



## ABACUS TERMS AND CONDITIONS

These Terms and Conditions, together with any documents they expressly incorporate by reference (collectively, these "Terms and Conditions") govern the access to and use of the Products and Services (as defined below) specified in one or more Statements of Work (as defined below) entered into by and between: (i)(x) for any US-based Client, **ABACUS INFORMATION TECHNOLOGY, LLC (d/b/a Abacus Group LLC)** or (y) for any UK-based Client, **ABACUS INFORMATION TECHNOLOGY UK LIMITED**, in either case, acting on its own behalf and as agent for the other (the applicable party in the foregoing clause (i)(x) or (y), "Abacus") and (ii) the party specified as the client in the Statement of Work (the "Client").

Each Statement of Work shall be governed by and construed in accordance with these Terms and Conditions, except as may be expressly specified in such Statement of Work. Subject to the first paragraph of the Description of Services, in the event of any conflict between these Terms and Conditions and any Statement of Work, the Statement of Work shall control. In the event of any conflict between two or more SOWs, the most recent SOW shall control.

**1. Definitions.** Unless otherwise defined herein, capitalized terms used herein shall have the following meaning:

"Abacus Indemnification Exclusion" shall have the meaning ascribed to it in Section 23.1 below.

"Abacus Indemnified Parties" shall mean Abacus, its affiliates and its and their respective employees, officers, directors, managers, contractors and agents.

"Abacus Portal" shall mean the "Abacus Client Portal" described under the "User Support Fee" section of the Description of Services.

"Abacus Schedule" shall mean any schedule, exhibit, addendum, document, agreement, policy, code or other set of terms described as an "Abacus Schedule" at the Uniform Resource Locator ("URL") <https://AbacusGroupSchedules.com>, which URL or any such Abacus Schedule may be modified by Abacus from time to time.

"Affiliate" shall mean any Person that, directly or indirectly, Controls, is Controlled by, or is under common Control with, a specified Person.

"Aggregate Data" shall mean the Customer Data, as well as any Usage Data that Abacus may collect in an anonymous and aggregated form.

"Amended SOW" shall have the meaning ascribed to it in Section 9.2 below.

"Annual Recurring Charge" or "ARC" shall have the meaning ascribed to in Section 9.3 below.

"Applicable Law" means any applicable federal, state, county, and local law, ordinance, regulation, rule, code, and order.

"Authorized Users" shall mean (i) Client's employees, contractors, or agents authorized and designated by Client's Approver in the Abacus Portal to access and utilize the Products and/or Services pursuant to the terms and conditions set forth herein; provided, however, that any contractors' or agents' access to and use of the Products and/or Services will be limited at the direction of Client; and (ii) third parties that perform services on behalf of Client that are authorized by Client Approvers to access and use the Products and/or Services. Client shall be responsible for all acts and omissions of Authorized Users and any other Person who accesses and uses the Products and/or Services using any of Client's or any Authorized Users' login credentials.

"Client Approver(s)" shall mean the primary day-to-day contact(s) for Abacus. Approver(s) can authorize any change in Product(s) / Service(s) or request access to any info. This includes, but is not limited to the activation/ deactivation, transfer, reassignment or movement of Authorized User(s), including other Approver(s), Product(s)/Service(s) and equipment, authorization of a DR fail-over, purchase approvals or access to other Authorized User file(s) and mailbox data. At all times during the term of the Statement of Work, Client shall be required to designate in writing (email acceptable) not less than two (2) Persons employed by or associated with Client, which Persons shall be the Approvers.

"Client Data" shall mean any information that Client or Client's Authorized Users submit to Abacus or are stored on behalf of Client pursuant to these Terms and Conditions including, without limitation, the personal information (such as name, email address, and other identifying information) of Authorized Users and Security Contacts, cybersecurity and related policies and procedures, and penetration test reports (excluding Client Personal Data).

"Client Personal Data" shall have the meaning ascribed to it in the Data Processing Addendum.

"Comanaged Product or Service" shall mean any Product(s) and/or Service(s) that, while may be supplied by Abacus, are: (i) solely and exclusively managed, operated and/or maintained by Client and/or any of Client's third-party representatives with or without credentials supplied by Abacus; and/or (ii) jointly managed, operated and/or maintained by Abacus and by Client and/or any of Client's third-party representatives with or without credentials supplied by Abacus.

"Confidential Information" shall mean the terms and conditions set forth herein and/or in any Statement of Work(s) and any and all information, written, oral, or otherwise, provided or made available by or on behalf of one Party and/or its Representatives (the "Disclosing Party") to the other Party and/or its Representatives (the "Receiving Party") in connection with the performance of obligations or the exercise of rights under these Terms and Conditions and any/all related Statement(s) of Work; provided that, for the purposes of the foregoing definitions of Disclosing Party and Receiving Party, neither Abacus or Client shall be deemed to be a contractor of the other (or of any of such other party's Affiliates). Confidential Information includes, without limitation, (i) with respect to a Disclosing Party, information related to the Disclosing Party, its affiliates, clients, contractors and/or vendors and/or their respective businesses, products, services, business processes, financial condition, vendors, and contractors; (ii) with respect to Abacus, the Abacus Portal, any and all source code relating thereto, the Usage Data, the Aggregate Data, pricing and fees, technical data, technology, trade secrets, know-how, research, product or service plans, ideas or concepts, software, inventions, techniques, processes, developments, algorithms, formulas, designs, schematics, drawings, engineering information, and any other non-public information or material regarding Abacus' legal or business affairs, financing, properties, Products and Services, or data; and (iii) with respect to Client, the Client Data and any other non-public information or material regarding Client's legal or business affairs, financing, Authorized Users, properties, or data. Information of a contractor or vendor of a Disclosing Party, or another third party to whom a Disclosing Party owes a duty of confidentiality, will be treated as Confidential Information of the Disclosing Party if it meets the description above. Notwithstanding the foregoing, Confidential Information does not include information that: (a) was generally known to the public before the SOW Effective Date or that subsequently comes becomes known to the public other than as a result of disclosure by a Receiving Party or its Representatives in violation of these Terms and Conditions or SOW; (b) was or is lawfully received by a Receiving Party from a third party free of any obligation of confidentiality, as shown by such Receiving Party's files and records; (c) is documented as being known to the Receiving Party prior to its disclosure by the Disclosing Party; or (d) is independently developed by or on behalf of a Receiving Party without reference, access or use of any Disclosing Party's Confidential Information, as documented by such Receiving Party's files and records. A Disclosing Party's Confidential Information includes material prepared by a Receiving Party to the extent it contains or references Confidential Information provided by such Disclosing Party.

