a deployable package.

4.5 **Upgrades to the Product.** The Product is continuously upgraded to the latest major update version of the Microsoft

Products, but no later than 60 days after Microsoft release to Customers. The upgrade excludes any Professional Services.

4.6 **Innovating and improving the Product.** Fusion the Apps People is continually innovating and improving the Product to meet the needs of its customers. Fusion the Apps People must not be prevented from continuing to develop and enhance its Product in any respect, even if such modifications may be similar or the same as to the Customizations to Product by Reseller in functionality, appearance or otherwise. Therefore, if Fusion the Apps People independently develops any modifications, which may be similar to the Customizations to Product by Reseller, Customer agrees not to make any claim against Fusion the Apps People for infringement of any of your rights in or to the Customizations to Product by Reseller. Fusion the Apps People may not incorporate into its modifications any original source code independently developed by the Customer. The Customer acknowledges that the covenant by Customer in this section is material basis for Fusion the Apps People's agreement to license Customer the rights to access and customize the Product.

5 DELIVERY, IMPLEMENTATION, CUSTOMIZATIONS, MAINTENANCE AND SUPPORT

5.1 **Delivery.** The Reseller shall deliver 1 (one) run time version of the Product to the Customer on the Online Environments by no later than the Installation Date.

5.2 **Implementation, Maintenance and Support.** The Product shall be implemented, maintained and supported by Professional Services by the Reseller. In some cases, this may be Fusion the Apps People. The Professional Services will be in accordance with a separate agreement entered into between the Customer and the Reseller. In some cases, this may be Fusion the Apps People.

5.3 **Fusion the Apps People Customizations to the Product.** The Customer or Reseller on behalf of the Customer, can request Fusion the Apps People to create Customizations to the Product. Fusion the Apps People hereby grants to Customer the right to use the Customizations to the Product covered by this Customer Software Agreement solely for the Customers internal use under the terms and conditions of this Customer Software Agreement.

5.4 **Fusion the Apps People Customizations to Microsoft Products.** The Customer or Reseller on behalf of the Customer, can request Fusion the Apps People to create Customizations to Microsoft Products. Fusion the Apps People hereby grants to Customer the right to use the Customizations to Microsoft Products covered by this Customer Software Agreement solely for the Customers internal use under the terms and conditions of this Customer Software Agreement.

5.5 **Customer/ Reseller Product Customizations.** Fusion the Apps People does not grant the Customer or Reseller a right to create customizations to Product covered by this Customer Software Agreement. The Customer or Reseller may however create Customizations to Product by Reseller as

an Extension to the Microsoft Products to add functionality to the solution.

6 SECURITY, PRIVACY, AND DATA PROTECTION

6.1 **Personal Data.** Customer consents to the processing of Personal Data by Fusion the Apps People and its Affiliates, and their respective agents and subcontractors, as provided in this Agreement. Before providing Personal Data to Fusion the Apps People, Customer will obtain all required consents from third parties (including Customer's contacts, Partners, distributors, administrators, and employees) under applicable privacy and Data Protection Laws.

6.2 **Location of Personal Data.** To the extent permitted by applicable law, Personal Data collected under this Agreement may be transferred, stored and processed in the United States or any other country in which Fusion the Apps People or its Affiliates, or their respective agents and subcontractors, maintain facilities. Fusion the Apps People will abide by the requirements of the United Kingdom, European Economic Area and Swiss data protection laws as applicable, regarding the collection, use, transfer, retention, and other processing of Personal Data from the United Kingdom, European Economic Area and Switzerland.

7 CONFIDENTIALITY

7.1 **Protection of Confidential Information.** Each party will take reasonable steps to protect the other's Confidential Information and will use the other party's Confidential Information only for purposes of the parties' business relationship. Neither party will disclose

Confidential Information to third parties, except to its Representatives, and then only on a need-to-know basis under nondisclosure obligations at least as protective as this Agreement. Each party remains responsible for the use of Confidential Information by its Representatives and, in the event of discovery of any unauthorized use or disclosure, must promptly notify the other party.

