

QUBEdocs NOW

SOFTWARE AS A SERVICE TERMS AND CONDITIONS

THIS SOFTWARE AS A SERVICE AGREEMENT (the “Agreement”) is entered into, and effective as of the day you “AGREE” (the “Effective Date”), by and between Qubedocs USA, LLC, an Oregon limited liability company (hereinafter “Qubedocs”) and you or the company or entity you represent (“Client” or “You”)

PLEASE READ ALL OF THE FOLLOWING TERMS AND CONDITIONS OF THIS AGREEMENT CAREFULLY BEFORE CLICKING “I AGREE” OR USING THE SOFTWARE SERVICES (DEFINED BELOW). THIS AGREEMENT IS A LEGALLY BINDING CONTRACT BETWEEN YOU AND QUBEDOCS AND SETS FORTH THE TERMS AND CONDITIONS THAT GOVERN YOUR USE OF THE SOFTWARE SERVICES. BY CLICKING “I AGREE” OR USING THE SOFTWARE SERVICES, YOU ACCEPT AND AGREE TO BE BOUND BY AND ABIDE BY THESE TERMS AND CONDITIONS.

ANY CHANGES, ADDITIONS, OR DELETIONS BY YOU TO THESE TERMS AND CONDITIONS WILL NOT BE ACCEPTED BY QUBEDOCS AND WILL NOT BE A PART OF THIS AGREEMENT.

QUBEDOCS HAS COMPLETE DISCRETION TO UPDATE AND CHANGE THE AGREEMENT FROM TIME TO TIME AND TO CHANGE THE SCOPE OF FEATURES OF THE SOFTWARE SERVICES FROM TIME TO TIME. QUBEDOCS MAY MAKE SUCH CHANGES WITHOUT NOTICE. IF YOU CONTINUE TO USE THE SOFTWARE SERVICES AFTER ANY SUCH CHANGES, WITH OR WITHOUT NOTICE, YOU WILL BE CONSIDERED TO HAVE CONSENTED AND AGREED TO THEM.

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement:

- a. **“Account”** means an account enabling a party to access and use the Software Services, including both administrator accounts and user accounts.
- b. **“Business Day”** means any weekday other than a bank or public holiday in the United States.
- c. **“Client Confidential Information”** means:
 - (1) Any information disclosed by Client to Qubedocs during the Term (whether disclosed in writing, orally or otherwise) that at the time of disclosure: (i) was marked as “confidential” or (ii)

should have been reasonably understood by Qubedocs to be confidential; and

(2) Client Data.

- d. **“Client Data”** all data, works and materials uploaded to or stored on the System by Client; transmitted by the System at the instigation of the Client; supplied by the Client to Qubedocs for uploading to, transmission by, or storage on the System; or generated by the System as a result of the use of the Software Services by the Client.
- e. **“Derivatives”** means (i) copyrightable or copyrighted material, any translation, abridgment, revision or other form in which an existing work may be recast, transformed, or adapted; (ii) for patentable or patented material, any improvement thereon; (iii) for material which is protected by trade secret, any new material derived from such existing trade secret material, including new material which may be protected by copyright, patent, or trade secret; and (iv) results of any research, tests, or analysis of a Party’s Confidential Information, or intellectual proprietary property.
- f. **“Documentation”** means the user guide document, and any other documentation, in any form, supplied with or accompanying the Software Services, together with any updates or changes to it. Any installation guide or end user documentation not specifically prepared for QUBEdocs NOW or not prepared or provided by Qubedocs; any online community site, unofficial documentation, videos, white papers, or related media, or feedback does not constitute Documentation.
- g. **“Force Majeure Event”** means an event, or a series of related events, that is outside the reasonable control of the party affected (including but not limited to failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law or governmental regulatory actions, disasters, explosions, fires, floods, riots, terrorist attacks, and wars).
- h. **“Improvements”** means any and all improvements, modifications, customizations, enhancements, fixes, updates or developments in or to the Software Services or the System.
- i. **“Permitted Use”** means using QUBEdocs NOW to document, manage and maintain Your IBM® Cognos® TM1® model or IBM Cognos Express Xcelerator for your internal business purposes at the level selected by You in the Service Plan, measured by the number of TM1/ICAS server instances, PVU’s, or other levels of use specified by Qubedocs;
- j. **“PVU”** means processor value units as defined in the IBM Cognos TM1 license;
- k. **“Service Hours”** means the hours between 9:00 to 17:00 Pacific Standard Time on a Business Day.