"Consumer Price Index" shall have the meaning ascribed to it in Section 9.5 below.

"Control" or "Controls" and the formatives "Controlling" and "Controlled" shall mean the possession, directly or indirectly, of fifty percent (50%) or more of the equity interests of another Person or the power otherwise to direct or cause the direction of the management and policies of such other Person, whether through ownership of voting securities, by contract, or otherwise.

"Data Management Fee" shall have the meaning set forth in the applicable SOW.

"Data Processing Addendum" shall mean the Abacus Schedule that is entitled "Data Processing Addendum."

"Description of Services" shall mean the Abacus Schedule that is entitled "Description of Services."

"DiD" shall have the meaning ascribed to it in Section 10.4.5 below.

"Disclosing Party" shall have the meaning ascribed to it in the definition of "Confidential Information."

"Event of Insolvency" means (i) the initiation of any case or proceeding under the bankruptcy, insolvency or equivalent laws of any country; (ii) suffering the appointment of a court-appointed receiver, liquidator, assignee, trustee, custodian, sequestrator or similar official for all or any part of a Party's property; (iii) the making of an assignment for the benefit of creditors; or (iv) the taking of any corporate or equivalent action in furtherance of any of the foregoing.

“Export Control Laws” shall have the meaning ascribed to it in Section 29 below.

“Feedback” shall have the meaning ascribed to it in Section 11.5 below.

“Force Majeure Event” shall have the meaning ascribed to it in Section 30 below.

“Harmful Code” means Trojan horses, viruses, worms, time bombs, time locks, devices, traps, access codes, drop dead or trap door devices or any other harmful, malicious, or hidden procedures, routines or mechanisms that would cause the Abacus Portal to cease functioning or to damage or corrupt data, storage media, programs, equipment, or communications, or otherwise interfere with the operations of the Abacus Portal.

“Implementation Plan” shall have the meaning set forth in the applicable SOW.

“Intellectual Property Rights” mean all intellectual and industrial property rights, whether now existing or existing in the future, including without limitation, (i) all patent rights, including any rights in pending patent applications and any related rights; (ii) all copyrights and other related rights throughout the world in works of authorship, including all registrations and applications therefor; (iii) all trademarks, service marks, trade dress, or other proprietary trade designations, including all registrations and applications therefore; (iv) all rights throughout the world to proprietary know-how, trade secrets, and other Confidential Information, whether arising by law or pursuant to any contractual obligation of non-disclosure; and (v) all other rights covering industrial or intellectual property recognized in any jurisdiction.

“IT Infrastructure” shall have the meaning ascribed to it in Section 8.2 below.

“IT Service” means the product(s) or service(s) provided by Abacus to Client as specified in the applicable Statement of Work and as defined and detailed in the Description of Services.

“Log-In Credentials” shall have the meaning ascribed to it in Section 2.4 below.

“Losses” means any and all liabilities, demands, losses, fines, penalties, costs, and expenses, including reasonable attorneys’ fees and disbursements.

“Monthly Recurring Charge” or “MRC” shall have the meaning ascribed to in Section 9.3 below.

“Non-Recurring Charge” or “NRC” shall have the meaning ascribed to it in Section 9.2 below.

“Normal Business Hours” shall have the meaning as set forth below:

US – Eastern Time Zone Based Clients / Locations:

7am-7pm Eastern Standard Time on days during which the New York Stock Exchange is open

US – Central Time Zone Based Clients / Locations:

7am-7pm Central Standard Time on days during which the New York Stock Exchange is open

US – Mountain Time Zone Based Clients / Locations:

7am-7pm Central Standard Time on days during which the New York Stock Exchange is open

US – Pacific Time Zone Based Clients / Locations:

6am-6pm Pacific Standard Time on days during which the New York Stock Exchange is open

UK Based Clients / Locations:

07:00-19:00 Greenwich Mean/British Summer Time on days during which the London Stock Exchange is open

“On-Going Support” shall have the meaning set forth in the applicable SOW.

“Party” Abacus and Client are each referred to individually as a “Party” and collectively as the “Parties.”

“Person” means an individual, partnership, corporation, limited liability company, trust, joint venture, association, unincorporated organization, government agency, or political subdivision thereof or other entity.

“Primary Office” means the Client’s main office as specified in the Statement of Work.

“Processing” or “Process” shall mean and include any operation or set of operations which is performed upon Client Personal Data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, accessing, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure, or destruction.

“Product and/or Service” means IT Service and/or Professional Service, as the context requires.

“Professional Services” means customization, development, data migration, integration, testing, conversion, consulting, or other services and deliverables, as further described in the applicable Statement of Work.

“Project” shall have the meaning ascribed to it in Section 3.1.

“Protected Health Information” or “PHI” means as that term is defined under the Health Insurance Portability and Accountability Act of 1996, as amended, and related regulations.

“Receiving Party” shall have the meaning ascribed to it in the definition of “Confidential Information.”

“Regulator” in respect of the Client, any Regulatory Authority having jurisdiction over the Client in relation to its activities under or in connection with these Terms and Conditions (including the receipt and use of the Services).

“Regulatory Authority” means any governmental or regulatory or administrative Person, entity, authority, tribunal or other body having any control, oversight, regulatory or supervisory responsibilities over a Party, including as applicable the UK Financial Conduct Authority, the UK Payment Systems Regulator Limited, the Bank of England, HM Revenue and Customs, the UK Information Commissioner’s Office, the UK Competition and Markets Authority, and the UK and overseas listing authorities, stock markets and securities exchanges.