7.2 **Disclosure required by law.** A party may disclose the other's Confidential Information if required by law, but only after it notifies the other party (if legally permissible) to enable the other party to seek a protective order.

7.3 **Residual information.** Neither party is required to restrict work assignments of its Representatives who have had access to Confidential Information. Each party agrees that the use of information retained in Representatives' unaided memories in the development or deployment of the parties' respective products or services does not create liability under this Agreement or trade secret law, and each party agrees to limit what it discloses to the other accordingly.

7.4 **Duration of Confidentiality obligation.** These obligations apply (1) for Customer Data, until it is deleted from the Microsoft Online Services; and (2) for all other Confidential Information, for a period of five years after a party receives the Confidential Information.

8 WARRANTIES

8.1 **Limited Warranty.** Fusion the Apps People warrants that:

8.1.1 whilst not warranting that the Product will be error-free or have Defects, Fusion the Apps People does warrant

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- that the Product will both individually and as a whole, conform and continue to conform in all material respects to the Product documentation each month;
- 8.1.2 If it does not, and Customer notifies Fusion the Apps People, then Fusion the Apps People will, at its option, (1) pass a credit for the amount the Customer was invoiced for the Product for current billing month only in which the Product does not conform "Warranty Period" or (2) repair the Product in terms of Clause 8.2.
- 8.2 **Warranty support.** Fusion the Apps People shall for the period of the Warranty Period provide reasonable programming services at no additional cost to the Customer to correct any Defect, provided that:
- 8.2.1 the Customer promptly notifies Fusion the Apps People of the Defects. Such notification may be oral but if so must be confirmed in writing within 7 (seven) days; and
- 8.2.2 upon inspection by Fusion the Apps People, the Customer can reproduce the Defect.
- 8.2.3 The remedies above are Customer's sole remedies for breach of the warranties in this section. Customer waives any warranty claims not made during the warranty period.
- 8.3 **Exclusions.** The warranties in this agreement do not apply to:
- 8.3.1 problems caused by accident, abuse or use inconsistent with this agreement, including failure to meet minimum system requirements;
- 8.3.2 to Defects caused by Customizations to Product by Reseller or Customizations to Microsoft Products;
- 8.3.3 to free or trial Product, previews, limited offerings, or to components of software that Customer is permitted to redistribute.
- 8.4 **Qualification.** The limited warranty contained in this clause 8 does not cover any failure of the Product caused by an Excluded Error.
- 8.5 **Disclaimer. Except for the limited warranties above, Fusion the Apps People provides no warranties or conditions for Product and disclaims any other express, implied, or statutory warranties for Product, including warranties of quality, title, non-infringement, merchantability and fitness for a particular purpose.**
- 9 **DEFENSE OF THIRD-PARTY CLAIMS**
- 9.1.1 The Product will not infringe any patent, copyright, trade mark or other proprietary right of any third-party, and Fusion the Apps People shall, at its cost, defend the Customer against any claim that the Product, infringes any such right of a third-party, provided that the Customer gives prompt notice to Fusion the Apps People of such claim, Fusion the Apps People controls the defense thereof and the Customer gives its permission, on receipt of a written request, for its name to be used in proceedings (such permission not to be unreasonably withheld or delayed) and provide at Fusion the Apps People's expense, all reasonable assistance in defending any action or claim.
- 9.2 Should any third-party succeed in its claim for the infringement of any Intellectual Property, Fusion the Apps People shall, at its discretion and within 30 (thirty) days of the infringing Product having been found to so infringe:

- 9.2.1 obtain for the Customer the right to continue using the infringing Product or the parts thereof which constitute the infringement;
- 9.2.2 alter the infringing Product in such a way as to render it non-infringing while still in all respects operating substantially in accordance with the Product documentation; or failing any of the above;
- 9.2.3 terminate the Customers license and refund any amount paid for the Subscription for any usage period after the termination date.
- 9.3 Fusion the Apps People will not be liable for any claims or damages due to Customer's continued use of the Product or Fix after being notified to stop due to a third- party claim.