- l. **“Service Plan”** means the service option plan You selected when You registered for QUBEdocs NOW on the Qubedocs website.
- m. **“Software Services”** means QUBEdocs NOW, as specified in the Documentation as related to your Service Plan, which will be made available by Qubedocs to You as a service via the internet in accordance with this Agreement.
- n. **“Software Services Defect”** means a defect, error or bug in the System having a material adverse effect on the appearance, operation, functionality or performance of the Software Services but excluding any defect, error, or bug caused by or arising as a result of
 - (1) Any act or omission of You or any person authorized by You to use the System or the Software Services;
 - (2) Any use of the System or Software Services contrary to the Documentation or Permitted Use, whether by You or by any person authorized by You;
 - (3) A failure of the Client to perform or observe any of its obligations in this Agreement; and/or
 - (4) An incompatibility between the System or the Software Services and any other system, platform, network, program, hardware, or software not specified as compatible in this Agreement.
- o. **“Solution Fee”** means the fee payable to Qubedocs for the grant of the license based on Your selected Service Plan;
- p. **“System”** means the platform managed by Qubedocs and used by Qubedocs to provide the Software Services, including the application and database software for the Software Services, the system and server software used to provide the Software Services, the computer hardware on which that application, database, system and server software are installed, and for purposes of clarity the QUBEdocs NOW source code, application files, install files and all related software developed by Qubedocs, including the original and all whole or partial copies, and all related licensed materials (including without limitation keys and the Documentation) and any Improvements and updates if and when they become available.
- q. **“Term”** means the period commencing on the Effective Date and ending on the date this Agreement is terminated in accordance with Article 11;
- r. **“Qualified Business User”** means a business enterprise which is a current TM1 user and that will be using QUBEdocs NOW for its own internal business needs.
- s. **“You”** or **“Your”** are references to the legal entity or person that is the licensee and Qualified Business User. It does not include any affiliate, subsidiary, parent,

or related or unrelated third party company, person, or entity. Further, it does not include any independent contractor or service provider who intends on using QUBEdocs NOW to provide services to a third party. Any agent or authorised representative who clicks “Accept” on Your behalf must have, and is deemed to have, the requisite authority to bind You to the terms of this Agreement.

1.2 In this Agreement, unless the context otherwise requires:

- a. references to any “party” mean a party to this Agreement and include the employees, officers, successors, executors, administrators and permitted assigns (as the case may be) of that party;
- b. references to a “person” include an individual, firm, business entity, company, corporation or unincorporated body of persons and includes a reference to the person’s executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;
- c. references to clauses, articles, sections, or schedules are to clauses, articles, sections, or schedules in this Agreement;
- d. headings appear as a matter of convenience and do not affect the construction of this Agreement;
- e. singular words include the plural and vice versa and words importing one gender include the other gender; and
- f. References to times, days or dates are to United States times, days and dates.

1.3 You must have the following minimum computer hardware to use the Software Services:

- a. A Server with (i) 4GB of RAM; (ii) 4 Core CPU; (iii) 10GB hard drive; and
- b. All Client computers must have 2GB of RAM and a 2GHz CPU.

1.4 The Software Services require the following Operating Systems and Supported Browsers:

- a. Operating Systems - Microsoft Windows 7, 8, and 10 for Client computers, and Microsoft Windows Server 2008 R2 and 2012 R2 for the Server/s.
- b. Supported Browsers – Microsoft Internet Explorer 9-11, Microsoft Edge, Mozilla Firefox ver. 38 or higher, Google Chrome ver. 42 or higher.

1.5 Prerequisites

The following prerequisites are required for QUBEdocs NOW:

- a. You must be a Qualified Business User. If you are not a Qualified Business User, then you cannot use QUBEdocs NOW and your access and Account will be terminated.