“Representatives” means a Party’s employees, affiliates, consultants, attorneys, accountants, and agents. Representatives may also include independent subcontractors as permitted in any Statement(s) of Work.

“Retained Confidential Information” shall have the meaning ascribed to it in Section 10.6 below.

“Security Contacts” means the Client’s employees, contractors, or agents designated by Client as security contacts through the Abacus Portal. For the avoidance of doubt, Security Contacts shall be considered Authorized Users under the terms and conditions set forth herein and/or in any Statement of Work(s).

“Security Devices” shall have the meaning ascribed to it in Section 15 below.

“Sensitive Information” means credit or debit card numbers, financial account numbers or wire instructions, government issued identification numbers (such as Social Security numbers, passport numbers), biometric information, PHI, personal information of children protected under any child data protection laws, and any other information or combinations of information that falls within the definition of “special categories of data” under Applicable Law relating to privacy and data protection.

“Service Level Agreement” means the Abacus Schedule that is entitled “Service Level Agreement.”

“SOW Commencement Date” means the date defined or specified in a Statement of Work on which Abacus shall begin providing the Products and/or Services detailed by the same Statement of Work, or, in the absence of such a date, sixty (60) days after the SOW Effective Date.

“SOW Effective Date” shall have the meaning set forth in the applicable SOW.

“Statement of Work” or “SOW” means a Statement of Work substantially in the format prescribed by Abacus that: (a) identifies itself as a Statement of Work that references these Terms and Conditions; (b) is signed by authorized representatives of both Parties; and (c) at a minimum, identifies the Product(s) and/or Service(s) to be provided by Abacus to Client pursuant to such SOW and the fees to be charged for such Product(s) and/or Service(s).

“Supported Office(s)” means any office or other location other than the Primary Office, as specified by Client, whether in a Statement of Work, or otherwise, where Products and/or Services are to be provided.

“Taxes” shall have the meaning ascribed to it in Section 9.11 below.

“Term” shall have the meaning ascribed to it in Section 10.1 below.

“Third-Party Claims” means any claims, suits, third party actions, or proceedings brought by a third party.

“Third-Party Software” shall have the meaning set forth in the applicable SOW.

“Transition Assistance Services” shall have the meaning ascribed to it in Section 10.4.2 below.

“Transition Fee” shall have the meaning ascribed to it in Section 10.4.2 below.

“T&M” shall have the meaning ascribed to it in Section 10.4 below.

“Usage Data” means the data that we collect in connection with our monitoring of the performance and use of the Products and/or Services by Client and Client’s Authorized Users, including, without limitation, date and time that Client accesses the Products and/or Services, the portions of the Products and/or Services visited, the frequency and number of times such pages are accessed, the number of times the Products and/or Services are used in a given time period, the documents access through the Products and/or Services and other usage and performance data.

“Voice Services” shall have the meaning set forth in the applicable SOW.

“Work Product” shall have the meaning ascribed to it in Section 3.2 below.

## 2. IT Services.

- 2.1. IT Services Provided. Client shall procure, and Abacus shall use its commercially reasonable efforts to provide, the IT Services (including the On-Going Support) set forth in each SOW(s) during the related SOW Term. Abacus shall use its commercially reasonable efforts to comply at all times with the policies and processes applicable to Client as specified by any current documents posted to Client's account or an appropriate section on the Abacus Portal.
- 2.2. Hours of Operation of IT Services. Abacus shall use its commercially reasonable efforts to provide to Client the IT Services specified in each SOW, 24 hours a day, seven days a week, unless Abacus notifies Client in advance, of a period of time in which the IT Services will be unavailable for the purpose of conducting standard service and maintenance or unless the applicable SOW provides for a lesser period of availability. Any and all scheduled maintenance will occur after Normal Business Hours, subject to all exclusions detailed in the Service Level Agreement. Abacus shall provide incident support for IT Service outages via the "Abacus Helpdesk" in accordance with the timescales detailed in the Service Level Agreement.
- 2.3. On-Going Support. Abacus shall provide Client with On-Going Support per the schedule and the rate(s) defined in the applicable SOW(s). Unless stated otherwise in an applicable SOW, On-Going Support shall be delivered on a Time and Materials basis. Where stated in an applicable SOW, On-Going Support may include Abacus's participation in the Client's (i) security awareness programs and digital operational resilience training, or (ii) threat-led penetration testing exercises, and such participation, in each case, shall be performed on a T&M basis at the same rates and in accordance with the description specified in the applicable SOW.
- 2.4. Onboarding of Authorized Users. Each Authorized User will be required to create an account, which includes a username, a password, and certain additional information, including a valid email address, that will assist in authenticating the Authorized User's identity when he or she logs into the Services in the future (collectively, "Log-in Credentials"). When creating an account, an Authorized User must provide true, accurate, current, and complete information. Each Log-in Credential must be used only by single Authorized User. Authorized Users shall not share their Log-in Credentials with any Person. Client is solely responsible for the confidentiality and use of Authorized Users' Log-in Credentials, as well as for any use, misuse, or communications entered through the Services. Client Approver shall promptly inform Abacus of any need to deactivate a username, password, or other Log-in Credential. Client shall immediately notify Abacus of any unauthorized access or use of which Client becomes aware. Abacus reserves the right to delete or change Authorized Users' Log-in Credentials at any time and for any reason. Abacus will not be liable for any loss or damage arising from any unauthorized activity of Client or any Authorized User's account, or any other failure to secure access to Client or any Authorized User's account. Client shall be liable for any loss or damage incurred by Abacus and/or any third-party arising from any unauthorized activity of Client or any Authorized User's account, or any other failure to secure access to Client or any Authorized User's account. With respect to each Product and Service, the number of Authorized Users will be set forth on the related SOW, and Client Approver may adjust the number of Authorized Users through the Abacus Portal, and where additional Authorized Users are added then Abacus shall grant access to the Services to such Authorized Users in accordance with the provisions herein. Where the number of Authorized Users is adjusted up or down, Abacus shall adjust the fees accordingly in accordance with these Terms and Conditions to reflect the revised number of Authorized Users and such adjustment will be reflected on the next invoice.
- 2.5. Comanaged Product or Service. Abacus shall have no liability whatsoever to Client arising out of or related to any acts or omissions of Client, its Authorized Users and/or any of Client's third-party representatives in relation to any management, operation and/or maintenance of any Comanaged Product or Service. Furthermore, Client shall indemnify, defend and hold Abacus Indemnified Parties harmless from and against any and all Losses incurred in connection with any Third-Party Claims arising out of or related to any acts or omissions of Client, its Authorized Users and/or any of Client's third-party representatives in relation to any management, operation and/or maintenance of any Comanaged Product or Service. Client understands and agrees that in the event that Abacus resolves or assists Client and/or any of Client's third-party representatives to resolve any issue arising out of or related to any acts or omissions of Client and/or any of Client's third-party representatives in relation to any management, operation and/or maintenance of any Comanaged Product or Service, such assistance shall be billed to Client at the then current T&M rate(s) as specified in the applicable SOW.