10 INTELLECTUAL PROPERTY RIGHTS

The Customer acknowledges that:

- 10.1 all Intellectual Property rights in and to the Product are and will remain the sole property of Fusion the Apps People and the Customer shall not question or dispute the ownership of such rights at any time during the currency of this Customer Software Agreement or thereafter;
- 10.2 The Product constitutes Confidential Information.
- 10.3 **Reservation of Rights.** Fusion the Apps People reserves all rights not expressly granted in this Agreement. Product is protected by copyright and other intellectual property laws and international treaties. No rights will be granted or implied by waiver or estoppel. Rights to access or use a Product on a device do not give Customer any right to implement Fusion the Apps People

patents or other Fusion the Apps People intellectual property in the device itself or in any other software or devices.

- 10.4 **Use of Marks.** The Agreement does not grant either party any right, title, interest, or license in or to any of the other party's Marks. The parties may use the other party's corporate name, technology names and trademarks in proposals, quotes, marketing material, website and other platforms solely for the purpose of marketing and selling Fusion the Apps People Products to Customers.

11 LIMITATION OF LIABILITY

- 11.1 **Direct damages limited.** Notwithstanding the form (whether in contract, delict, or otherwise) in which any legal action may be brought, Fusion the Apps People's maximum liability to Customer for any incident giving rise to a claim will not exceed the amount Customer paid for the Subscription during the 12 months before the incident.
- 11.2 **Free Product and distributable code.** For Product provided free of charge and code that Customer is authorized to redistribute to third parties without separate payment to Fusion the Apps People, Fusion the Apps People's maximum liability to Customers is limited to direct damages finally awarded up to US\$100.
- 11.3 **Excluded Error.** Fusion the Apps People shall not be liable for any delay, failure, breakdown, damage, loss, costs, claim, penalty, fine or expense arising from any Excluded Error.
- 11.4 **Exclusions.** In no event will either party be liable for loss of revenue or indirect, special, incidental, consequential, punitive, or exemplary damages, or

damages for loss of use, lost profits, revenues, business interruption, or loss of business information, however caused or on any theory of liability.

11.5 **Exceptions.** No limitation or exclusions will apply to liability arising out of either party's (1) confidentiality obligations (except for liability related to Customer Data, which will remain subject to the limitations and exclusions above); (2) defense obligations; or (3) violation of the other party's intellectual property rights.

11.6 **Fraudulent Transactions.** Fusion the Apps People takes no liability for any fraudulent transactions that occurs on any Microsoft Online Services. The Customer is responsible at all times to maintain the highest security and your IT standards. All Named Users must always have multifactor authentication service and Microsoft recommended security enabled to prevent any such fraudulent transactions. The Customer is responsible for all the costs associated with fraudulent transactions.

12 NOTICES AND DOMICILIUM

12.1 **Notices.** You must send notices by email, return receipt requested, to the address below.

Notices should be sent to:

Fusion the Apps People

Commercial Director

Alasdair.Hawley@fusiontheappspeople.com

12.2 You agree to receive electronic notices from us, which will be sent by email to the account administrator(s) named for your Subscription. Notices are effective on the date on the return receipt or, for email,

when sent. You are responsible for ensuring that the email address for the account administrator(s) named for your Subscription is accurate and current. Any email notice that we send to that email address will be effective when sent, whether or not you actually receive the email.

13 MISCELLANEOUS

13.1 **Whole Customer Software Agreement.**

This Customer Software Agreement constitutes the entire agreement between the parties in respect of the subject matter hereof and neither party shall be bound by any undertakings, representations, warranties or promises not recorded in this Customer Software Agreement.

13.2 **Assignment.** Either party may assign this Agreement to an Affiliate, but it must notify the other party in writing of the assignment. Customer consents to the assignment to an Affiliate or third party, without prior notice, of any rights Fusion the Apps People may have under this Agreement to receive payment and enforce Customer's payment obligations, and all assignees may further assign such rights without further consent. Any other proposed assignment of this Agreement must be approved by the non-assigning party in writing. Assignment will not relieve the assigning party of its obligations under the assigned Agreement. Any attempted assignment without required approval will be void.