- b. Internet access.
- c. Installation requires administrative permissions to the server and to the SQL Server database instance that is being used during the installation.
- d. If the network contains multiple servers, the QUBEdocs server will need network access to the IBM Cognos TM1 Data and Configuration directories and the TM1 server, as more fully described in the Documentation.
- e. IBM Cognos TM1 or the IBM Cognos Analytics Server (for Cognos Express)

Note:

Versions of TM1 / ICAS supported by IBM are currently supported by QUBEdocs

If running a UNIX® TM1 server, the TM1 data and configuration directories need to be shared network directories which the windows QUBEdocs client can see. Note that connectivity was tested via Samba. Alternatively, FTP/FTPS connections can be established.

- f. TM1 on the cloud is accessible by configuring an FTPS connection.
- g. Microsoft .NET Framework 4.5.2 (bundled with the installation).
- h. SQL Server 2008 R2+ (SQL Server Express 2014 bundled with Installation).
- i. Microsoft Internet Information Services (IIS) 7+.

2. GRANT OF LICENSE TO USE THE SOFTWARE SERVICES

2.1 As of the Effective Date and after Qubedocs has received Your credit card payment for the Solution Fee due under your selected Service Plan, Qubedocs shall provide to You an Account and Customer login details for that account.

2.2 Qubedocs hereby grants to You, as a Qualified Business User, a limited, non-exclusive, non-transferable license to install any executable files and use the System and the Software Services solely for the Permitted Use and otherwise in accordance with the terms of this Agreement.

2.3 The license granted by Qubedocs to You under Section 2.2 is subject to the following limitations:

- a. The Software Services may only be used for the Qualified Business User by its officers, employees, agents and subcontractors;
- b. The Software Services must not be used at any point in time by more than the number of concurrent users specified in the Service Plan.

2.4 The license to use the Software Services is granted for the Term only and subject to early termination in accordance with Section 11.

3. SOLUTION FEE

3.1 You shall pay the Solution Fee to Qubedocs in accordance with this Agreement. The Solution Fee is based on Your Permitted Use as specified in the Service Plan, which is incorporated herein by reference as if set out in full. Your payment of the Solution Fee only entitles you to the Permitted Use of the Software Services and the System as specified in the Service Plan.

3.2 Payment of the Solution Fee is required prior to the activation of Your Account and must be paid by debit card or credit card as directed on the Qubedocs website.

3.3 You may, at any time during the Term, upgrade or downgrade to a different Service Plan. The change in Service Plan will take effect immediately. After an upgrade in Service Plan, You will be required to pay any additional fees due pursuant to the upgraded Service Plan for the remaining time of the applicable Term. The amount due and owing for the upgraded Service Plan will be reduced by the amount You have already paid for the applicable term under your prior Service Plan. In regard to a downgraded Service Plan, You will be receive a credit to your Account for the difference in fees, which shall be usable by you at the commencement of any following renewal Term.

3.4 Qubedocs reserves the right to make Improvements to the Software from time to time. Where an Improvement is made which is not for the specific purpose of restoring the Software Services normal functionality or correcting a Software Services Defect or System issue, then Qubedocs may increase the Solution Fee if there is an Improvement to the Software Services. Such increases in the Solution Fee shall take effect at your next scheduled payment under your Service Plan.

3.5 All fees under this Agreement are exclusive of any taxes, duties or other such additional sums including, without limitation, goods and services tax, excise tax, use tax, or any other sales tax and whether levied in respect of the license, the Software Services, the System, or their use, and whether levied in the United States or elsewhere. You will pay any applicable taxes at the same time as payment of the relevant Solution Fee is made.

3.6 Qubedocs may require You to pay interest at the rate of 16% per annum, or at the highest rate allowed by law, whichever is less, on any overdue amounts under this Agreement, calculated daily from the due date for payment until the actual date payment is received by Qubedocs. Qubedocs may also require You to pay all reasonable costs (including collection costs and legal costs on a solicitor-client basis) that Qubedocs incurs in attempting to recover or in recovering any such overdue amounts.

3.7 Should You declare bankruptcy or otherwise have insolvency proceedings initiated against you, you may still use the Software Services and the System provided that you do not owe any additional Solution Fees or other fees payable to Qubedocs hereunder.