2.6. **Products and Services.** The Products and Services ordered under each applicable Statement of Work by Client are solely between Abacus and Client and no Affiliates or third-parties of Client. The Products, Services and/or On-Going Support provided by Abacus under each applicable Statement of Work may consist of third-party products, services and/or software ("Third-Party Software"), including, but not limited to Cisco, Citrix, Duo, Global Relay, LastPass, Proofpoint, Microsoft, SentinelOne and VMware. Third-Party Software is provided on condition that Client accepts and agrees to the applicable terms and conditions, restrictions and limitations upon which such Third-Party Software is provided by the applicable third-party provider. The current list of providers of such Third-Party Software is set out in Client's account or on the Abacus Portal. Abacus may update the list of Third-Party Software providers from time to time. Client's continued use of the Products, Services and On-Going Support after Abacus has notified Client of any additional changes to the Third-Party Software constitutes Client's acceptance of the terms and conditions governing such Third-Party Software. In addition, where the use of Third-Party Software is subject to Client executing that third party's end user license agreement, Client's use of that Third-Party Software comprised in the Products, Services and/or On-Going Support is conditional upon Client's acceptance of such terms. If Client does not agree to such terms, Abacus may suspend Client's access to that particular element of the Products, Services and/or On-Going Support comprising the Third-Party Software, without prejudice to Abacus' rights under the Terms and Conditions to receive payment for the same.

### 3. **Professional Services.**

3.1. **Statements of Work.** Client Approver may request Abacus to provide Professional Services. All such Professional Services will be covered by one or more Statements of Work agreed on by the Parties. The work covered by a particular Statement of Work will be referred to herein as a "Project." Each Statement of Work will be in writing, signed by an authorized representative of each Party, will reference these Terms and Conditions and will specify for the Project covered by that Statement of Work, without limitation: (i) a description of the Project, including any applicable specifications, milestones, and deliverables to be developed; and (ii) the applicable fees.

3.2. **Ownership of Work Product.** Unless otherwise set forth in a Statement of Work, Abacus shall own all right, title, and interest, including, without limitation, all Intellectual Property Rights, in and to all deliverables, customizations, functionalities, and other work product created by Abacus in the performance of the Professional Services (collectively, "Work Product"); provided, however, that upon full payment of the applicable Professional Services fees, any Work Product shall be considered part of the Products and/or Services hereunder and Client shall have a license subject to the terms and conditions as set forth herein.

4. **Cooperation.** Client acknowledges that Abacus' ability to implement and provide the Professional Services is dependent on Client providing Abacus complete, accurate, up-to-date, and timely data, information, and other materials. Client shall reasonably cooperate with Abacus to provide such data, information, and other materials to Abacus and to cause Client's personnel and third-party service providers to do the same.

5. **Restrictions on Use.** Client shall not (and shall not authorize, permit, or encourage any third party to): (i) allow anyone other than Authorized Users to use the Products and/or Services; (ii) reverse engineer, decompile, disassemble, or otherwise attempt to discern the source code or interface protocols of the Products and/or Services; (iii) modify, adapt, or translate the Products and/or Services, or any portion or component thereof; (iv) make any copies of the Products and/or Services, or any portion or component thereof; (v) resell, distribute, or sublicense the Products and/or Services or any portion or component thereof, or use any of the foregoing for the benefit of anyone other than Client; (vi) remove or modify any proprietary markings or restrictive legends placed on the Products and/or Services; (vii) use the Products and/or Services, or any portion or component thereof in violation of any Applicable Law, in order to build a competitive product or service, or for any purpose not specifically permitted as set forth herein and/or in any Statement of Work(s); (viii) introduce, post, or upload to the Products and/or Services any Harmful Code; (ix) save, store, or archive any portion of the Products and/or Services (including, without limitation, any data contained therein) outside the Products and/or Services other than those outputs generated through the intended functionality of the Products and/or Services without the prior written permission of Abacus in each instance; (x) use the Products and/or Services in connection with service bureau, timeshare, service provider or like activity whereby Client operates the Products and/or Services for the benefit of a third party; or (xi) circumvent any processes, procedures, or technologies that Abacus has put in place to safeguard the Products and/or Services.