13.3 **Amendments.** Fusion the Apps People may modify this Customer Software Agreement from time to time. Changes to the Use Rights will apply as provided in this Customer Software Agreement. Changes to other terms will not apply until Customer accepts them. Fusion the

- Apps People may require Customer to accept revised or additional terms before processing a new order. Any additional or conflicting terms and conditions contained in a purchase order or otherwise presented by Customer are expressly rejected and will not apply.
- 13.4 **Waiver.** Failure to enforce any provision of this Customer Software Agreement will not constitute a waiver. Any waiver must be in writing and signed by the waiving party.
- 13.5 **Severability.** If any part of this Customer Software Agreement is held unenforceable, the rest remains in full force and effect.
- 13.6 **No agency.** This Customer Software Agreement does not create an agency, partnership, or joint venture
- 13.7 **No third-party beneficiaries.** This Customer Software Agreement does not create any third-party beneficiary rights except as expressly provided by its terms.
- 13.8 **Independent contractor.** The parties are independent contractors. Customer and Fusion the Apps People each may develop products independently without using the other's Confidential Information.
- 13.9 **Software Agreement not exclusive.** Customer is free to enter into agreements to license, use or promote non-Fusion the Apps People Product or services.
- 13.10 **Applicable Law.** This Customer Software Agreement will be governed by and construed in accordance with the law of the Republic of Mauritius and all disputes, actions and other matters relating thereto will be determined in accordance with such law.
- 13.11 **Jurisdiction.** The parties hereto hereby consent and submit to the jurisdiction of the Republic of Mauritius, in any dispute arising from or in connection with this Customer Software Agreement.
- 13.12 **Survival.** All provisions survive termination of this Customer Software Agreement except those requiring performance only during the term of the Customer Software Agreement.
- 13.13 **Fusion the Apps People Affiliates and contractors.** Fusion the Apps People may perform its obligations under this Customer Software Agreement through its Affiliates and use contractors to provide certain services. Fusion the Apps People remains responsible for their performance.

14 TERMS

- 14.1 **"Administrator Data"** means the information provided to Fusion the Apps People or its Affiliates during sign-up, purchase, or administration of Product;
- 14.2 **"Affiliate"** "Affiliate" means an entity that owns, is owned by, or is under common ownership with an entity. Ownership means control of more than 50% of the equity interests of, or the right to direct the management of, an entity for so long as such control exists. For clarity, the term "Fusion the Apps People Affiliate" refers to an Affiliate of Fusion the Apps People; the term "Company Affiliate" refers to an Affiliate of Company.
- 14.3 **"Commencement Date"** means the date the Subscription Order is placed on the Portal or date as communicated by email by the Reseller to Fusion the Apps People;

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- 14.4 **“Confidential Information”** means a party’s non-public information, Confidential Product Information, know-how, or trade secrets that (a) the party designates as being confidential; or (b) given the nature of the disclosure or circumstances surrounding the disclosure, reasonably should be treated as confidential by the receiving party. Customer Software Agreements are confidential information of Fusion the Apps People, however, Company may disclose the standard form of Customer Software Agreement to Customers or prospective Customers who: (1) have a need to know such confidential information in order fulfil the purposes of this Agreement; and (2) have been instructed that all such confidential information is to be handled in strict confidence. Confidential information does not include information that: (1) the receiving party already knew without an obligation to maintain the information as confidential; (2) the receiving party received from a third party without breach of an obligation of confidentiality owed to the other party; (3) the receiving party independently developed; or (4) becomes publicly known through no wrongful act of the receiving party.
- 14.5 **“Confidential Product Information”** means:
- 14.5.1 all Product Source Code and object code components, screen shots and displays, graphical user interfaces, algorithms, formulae, data structures, scripts, application programming interfaces and protocols.
 - 14.5.2 Any documentation and information on Fusion the Apps People Customer or Reseller portals including but not limited to prices, training material, functionality and design specifications, product roadmap, product demonstrations and methodologies;
 - 14.5.3 Any presentations, Product demonstrations whether in person or via an online meeting such as Microsoft Teams that is conducted by Fusion the Apps People is Confidential Information including any recordings created.
 - 14.5.4 Fusion the Apps People trademarks, service marks, trade names, icons and logos; any and all copyright rights, patent rights, trade secrets rights.
 - 14.5.5 all Fusion the Apps People information relating to:
 - 14.5.5.1 business activities, services, customers and clients, as well as its technical knowledge and trade secrets;
 - 14.5.5.2 the terms and conditions of this Customer Software Agreement
 - 14.5.6 business or financial data;
 - 14.6 **“Customer Data”** means all data, including all customers, vendors, transaction data, financial, text, sound, software, image or video files that are provided to Fusion the Apps People or its Affiliates by, or on behalf of, Customer and its Affiliates through use of the Product;
 - 14.7 **“Customizations to Microsoft Products”** means any customizations that Fusion the Apps People creates that will not initially or ever be included in the Product, but is created in the Microsoft Products. The Extensions created by Fusion the Apps People as requested by the Customer or by the Reseller on behalf of the Customer are deemed Fusion the Apps People Intellectual Property which can be included in the Product at any time, and or used in subsequent services and specific software code designed by Fusion the Apps People for the Customer,