3.8 Qubedocs may elect to vary any element of the Solution Fee by giving You not less than 30 days' written notice of the variation.

4. CLIENT OBLIGATIONS

4.1 Except to the extent permitted by this Agreement, You shall not:

- a. Install or use the System or the Software Services except for the Permitted Use;
- b. Either individually, or through any affiliate, holding, subsidiary or associated company, agent or third party, copy, transfer, give, sell, resell, sub-license, rent, lease, publish, republish, lend or otherwise distribute or deal with the Software Services, the System, or any part of thereof, to any person except as expressly permitted by this Agreement;
- a. Directly or indirectly disassemble, modify, reverse engineer, copy, adapt, translate, create derivative works (based in whole or in part on the System), decompile any part of the Software Services, the System, or Documentation, or otherwise attempt to discover the underlying source code of the Software Services or the System, or allow or cause a third party to do so, except as expressly permitted by applicable law or this Agreement, and only upon providing Qubedocs with reasonable advance written notice and opportunity to respond;
- d. Merge any of the Software Services and/or the System with any other software, or otherwise use the Software Services and/or the System in or in conjunction with any applications where products failure could lead to injury to persons, loss of life, or severe property or environmental damage;
- e. Permit any unauthorized person to access the System or use the Software Services; and/or
- f. Use the Software Services to provide services to third parties.

4.2 You shall use reasonable efforts, including reasonable security measures relating to Account access details, to ensure that no unauthorized person may gain access to the System or the Software Services using an Account.

4.3 Qubedocs shall use reasonable efforts to maintain the availability of the Software Services to You at the gateway between the public internet and the network of the hosting services provider for the Software Services, but does not guarantee 100% availability.

4.4 Downtime caused directly or indirectly by any of the following shall not be considered a breach of this Agreement:

- a. a Force Majeure Event;

- b. A fault or failure of Your computer systems or networks;
- c. Any repairs of Software Services Defects or System Issues;
- d. Any breach by You of this Agreement; or
- e. Scheduled maintenance carried out in accordance with this Agreement.

4.5 You must comply with the Permitted Use and be an Authorized Business User, and must ensure that all persons using the Software Services comply with the limitations of the Permitted Use.

4.6 You must not use the Software Services in any way that causes, or may cause, damage to the Software Services or the System or impairment of the availability or accessibility of the Software Services.

4.8 You must not use the Software Services (a) in any way that is unlawful, illegal, fraudulent, or harmful; or (b) in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.

4.9 You must at your own expense, comply with all laws, regulations, and other legal requirements that apply to your use of the Software Services or the System and this Agreement, including copyright, privacy, and communications decency laws.

4.10 You do not have, and nothing in this Agreement shall be interpreted to provide you with, a right to access the software code (including object code, intermediate code, and source code) of the System either during or after the Term.

4.11 Qubedocs may suspend the provision of the Software Services if any amount due to be paid by You under this Agreement is overdue.

5. SUPPORT AND MAINTENANCE

5.1 Qubedocs may provide support and maintenance in accordance with the support policies as published on Qubedocs' website from time to time ("Support Policies"). Qubedocs may amend some or all of the Support Policies from time to time. Amended Support Policies will be effective from the time they are posted on Qubedocs' website. You are responsible for ensuring You are familiar with the latest Support Policies.

5.2 Under the Support Policies, Issue Resolution shall be prioritized as follows in a descending order:

- Severity 1 During service hours, a fault prevents multiple end-users (i.e. the issue is not user specific) from accessing the end-user interfaces, reports return no data, or data cannot not be entered into the interfaces.
- Severity 2 Part of the System or Software Services is unavailable to a critical user, multiple users or a critical function.

- Severity 3 Failure or inhibited performance of a service or service component affecting a single user.
- Severity 4 Non-urgent issue or request with minor impact, a scheduled fix or Service Request.
- Low-Priority Any question raised by a customer in relation to the Software Services and/or System.