- 6. Modifications to the Abacus Portal.** Abacus reserves the right to modify the Abacus Portal from time to time by adding, deleting, or modifying features to improve the user experience or for other business purposes. Abacus further reserves the right to discontinue any feature of the Abacus Portal at any time during the Term at Abacus' sole and reasonable discretion. Any such modification or discontinuance will not materially decrease the overall functionality of the Abacus Portal.
- 7. Procurement.** Subject to Section 9.6, the Products and Services to be provided to Client may include the procurement, at Client's cost and with Client Approver's prior consent, of hardware, software, supplies and spare parts required in connection with the operation, maintenance and repair of IT Infrastructure at Client's office, not including that equipment owned by Abacus.
- 8. Representations and Warranties.**
- 8.1. Representations and Warranties of Abacus and Client. Each Party represents and warrants to the other Party that: (i) to the extent it is an entity, it is duly organized, validly existing, and in good standing under its jurisdiction of organization and has the right to enter into each Statement of Work(s); (ii) the execution, delivery, and performance of each Statement of Work(s) and the consummation of the transactions contemplated hereby constitute a valid and binding agreement of such Party; (iii) the individual accepting each Statement of Work(s) on behalf of a legal entity has the authority to bind such entity to each Statement of Work(s); (iv) it has the full power, authority, and right to perform its obligations and grant the rights it grants under each Statement of Work(s); and (v) it will perform its obligations as set forth in these Terms and Conditions and/or in any Statement of Work(s) in compliance with all Applicable Laws.
- 8.2. Additional Representations and Warranties of Client. In addition to the representations and warranties set forth in Section 8.1, Client represents and warrants that: (i) Client has all rights and permissions necessary for Client to provide Abacus with or grant Abacus access to and use of all Client Data; (ii) Client and its Authorized Users shall not provide, submit or otherwise Process any Sensitive Information through the Products and Services; (iii) it shall provide Abacus with all information, documentation, technical assistance and access as Abacus may reasonably request in order to perform its obligations hereunder which shall include but not be limited to access to all desktops, laptops, tablets, servers and/or network related technology, including hardware and software ("IT Infrastructure"); (iv) it shall comply with all Applicable Laws with respect to its activities under these Terms and Conditions and each Statement(s) of Work; and (v) it shall carry out all other Client responsibilities set out in these Terms and Conditions and in each Statement of Work(s) in a timely and efficient manner. In the event of any delays in Client's provision of such assistance, as agreed by the parties, Abacus may adjust any agreed timetable or delivery schedule as reasonably necessary. Abacus' access to Client's IT Infrastructure shall be subject to written approval from Client Approver; provided, that accepting a remote connection shall constitute such written approval. Client shall be responsible (at Client's sole cost) for maintaining proper environmental conditions, including cooling and appropriate power, for all equipment resident at Client's office. All IT Infrastructure and related equipment owned by Client and necessary to Abacus' delivery of the Products and/or Services must be covered by the respective manufacturers' warranties. Abacus may, from time to time, request that equipment no longer within the manufacturer's warranty be replaced, subject to the approval of the Client. Client acknowledges that failure of Client-owned equipment or infrastructure outside any applicable warranty period may result in delayed provision of the Products and/or Services. Abacus shall not be liable for damages or any other liabilities whatsoever arising as a result of the failure of Client-owned equipment and infrastructure, whether or not such equipment or infrastructure is within the manufacturer's warranty period.
- 9. Invoicing and Payments.** Client will be invoiced for the fees, charges and expenses for the Products and Services (including any applicable Taxes) in accordance with the following:
- 9.1. Timing/Calculation. Any differences between quantity assumptions for each Product or Service as of the applicable SOW Effective Date and the actual quantity implemented for each Product or Service will be credited or invoiced, as applicable, on Client's first invoice that such Product or Service is billed upon its implementation (*as detailed in the applicable SOW*). The MRC for the respective Products and/or Services will be calculated monthly by adjusting the quantity of Products and/or Services to reflect the actual quantity of each Product and/or Service being used by Client as of the beginning of each month and multiplying said quantity by the respective price as set forth in the applicable SOW; provided, that: (i) Product(s) and/or Service(s) shall be

charged at the fee(s) detailed in: (x) the applicable SOW(s); or (y) barring a reference in one or more SOW(s), at the then current rate(s) which shall be furnished upon Client's request; provided, in the absence of signed SOW(s), usage of such Product(s) and/or Service(s) will constitute Client's acceptance of said rate(s); (ii) for the purpose of calculating all applicable monthly Data Management Fees, Abacus will tally the amount and type of data (*less any applicable deductions and rounded up to the nearest whole GB*) being managed in arrears at the beginning of each subsequent month and multiply such amount and type by the respective price(s) set forth in the applicable SOW; and (iii) for the purpose of calculating all applicable monthly Voice Services usage (*i.e. local, long distance and international calls*), Abacus will multiply respective usage (*rounded up to the nearest whole minute*) in arrears at the beginning of each subsequent month by the price(s) set forth in the applicable SOW (subject to Section 9.5 herein). Any applicable Products and/or Services added mid-month will be accounted for and charged for during the subsequent month billing period in accordance with these Terms and Conditions. For the avoidance of doubt, any Product(s) and/or Service(s) removed mid-month will be charged for the entire then current active month. Abacus reserves the right to increase the supplied resources to support any necessary changes resulting from an increase in the resources required. Abacus will secure Client's written approval prior to making any changes to server(s), resource pool(s) and/or replication sets. Pricing that is conditional upon the renewal date of any SOW will automatically take effect on such date. Products and/or Services that are charged at rate(s) indicated in a given SOW as being tiered, will result in each unit of the respective Product and/or Service that falls into a given tier being charged at the respective rate of said tier. Products and/or Services that are charged based upon an aggregated total of said Product and/or Service reaching a given tier, will result in each unit of said Product and/or Service in total being charged at the rate for the respective tier reached.

9.2. Non-Recurring Charges. Abacus shall invoice Non-Recurring Charge(s) ("*NRC*") specified in the applicable SOW: (i) one-time, in advance, upon the SOW Effective Date in accordance with these Terms and Conditions; and (ii) one-time, in advance, in the applicable quantity and rate(s), each time said Product(s) / Service(s) are implemented or removed in accordance with these Terms and Conditions. If a SOW replaces or amends a prior SOW(s) ("*Amended SOW*"), the NRC specified in the Amended SOW is in addition to any NRC(s) specified in such prior SOW(s) unless otherwise noted. The NRC specified in one or more SOW(s) is subject to adjustment based on changes to the type or quantity of Products and Services provided pursuant to such SOW.