shall vest exclusively in Fusion the Apps People. By virtue of the remuneration payable by the Customer to Fusion the Apps People in terms of a separate agreement, Fusion the Apps People hereby grants the Customer a perpetual royalty free non-exclusive, non-transferable license to utilize such reusable functionality and concepts for the Customers business purposes, for which they were used or developed;

14.8 **“Customizations to the Product”**

means any customizations that Fusion the Apps People wants to include and create in the Product changing or adding new Extensions created by Fusion the Apps People as requested by the Customer or by the Reseller on behalf of the Customer. These customizations are deemed Fusion the Apps People Intellectual Property and the Product Source Code will be included in the Product.

14.9 **“Customizations to Product by Reseller”**

means customizations by the Customer or Reseller on behalf of the Customer makes as an Extension of the Microsoft Products, or custom software which accesses or interacts with the Product. The customizations extend the functionality of the Product. The Customer or Reseller will be allowed to make all customizations that will assist customer in meeting their specific requirements but that do not replace, diminish or eliminate the need for the Product;

14.10 **“Data Protection Laws” means** any and

all Laws applicable to Company or Fusion the Apps People, relating to data security, protection, privacy, or the Processing of Personal Data, including (where applicable) 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 Processing of Personal Data and the free movement of that data (“GDPR”), and any implementing, derivative or related legislation, rule, regulation, and regulatory guidance, as amended, extended, repealed and replaced, or re-enacted.

14.11 **“Defect”** means a reproducible programming error, malfunction or defect in the Product, other than an Excluded Error, that causes the Product to fail to operate substantially in accordance with the documentation. A Defect shall be “reproducible” for purposes of this Customer Software Agreement if it can be reproduced and verified using the specific input data and other conditions, as reported by the Customer to Fusion the Apps People, that generated the reported error, malfunction or defect;

14.12 **“Embedded Unified Solution”** means a business application that adds significant primary functionality by adding the Product to the Microsoft Products as an Extension (“the combined Solution”) to End Users;

14.13 **“End User”** means any person Customer permits to use the Product or access Customer Data. All End Users must be a Named User;

14.14 **“Excluded Error”** means any error, defect or malfunction in the Product caused by

14.14.1 Bugs in the Microsoft Products;

14.14.2 Customizations to Product by Reseller;

14.14.3 Customizations to Microsoft Products;

14.14.4 hardware used with or by the Product;

14.14.5 interference by any User or any Third-Party Software, or any software other than the Product;