5.3 Qubedocs shall use reasonable commercial efforts to provide support and maintenance under Article 5 and Article 9 but shall not be liable for any damages, claims, expenses and/or injuries caused to any party or third party caused by any delay or restriction in access to the Software Services resulting from Qubedocs performance of maintenance, repair, and/or support services.

5.4 Any support provided will be with respect to the Software Services and the System only. Qubedocs will not provide any support relating to Your IBM® Cognos® TM1® model. Qubedocs retains the right to refuse support if Qubedocs reasonably believes the support is not related solely to the Software Services and/or the System.

6. INTELLECTUAL PROPERTY AND CLIENT CONFIDENTIALITY OBLIGATIONS

6.1 You acknowledge and agree that the Software Services and the System (including Improvements), any Derivatives, any Deliverables, and all Qubedocs' copyrights, names, trademarks, trade names, service marks, or any other identifying characteristics are proprietary intellectual property (collectively the "Qubedocs IP") of significant value and goodwill to Qubedocs. This Agreement only grants You the right to use the Qubedocs IP specified in this Agreement under the terms and restrictions specified in this Agreement. You do not, and will not, acquire any other right, title, or interest in any Qubedocs IP, which will at all times remain the exclusive property of Qubedocs or the applicable third party licensor to Qubedocs. You will not remove, suppress, or modify in any way any proprietary marking which is on or in the Software Services, which is visible during their operation, or which is on any media supplied with the Software Services, except where expressly allowed. You acknowledge and agree that Qubedocs shall be the sole owner of any Improvements, updates, upgrades, new versions, or new releases of the Software Services and/or the System or Derivatives or Deliverables that are developed by Qubedocs or its affiliates during the term of this Agreement and thereafter, all of which shall be Qubedocs IP. Without limiting the foregoing, You expressly acknowledge and agree that Qubedocs shall be the sole owner of any newly-developed, revised, or modified source code related in any way to the Software Services, the System, or Qubedocs' general business, regardless of whether developed, revised, or modified in response to Your requests, suggestions, or ideas, even if performed as part of additional services paid for by You, all of which shall be Qubedocs IP. During the term of this Agreement and thereafter, You will not assert the invalidity of the Qubedocs IP, or contest Qubedocs' right, title, or interest therein and thereto, and You shall not cause, influence, or assist in any manner whatsoever, any other third party to make any such assertions or contest.

6.2 All information, data, specifications, Documentation, software listings, source or object codes which Qubedocs may have disclosed or given to You, or which You have otherwise obtained access to in relation to the Software Services, the System, or the business of Qubedocs is confidential and proprietary information of Qubedocs. You will not, during or after expiry or termination of this Agreement disclose any such confidential information to any person without Qubedocs' prior written consent.

6.3 You may not remove, deface or obscure any notices provided on, with or in the Software Services, the Systems, and/or the Documentation as to the ownership of such by Qubedocs.

6.4 As provided in Article 6, you may not, either during the term of this Agreement or afterwards, make any improvements, modifications, alterations, or derivative works from the System. Should you violate Article 6 all intellectual property rights in and to any such improvements, modifications, alterations, or derivative works, will immediately upon creation be the property of Qubedocs. You agree to execute all documents and do all things necessary (and procure any person within Your control to do the same) to vest legal ownership of the intellectual property rights in such Improvements in Qubedocs.

6.5 For the avoidance of doubt, Article 6 survives the termination of this Agreement.

7. CLIENT DATA

7.1 Client understand that utilization of the Software Services requires your input and transmission of Client Data to Qubedocs and for storage on the Cloud by the System. Accordingly, Client hereby grants to Qubedocs a non-exclusive license to copy, reproduce, store, export, adapt, edit and translate the Client Data to the extent reasonably required for the performance of Qubedocs' obligations and the exercise of Qubedocs' rights under this Agreement, together with the right to sublicense these rights to its hosting connectivity and telecommunications service providers to the extent reasonably required for the performance of Qubedocs' obligations and the exercise of its rights under this Agreement.

7.2 Client warrants to Qubedocs that the Client Data or the use of the Client Data by Qubedocs in accordance with this Agreement will not (a) breach the provisions of any law, statute or regulation; (b) infringe the Intellectual Property Rights or other legal rights of any person; or (c) give rise to any cause of action against Qubedocs in any case in any jurisdiction and under any applicable law.