9.3. Recurring Charges.

9.3.1. Abacus shall invoice the recurring charge(s) specified in the respective applicable SOW: (i) in regards to a Monthly Recurring Charge ("*MRC*"), beginning the earlier of: (i) sixty (60) days from the applicable SOW Effective Date; or (ii) upon the Product or Service being implemented (*as detailed in the applicable SOW*); provided, that, MRC(s) shall begin to accrue from the SOW Commencement Date; and (ii) in regard to an Annual Recurring Charge ("*ARC*") upon the applicable SOW Effective Date. Abacus will invoice Client Recurring charge(s) will be invoiced in advance of each applicable period of the Term; provided, in the absence of actual quantities, Abacus shall bill based upon the quantities detailed in the applicable SOW or billed the previous period for the respective Product(s) or Service(s). For example, an MRC will be billed in advance for each month of the Term whereas an ARC will be billed upon the anniversary of the then current Term in advance for the subsequent year. Recurring charge(s) for a partial period may be pro-rated in accordance with and in the manner detailed in accordance with these Terms and Conditions. For the avoidance of doubt, any Product(s) and/or Service(s) removed mid-month will be charged for the entirety of the then-current active month. The Recurring Charges specified in a SOW are subject to adjustment based on changes to the type or quantity of Products and Services provided pursuant to such SOW.

9.3.2. Abacus shall invoice the monthly third-party recurring charge(s) specified in the respective applicable SOW for product or service that Abacus resells (e.g. software licensing not bundled as part of an Abacus Product or Service, automatic ring downs, etc), beginning the earlier of: (i) sixty (60) days from the applicable SOW Effective Date; or (ii) upon the third-party product or service being implemented (*as detailed in the applicable SOW*); provided, that, monthly third-party recurring charges shall begin to accrue from the SOW Commencement Date. Abacus will invoice Client the monthly third-party recurring charges specified in the SOW in arrears for each month of the Term; provided, in the absence of actual quantities, Abacus shall bill based upon the quantities detailed in the applicable SOW or billed the

previous month for the respective third-party product or service. For the avoidance of doubt, any monthly third-party product or service removed mid-month will be charged for the entirety of the then-current active month. The third-party recurring charges specified in a SOW are subject to adjustment based on changes to the type or quantity of products and services provided pursuant to such SOW.

- 9.4. Time and Materials Consulting. If Product(s), Service(s) or On-Going Support are delivered on a Time & Materials ("T&M") basis, Abacus will accrue all hours at the end of each calendar month, and Client will be invoiced monthly, in arrears, in accordance with hours and materials used at the rate(s) as set forth in the applicable SOW.
- 9.5. Rate Increase. Billing for all Products and/or Services provided by Abacus under each SOW will be based on actual units provided. Following the Initial Term, and on or after each renewal date of such SOW, Abacus may increase the unit price of any services provided under any given SOW, by up to 5% (or up to the rate of inflation over the prior 12 months, as measured by the Consumer Price Index if such rate is higher). In addition, for software licenses which are resold by Abacus to Client as part of the SOW (for example, Microsoft 365 licenses), if the vendor increases MSRP for these licenses, Abacus may, at any time, increase Client's price for these licenses up to MSRP. As used herein, the term "Consumer Price Index" shall mean: (i) where the contracting entity to the Statement of Work is Abacus Information Technology, LLC, the United States Department of Labor Statistics' Consumer Price Index, All Urban Consumers, All Items; or (ii) where the contracting party to the Statement of Work is Abacus Information Technology UK Limited, the UK ONS CPI ANNUAL RATE 00: ALL ITEMS; or the successor of such indexes, or if no successor index is designated, then such other index as Abacus reasonably shall designate. Continued usage of applicable Product(s) and/or Service(s) after such a posting will constitute Client's acceptance of the new rates.
- 9.6. Expenses.
- 9.6.1. Client is responsible for all reasonable and documented service-related expenses. These include but are not limited to cables, mice, keyboards, etc. and will be billed as pass-through costs, inclusive of all applicable taxes in the event Abacus procures such items on Client's behalf. Abacus will make reasonable attempts to have expenses, which in the aggregate exceed \$250, approved by Client in advance.
- 9.6.2. Unless mutually agreed upon and documented in writing in advance or in any SOW, Client is responsible for all pre-approved, reasonable, and documented travel and travel-related expenses of Abacus personnel to locations other than Client's Primary Office, including without limitation Supported Offices or users' homes. Travel time will be billed based on labor hours spent travelling both to/from the additional location at the rate(s) defined above. Travel-related expenses include any and all reasonable and documented appropriate meal and lodging costs incurred during the course of the provision of services for locations other than Client's Primary Office.
- 9.6.3. In the event that any action or omission on the part of Client or any of its Representatives causes Abacus to make a determination (in Abacus' reasonable discretion) that Abacus requires the services of any experts and/or advisors (including, without limitation, attorneys) in connection with the provision of any Products and/or Services to Client pursuant to these Terms and Conditions, then Client shall be responsible for the payment of all reasonable and documented fees and expenses of any such experts and/or advisors (including, without limitation, attorneys).
- 9.7. Payment. All amounts are due and payable to Abacus within thirty (30) days from Client's receipt of the invoice without setoff or deduction; provided, the one-time fees associated with the initial onboarding of any Product(s) and/or Service(s) shall be paid upon receipt of the applicable invoice(s). All amounts due as set forth herein and/or in any Statement of Work(s) shall be paid by ACH or wire transfer, or other payment method agreed to by Abacus in writing.
- 9.8. Late Payments. In the event that any invoiced amount is not received by Abacus by the due date as set forth in Section 9.7, then without limiting Abacus' rights and remedies, Abacus may: (i) charge interest on the outstanding balance at a rate not to exceed 3% per month or the maximum rate permitted by law; (ii) condition future provision of Products and/or Services on payment terms shorter than those specified in Section 10.7; (iii) suspend the Products and/or Services pursuant to Section 10.3; and/or (iv) terminate the Products and/or Services in accordance with and pursuant to Section 10.2; provided, however, that invoiced amounts disputed by Client in good faith shall not accrue late charges. In the event Client wishes to dispute an invoice or portion

thereof, Client must notify Abacus in writing within 15 days of its receipt. The writing must provide Abacus with sufficient detail regarding the basis and amount of the dispute. If Client does not dispute an invoice within 15 days of its receipt of same, the invoice will be deemed to have been approved by Client. Client shall be responsible for any costs incurred by Abacus in the collection of unpaid invoices, including, without limitation, collection and filing costs and reasonable attorneys' fees.