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- 14.14.6 modification or alteration of the Product by persons other than Fusion the Apps People;
- 14.14.7 the misuse or abuse of the Product by any User or other third-party;
- 14.14.8 use of the Product on any system other than the Online Environments;
- 14.14.9 data supplied by the Customer or any User which does not comply with the formats stipulated in the documentation; or
- 14.14.10 operator error;
- 14.14.11 External factors including insufficient internet bandwidth or incorrect setup;
- 14.15 **"Extension"** enables you to add functionality to existing Product and Microsoft Products model elements and source code. Extensions provide the following capabilities:
- 14.15.1 Creating new model elements.
- 14.15.2 Extending existing model elements.
- 14.15.3 Extending source code using class extensions.
- 14.15.4 Customizing business logic. Ways to customize business logic include:
- 14.15.5 Creating event handlers to respond to framework events, such as data events.
- 14.15.6 Creating event handlers to respond to event delegates that are defined by the application.
- 14.15.7 Creating new plug-ins;
- 14.16 **"Fees"** mean all fees and expenses payable by the Customer to Fusion the Apps People in terms of this Customer Product Agreement as set forth in the Subscription Order;
- 14.17 **"Fix"** means a Product fix, modifications or enhancements, or their derivatives, that Fusion the Apps People either releases generally (such as Product service packs) or provides to Customer to address a specific issue;
- 14.18 **"ILF"** means the once-off Initial License Fee stipulated in the Subscription Order;
- 14.19 **"Installation Date"** means the date on which the installation of the Product is completed on the Online Environments, provided that notwithstanding anything contained in any other agreement between the Reseller and the Customer, installation of the Product shall be deemed complete when the Fusion the Apps People Product is installed and the Customer administrator can successfully log on to the Fusion the Apps People Product, and the parties agree that installation excludes the configuration and setups to the Product which is included in the Professional Services. The installation typically happens 7 days after the Commencement Date of the Subscription Order or as stipulated by Fusion the Apps People in the Professional Services project plan;
- 14.20 **"Intellectual Property"** means all present and future intellectual property in and to the Product, including, but not limited to, the copyright, Confidential Information, technical know-how and any related intellectual property, including the right to have any or all of the foregoing registered in the name of Fusion the Apps People. The Product is Fusion the Apps People Intellectual Property;
- 14.21 **"ISV"** means is a tech industry term used by Microsoft and other companies to describe individuals and organizations (like Fusion the Apps People) who develop, market and sell software that runs on third-party software and hardware platforms, including Microsoft's;