7.3 Qubedocs shall create a back-up copy of the Client Data at reasonable intervals, shall ensure that each copy is sufficient to enable Qubedocs to restore the Software Services to the state they were in at the time the back-up copy was made, and shall retain and securely store each such copy for a reasonable time.

7.4 Upon notification from Client, Qubedocs shall use all reasonable endeavors to restore to the System the Client Data stored in any back-up copy created and stored by Qubedocs in

accordance with Section 7.3. You acknowledge that this process will overwrite the Client Data stored on the System prior to the restoration.

8. QUBEDOCs CONFIDENTIALITY OBLIGATIONS AND DATA POLICY

8.1 Qubedocs will:

- a. Keep the Client Confidential Information strictly confidential;
- b. Not disclose the Client Confidential Information to any person without the Client's prior written consent; and
- c. Not use any of the Client Confidential Information for any purpose other than the performance of the Software Services under this Agreement.

8.2 Notwithstanding Section 8.1, Qubedocs may disclose the Client Confidential Information to the Qubedocs' officers, employees, professional advisers, insurers, agents and subcontractors who have a need to access the Client Confidential Information for the performance of their work with respect to the Software Services and who are bound by a written agreement or professional obligation to protect the confidentiality of the Client Confidential Information.

8.3 Qubedocs takes security seriously and has the following security features in place:

- a. Qubedocs Now uses HTTPS for its public facing website. This ensures that data transfers are safely encrypted and transferred over SSL/TLS;
- b. All users of the solution are authenticated and their access level is authorized; and
- c. Separation between the Qubedocs Now customer environment and the documentation generation services exists as a further access control.

8.4 In the provision of data security, Qubedocs the following third party vendors are used:

- a. Amazon. The solution is hosted on AWS. Details on AWS security can be found here <https://aws.amazon.com/security/>.
- b. Stripe is used for credit card transactions and as a result no credit card details are handled directly by our system. More details about Stripe's security features can be found here <https://stripe.com/docs/security>.

8.5 Client agrees that Qubedocs has no liability for disclosures of Client Confidential Information by third parties, including the third party vendors listed in Section 8.4 or resulting directly or indirectly from the acts, failures, or omissions (whether negligent, grossly negligent, or in violation of a contractual duty) of the third party vendors listed in Section 8.4, nor does it

have liability for disclosures which occur as a result of Force Majeure Events. Further, Article 8 imposes no obligations upon Qubedocs with respect to Client Confidential Information that:

- a. Is known to Qubedocs before disclosure under this Agreement and is not subject to any other obligation of confidentiality; or
- b. Is or becomes publicly known through no act or default of Qubedocs.

9. LIMITED WARRANTY AND LIABILITY

9.1 Qubedocs warrants that the Software Services will operate substantially in conformity with the Documentation. Should you discover any Software Service Defects or non-conformity in the Software Services or System with the Documentation, you must notify Qubedocs. Upon receipt of such notice, Qubedocs will without additional charge to You (1) use its reasonable efforts to repair, at its facilities, the Software Services and/or the System; or if this is not commercially feasible, Qubedocs may terminate this Agreement and the relevant license upon written notice to You and refund the Solution Fee you paid on a pro rata basis for the remainder of the Term from the date of notification.

9.2 The warranty is void where any non-conformity is a direct or indirect result of (i) any modifications or changes made by You or any third party not under the control of Qubedocs to the Software Services or the System, (ii) use of the Software Services or the System in an operating environment other than as specified in the Documentation, (iii) use of the Software Services or the System outside of the use allowed under this Agreement or the Documentation, (iv) abuse, neglect, or other improper use of the Software Services and/or the System by You, or (v) reported errors or non-conformities which cannot be reproduced by Qubedocs, working in good faith with Your assistance.