- 9.9. Non-Refundable. Unless otherwise expressly provided for as set forth herein and/or in any Statement of Work(s), all fees, charges and expenses that have been paid are non-refundable.
- 9.10. No Contingency for Future Commitments. Payment of the fees, charges and expenses shall not be contingent on the delivery of any future Products and/or Services functionalities, or features, or any other future commitments.
- 9.11. Taxes. Any applicable direct pay permits or valid tax-exempt certificates must be provided to Abacus prior to the execution of a SOW. Fees payable under each SOW are in addition to and do not include any federal, provincial, or local sales, PST, GST, HST, VAT, foreign withholding, use, property, excise, service, value added, or similar transaction taxes, now or hereafter levied, whether federal, state, local, or otherwise ("Taxes"), all of which will be for Client's account. If Abacus is required to collect and remit Taxes on Client's behalf, Abacus will invoice Client for such Taxes, and Client will pay Abacus for such Taxes in accordance with Section 10.7. Client shall defend, indemnify, and hold harmless Abacus, Abacus suppliers, Abacus hosting providers, and Abacus and their respective officers, directors, managers, employees, contractors and agents from any and all liabilities, costs, and expenses (including reasonable attorneys' fees) in connection with any Taxes and related costs, interest, and penalties paid or payable by Abacus on Client's behalf. For the avoidance of doubt, Abacus will only be responsible for any taxes related to Abacus' income, property, franchise, or employees.

## **10. Term, Termination and Suspension.**

- 10.1. Term. The term for each SOW shall be specified in such SOW ("Term").
- 10.2. Termination Events. A Statement of Work may be terminated as follows:
- 10.2.1. By Abacus, if Client fails to pay any amount due in accordance with such SOW within thirty (30) days of the date due;
- 10.2.2. By either Party, if the other Party is in material default of any provision of the relevant SOW, and such default is not cured within thirty (30) days after written notice of default is given to the other Party, and, for these purposes, a material breach includes:
- 10.2.2.1. where either Party is in breach of any terms under any SOW(s);
- 10.2.2.2. where either Party is in breach of Applicable Law (other than a trivial or minor breach);
- 10.2.2.3. a breach of security or confidentiality or a weakness in the management and security of confidential, personal or otherwise sensitive Client Data by Abacus or its subcontractors that impacts Client's or Client's customers (other than a breach which has a trivial or minor impact);
- 10.2.2.4. a demonstrable and material deterioration in Abacus's ability to provide the Products and/or Services; or
- 10.2.2.5. an impediment which is demonstrably capable of altering Abacus's performance under the Products and/or Services to a material extent.
- 10.2.3. By either Party if a Regulator instructs a Party to terminate the SOW, provided that (i) the Regulator has the power to issue such an instruction under Applicable Law, and (ii) such instruction is valid and binding on the Party to whom it is addressed;
- 10.2.4. By Abacus, if statutory, judicial, regulatory, rate or tariff changes make it impossible or commercially impractical, in Abacus's and/or its suppliers' sole discretion, to continue to provide any or all of the Products and/or Services required by the SOW;

10.2.5. By either Party, if the other Party commences or becomes the subject of any Event of Insolvency, in which event the Party experiencing such an Event of Insolvency shall immediately give notice of such event to the other Party. Whether or not such notice is given, the other Party shall have the right, to the fullest extent permitted under Applicable Law, following the occurrence of any Event of Insolvency and without prejudice to any other rights it may have, at any time thereafter to terminate any SOW, effective immediately upon giving notice to the party experiencing such an Event of Insolvency; or

10.2.6. In accordance with the specific terms of the SOW.

10.3. Suspension of Performance. Notwithstanding anything to the contrary in these Terms and Conditions or any Statement of Work, Abacus shall have the right to suspend its provision of any Products and/or Services to Client in the event that: (i) Client fails to pay amounts that are owed to Abacus (except for any amounts that are the subject of a bona fide dispute) in relation to such Products and/or Services on or prior to the 45th day after such amounts are required to be paid to Abacus pursuant to the SOW and (ii) Client has failed to make all requisite payments in relation to such Products and/or Services on or prior to the fifth day after Client received written notice from Abacus of its intention to suspend its provision of such Products and/or Services. Abacus shall resume the provision of any suspended Products and/or Services promptly upon the receipt of all amounts that are owed to Abacus in relation to such suspended Products and/or Services. Nothing in this Section 10.3 shall limit Abacus' rights pursuant to Section 11 of these Terms and Conditions.

10.4. Consequences of Termination or Expiration. In the event of the termination or expiration of a SOW pursuant to Section 10.2, Abacus shall have the right to:

10.4.1. Declare all amounts owed to it pursuant to the applicable SOW for Products and/or Services actually rendered up to the date of such termination or expiration to be immediately due and payable (subject to any outstanding disputes on invoices);

10.4.2. Cease providing all Product(s) and/or Service(s) specified in the applicable SOW and Client shall immediately stop all access to and use of the Products and/or Services; provided, that other than following a termination by Abacus pursuant to Section 10.2.1 or Section 10.2.2, upon Client Approver's written request, Abacus shall: (a) co-operate fully with Client to ensure a smooth migration of the Client Data to an alternative service provider to avoid any disruption to the continuity or quality of the Products and/or Services; (b) continue to provide the Product(s) and/or Service(s) in accordance with these Terms and Conditions and/or the SOW for a reasonable migration period (as agreed between the Parties, but in any event no longer than sixty (60) days); (c) make Abacus personnel reasonably available to meet with and assist Client to wind-down the Abacus Product(s) and/or Service(s); and (d) transfer all Client Data to Client or its designee, ((a)-(d) collectively, the "Transition Assistance Services"), for which (i) Client shall provide any/all necessary media required for such transfer and (ii) Abacus shall charge and shall be paid the fee(s) that Abacus has communicated in advance ("Transition Fee"); provided, Abacus shall not begin any such efforts detailed in this Section 10.4.2, until receipt of such Transition Fee as well as all amounts due to Abacus as of the applicable date of termination under any and all SOWs. Any Transition Assistance Services provided pursuant to this Section may be provided to Client for up to sixty (60) days after the date of termination, and the applicable SOW shall continue in effect during such period;