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- 14.22 **“Licenses”** means licenses granted to Named Users, Product, Microsoft Online Services and Third Party Software in accordance with Licenses Embedded or Licenses Non-Embedded offers. The licenses are temporary;
- 14.23 **“Licenses Embedded”** means the license to various offers that sell the Embedded Unified Solution which include both the Product, the Microsoft Online Services and Third Party Software, if included in the Subscription.
- 14.24 **“Licenses Non-Embedded”** means the license to various offers that sell the Product and Third Party Software only and does not include Microsoft Online Services, but the Product may be a part of Microsoft Online Services if included in the Subscription;
- 14.25 **“Microsoft Online Services”** means any of the Microsoft-hosted online services subscribed to by Customer under separate agreement through Fusion the Apps People or a Reseller or another partner for Microsoft Products;
- 14.26 **“Microsoft Products”** means products and Microsoft Online Services identified in the Microsoft Product Terms that Microsoft offers under separate agreement, including previews, pre-release versions, updates, patches and bug fixes from Microsoft. Product availability may vary by region. The Microsoft Products include but not limited to Microsoft Dynamics 365 Customer Engagement, Microsoft Dynamics 365 Business Central, Microsoft Dynamics 365 Finance, Microsoft Dynamics 365 Supply Chain, Microsoft Dynamics 365 Project Operations, Microsoft Dynamics 365 Human Resources, Microsoft Power Platform and Microsoft Azure services. “Microsoft Product” does not include Non-Microsoft Products;
- 14.27 **“Microsoft Product Terms”** means the Microsoft document that provides information about Microsoft Products and professional services available through volume licensing. The Microsoft product terms document is published on the Microsoft licensing site and is updated from time to time;
- 14.28 **“Named User”** means a User with a unique login permitted to access and use a specific component of the Product and which user will be registered on the system database. If the user is registered on the system, the status of the user is not applicable. Named User licenses are assigned to specific roles within the Customer’s organization, these roles are associated with. The number of Named User Licenses granted in terms of this Customer Agreement is set out in the Subscription Order. The use of the Product is only granted to Named Users;
- 14.29 **“Named User Types”** means the different user types that give the Named User’s different permissions to the Product. These named user types have different fees as set out in the Subscription Order;
- 14.30 **“Online Environments”** means the environments subscribed to in terms of the Microsoft Online Services such as Production Environment, pre-production environment, user acceptance testing environment and development environment;
- 14.31 **“Personal Data”** means any information relating to an identified or identifiable natural person (“Data Subject”). An identifiable natural person is one who can be identified, directly or indirectly, in particular by referencing an identifier
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- such as a name, an identification number, location data, an online identifier, or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, or social identity of that natural person;
- 14.32 **“Product”** means a Fusion the Apps People product that is an Embedded Unified Solution. The Product must be in the Price List. The products are Extensions and Fusion the Apps People Intellectual Property. The Product does not include Microsoft Online Services, but the Product may be a part of an Microsoft Online Service. The Product is sold out of the box and excludes all Professional Services. The Product more fully described in the License offers stated in the Subscription and includes:
- 14.32.1 any one or more modules thereof.
- 14.32.2 all Product upgrades and enhancements thereto but excluding any Professional Services.
- 14.33 **The use of** the Product is only granted to Named Users;
- 14.34 **“Production Environment”** means the live environment used by the Customer to trade on a day to day basis;
- 14.35 **“Product License Key”** means a unique login permitted to access Product on the Online Environments and access for Named Users to use a specific component of the Product by Named Users. A Product License Key is only issued for the Term of a Subscription. The license is temporary;
- 14.36 **“Product Source Code”** means the form of the latest version of the Product which the Customer is using which has been written by the programmers of the Product and comprising the actual code, listings of the various instructions and statements that the program contains in plain English or any programming language and:
- 14.36.1 the programmer's individual comments in plain English juxtaposed with the listings of code amplifying and describing the design and the steps taken by the programmer to implement the function of the program;
- 14.36.2 the program's supporting documentation in plain English; to the extent that same exist;
- 14.37 **“Professional Services”** means all services to implement, upgrade, configure, develop Customizations to the Product or Customizations to Microsoft Products or Customizations to Product by Reseller or make changes to the Product in order to make the Product work for the Customer;
- 14.38 **“Public User”** means a User using the Product to initiate an activity, but without a to-do list or a work-flow console;
- 14.39 **“Representatives”** means a party's employees, Affiliates, contractors, advisors and consultants;
- 14.40 **“Reseller”** means a company Fusion the Apps People has authorized to distribute Product to the Customer, in some cases Fusion the Apps People may also be a Reseller;
- 14.41 **“SLA”** means service level agreement, which specifies the minimum service level for the Microsoft Online Services and is published on the Microsoft licensing site;
- 14.42 **“Subscription”** means an enrolment for the Licenses from the Commencement Date for a defined Term as established by your Reseller in the Subscription Order;
- 14.43 **“Subscription Order”** means the order of the Subscription from the Reseller for the Licenses which will include the offers, quantities of Named Users, fees, payment

terms and any other terms the Product, Microsoft Online Service and Third-party Software is granted to the Customer in accordance with Clause 2. The Fixed Term Online Services Commitment Subscription Offers are sold where both the Product and the Named User is included in the same offer, however in some other offers the Product and Named User are sold separately;

14.44 **"Term" means** the duration of a Subscription either P1M which is a monthly term, P1Y which is an annual term or P3Y Triennial which is 36 months or any other term agreed by Fusion the Apps People. Customer may not serve any notice of its intention to terminate that shall be purported to take effect prior to the expiry of the minimum Term;

14.45 **"Third-party Software"** means any third-party software (if applicable) that is embedded or incorporated into the Product or as otherwise identified as third-party software in the Subscription Order Form of this Customer Software Agreement, including any third-party utility, database, development tool or product;

14.46 "use" means to copy, download, install, run, access, display, use or otherwise interact with.