9.3 EXCEPT AS EXPRESSLY SET FORTH IN THIS ARTICLE 9, THE SOFTWARE SERVICES, THE SYSTEM, MAINTENANCE, DOCUMENTATION, IMPROVEMENTS, ADDITIONAL SERVICES, OR OTHER DELIVERABLES PROVIDED UNDER THIS AGREEMENT (COLLECTIVELY, THE “WARRANTY SUBJECT MATTER”) ARE PROVIDED “AS IS” AND QUBEDOCs, ITS PARENT CORPORATIONS, AFFILIATES, AND THEIR RESPECTIVE OFFICERS, EMPLOYEES, SHAREHOLDERS, LICENSORS, DEVELOPERS, AND OTHER SUPPLIERS (THE “QUBEDOCs PARTIES”) FURTHER DISCLAIM THAT THE FUNCTIONS CONTAINED IN THE WARRANTY SUBJECT MATTER WILL MEET THE REQUIREMENTS OF YOU OR THAT THE OPERATION OF THE WARRANTY SUBJECT MATTER WILL BE ERROR FREE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE LIMITED WARRANTIES SET FORTH IN THIS ARTICLE 9 ARE THE ONLY WARRANTIES PROVIDED FOR THE WARRANTY SUBJECT MATTER, AND THE REMEDIES FOR BREACH OF SUCH LIMITED WARRANTIES ARE EXCLUSIVE. EXCEPT AS EXPRESSLY SET FORTH IN THIS ARTICLE 9, THERE ARE NO OTHER WARRANTIES, CONDITIONS, OR TERMS, WHETHER EXPRESS OR IMPLIED BY STATUTE, OPERATION OF LAW, TRADE, USAGE, COURSE OF PERFORMANCE OR DEALING OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY,

SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, OR COMPLETENESS; ALL SUCH WARRANTIES BEING SPECIFICALLY AND FULLY DISCLAIMED BY THE QUBEDOCs PARTIES. YOU ACKNOWLEDGE THAT THE SALE OF GOODS (UNITED NATIONS CONVENTION) ACT 1994, AND ANY SUBSEQUENT TREATY ON THE SAME SUBJECT MATTER DOES NOT APPLY.

9.4 EXCEPT FOR BREACHES OF ARTICLE 4 (CLIENT OBLIGATIONS) AND ARTICLE 6 (INTELLECTUAL PROPERTY AND CONFIDENTIALITY) NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, OR ANY LOST PROFITS, REVENUE, DATA, OR DATA USE AND EITHER PARTY'S MAXIMUM LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ANY ORDER, WHETHER SUCH ACTION IS BROUGHT IN LAW, EQUITY, CONTRACT, OR TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, SHALL BE LIMITED TO THE SOLUTION FEES PAID BY YOU IN THE PRECEDING 365 DAYS.

9.5 None of the exclusions or limitations in this Agreement will limit or exclude any liability where such liability cannot be so limited or excluded by law.

9.10 You accept responsibility for the selection of the Software Services to achieve its intended result and acknowledge that neither the Software Service nor the System have been developed to meet your individual requirements.

10. THIRD PARTY SOFTWARE

10.1 The System and Software Services incorporate third party products. Qubedocs provides no warranty or representation in respect of those products.

10.2 Any and all third party products are provided "As Is", with no warranties of any kind. Any third party product sublicense will terminate when this Agreement terminates or when the Software Service is no longer being used by You. You shall not reverse engineer, modify, copy, distribute, or otherwise disclose the third party products, which shall be subject to the same restrictions as those set forth in this Agreement with respect to the Software Service or the System.

11. TERM AND TERMINATION

11.1 This Agreement shall come into force upon the Effective Date and continues until ended (the "Term"):

- a. Upon the expiration of the Service Plan;
- b. By the You upon 30 days' written notice;
- c. In accordance with clause 11.2.

11.2 Qubedocs may terminate this Agreement and the license granted under it at any time if You:

- a. fail to comply with any of the terms of this Agreement;
- b. cease or threaten to cease to carry on Your business, become bankrupt or insolvent, are unable to pay Your debts as they fall due, enter into a general assignment of Your indebtedness or a scheme of arrangement or composition with Your creditors, or take or suffer any similar action;
- c. have a trustee, manager, administrator, administrative receiver, receiver, inspector under any other legislation or similar officer appointed in respect of the whole or any part of Your assets or business, or enter into liquidation (other than voluntarily for the purpose of a solvent amalgamation or reconstruction);
- d. being an individual, die or are physically incapacitated; or
- e. being a partnership, are dissolved.

11.3 Upon termination of this Agreement, You must stop using the Software Services and must return or destroy (upon Qubedocs' direction) all copies of the Documentation in Your possession or control.

11.4 You consent, and shall procure the necessary consent in respect of Your employees, agents and sub-contractors, to such inspections and audits as may be reasonably required by Qubedocs to ensure compliance with this clause.

11.5 Any termination of this Agreement will be without prejudice to the rights of either party arising prior to termination.

11.6 Unless otherwise provided in this Agreement, no refund of the Solution Fee paid (or any portion thereof) shall be payable upon termination of this Agreement.

11.7 Nothing in this Article 11 affects the operation of any clauses in this Agreement which are expressed or implied to have effect after its termination.

12. DISPUTE RESOLUTION

12.1 If a dispute arises, the parties will seek to resolve the dispute informally and in good faith by negotiation. Either party can initiate the negotiation process by giving notice of the dispute to the other party in writing.

12.2 If the parties cannot resolve the dispute by negotiation within 20 business days after initiation of the negotiation process, either party is free to pursue resolution of the dispute by whatever means available to it at law.

12.3 Any and all disputes, matters, or controversies arising directly or indirectly from this Agreement shall be submitted to the Circuit Court of Multnomah County, Oregon and the parties hereby submit to the personal jurisdiction of said court.

13. GENERAL

13.1 This Agreement constitutes the entire understanding and agreement of the Parties. No agreements, understandings, restrictions, representations, or warranties exist between or among the Parties other than those in this Agreement or referred to or provided for in this Agreement. No modification or amendment of any provision of this Agreement will be binding unless signed by the authorized representatives of both Parties.

13.2 This Agreement, the rights and obligations of the Parties hereunder, and any claim or controversy arising directly or indirectly herefrom are governed by and interpreted in accordance with the laws of the State of Oregon, without regard to principles of conflicts of law.

13.3 Neither this Agreement nor the rights or obligations conveyed hereunder are assignable without the express written consent of Qubedocs.

13.4 In the event of any suit or action between the parties arising directly or indirectly out of this Agreement, the prevailing party is entitled to recover, in addition to other costs, reasonable attorney fees in connection with the suit, action, or arbitration and in any appeals. The determination of who is the prevailing party and the amount of reasonable attorney fees to be paid to the prevailing party will be decided by the court or courts in which the matter is tried, heard, or decided.

13.5 U.S. Government End Users. This section applies to United States Government End Users only and does not apply to other End Users. The Software Services, the System, and its Documentation are “commercial computer software,” and “commercial computer software documentation,” respectively; as such terms are used in FAR 12.212 and DFARS 227.7202. If the Software and its Documentation are being acquired by the U.S. Government, then, as provided in FAR 12.212 and DFARS 227.7202-1 through SS&.7202-4, as applicable, the U.S. Government’s rights in the Software and its documentation shall be as specified in this EULA.

13.6 If any term or provision of this Agreement is held to be void or unenforceable, that term or provision will be severed from this Agreement, the balance of the Agreement shall survive, and the balance of this Agreement will be reasonably construed to carry out the intent of the parties as evidenced by the terms of this Agreement.

13.7 Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement (except payment of any fees due hereunder) if such delay or failure results from a Force Majeure Event.

13.8 If either Party fails, at any time during the term of this Agreement, to insist on strict performance of any obligations hereunder, or if a party fails to exercise any of its rights or

remedies to which it is entitled under this Agreement, this shall not constitute a waiver of such rights or remedies and shall not relieve the other party from compliance with such obligations.

ACCEPTANCE

YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT AND, BY CLICKING “I ACCEPT”, YOU INDICATE THAT YOU ACCEPT ITS TERMS AND CONDITIONS. THE PERSON WHO CLICKS “I ACCEPT” CONFIRMS THAT HE OR SHE HAS THE AUTHORITY TO BIND YOU TO THE TERMS AND CONDITIONS OF THIS AGREEMENT.

_____ I ACCEPT

_____ I DO NOT ACCEPT