10.4.3. To the fullest extent allowed by law, repossess all supplies, spare parts and other items supplied by Abacus under the applicable SOW for which it has not received payment;

10.4.4. Retain Client Data and Client Personal Data for thirty (30) calendar days from the effective date of termination of the applicable SOW, at which point said Client Data and Client Personal Data shall be deleted. If Client is not receiving Transition Assistance Services from Abacus pursuant to Section 10.4.2 and Client requires a copy of said Client Data and Client Personal Data: (i) Client shall provide any/all necessary media required for such copying; and (ii) all labor required in copying said Client Data and Client Personal Data shall be billed at the then-current standard rates, which rates shall be available upon request; and

10.4.5. In the event Client subscribes to Voice Services, confirm with Client whether Client wishes to retain and port the assigned Direct inward Dial ("DiD") numbers (aka Phone numbers), in which event, Client shall make a one-time payment of \$100 per DID.

- 10.5. Authorized User Costs and Fees. In the event Client Approver reduces the number of Authorized Users allowed to access and use the Products and/or Services under a SOW during the term of the SOW, or terminates a SOW other than in accordance with Section 10.2, or terminates a subscription or access to all or a portion of the Products and/or Services under a SOW during the term of the SOW, Client shall pay Abacus the applicable per Authorized User monthly costs and any applicable recurring fees for the remainder of the then-current term of such SOW. Notwithstanding the foregoing, in the event Client wishes to remove one or more Authorized Users access to and use of the Products and/or Services under a SOW during the term of the SOW, but retain the license with respect to such Products and/or Services, then the Client shall continue to pay the applicable fees set forth in the SOW and the foregoing provisions shall not apply.
- 10.6. Return/Destruction of Confidential Information. Subject to Section 10.4.2, upon expiration or termination of any applicable SOW, both Parties shall, within thirty (30) days, deliver to the respective Party, or at the Receiving Party's option, destroy Confidential Information in its or any of its Representatives' possession or under its or any of its Representatives' control in conformity with said Party's instructions, except to the extent that destruction of Confidential Information is prohibited by applicable law, rule or regulation (any Confidential Information retained pursuant to this proviso is referred to herein as "Retained Confidential Information"). Upon a Party's request, the other Party shall execute and deliver to the requesting Party a certification that all Confidential Information in its possession (other than Retained Confidential Information) has either been returned or destroyed.
- 10.7. Survival. Termination of any Product or Service shall have no effect on the Parties' rights and obligations under the following Sections of these Terms and Conditions, which shall survive any such termination for any reason: 1, 8, 9, 10.4, 01.7, 11, 12, 13, 14, 17, 22, 23, 26 and 27. Without limiting the generality of the foregoing, for the avoidance of doubt, termination of any Product or Service shall not relieve Client of its obligation to make payment of all amounts then or thereafter due and payable.

## **11. Confidentiality.**

- 11.1. General. Each Party will take reasonable measures to keep in confidence all the other Party's Confidential Information that it receives in connection with these Terms and Conditions and/or any SOW and will not use such Confidential Information without the other Party's prior written consent except to perform its obligations or exercise its rights hereunder.
- 11.2. Non-Use. The Receiving Party shall not disclose distribute, or disseminate any of the Confidential Information of the Disclosing Party to anyone or to any third party other than the Receiving Party's Representatives who have a need to know the Confidential Information for purposes of performing these Terms and Conditions and all related SOWs and who are bound to confidentiality obligations at least as restrictive as the confidentiality obligations contained herein, without the prior written consent of the Disclosing Party. The Receiving Party will at all times remain responsible for any violations set forth in these Terms and Conditions and/or related SOWs by any of its Representatives. The Receiving Party shall notify the Disclosing Party of any security breach or unauthorized disclosure of the Disclosing Party's Confidential Information in its possession or control. Each Party shall notify its Representatives of their confidentiality obligations with respect to Confidential Information disclosed hereunder and shall be responsible and liable for all breaches of this Section 11.2 by any of its Representatives.

- 11.3. **Exceptions to Confidentiality.** Notwithstanding the foregoing, either Party shall have the right to disclose the terms and conditions of these Terms and Conditions and any/all related SOWs: (i) to such party's legal, accounting, tax or other advisors or potential investors or financing sources, or in connection with an actual or proposed merger, acquisition or similar transaction; provided, that in any such instance the disclosure is in accordance with a non-disclosure agreement or such third party is bound by a professional duty to keep information confidential; or (ii) as otherwise required by law. If the Receiving Party is legally compelled pursuant to a valid order of any court, administrative agency, or other governmental body to disclose any of the Disclosing Party's Confidential Information, the disclosure shall not be determined to be a breach of these Terms and Conditions and any/all related SOWs; provided that, to the extent legally permissible, the Receiving Party will provide the Disclosing Party prompt prior written notice of such requirement so that the Disclosing Party may seek a protective order, otherwise prevent such disclosure, or other appropriate remedy, and/or waive compliance with the terms of this Section 11. If such protective order or other remedy is not obtained or the Disclosing Party waives compliance with the provisions of this Section 11, the Receiving Party may furnish only that portion of the Confidential Information which it is advised by its counsel is legally required to be disclosed, and will use its best efforts to insure that confidential treatment will be afforded such disclosed portion of the Confidential Information.
- 11.4. **Injunctive Relief.** Each Party acknowledges that the other Party may be irreparably harmed by any breach of this Section 11, and that such other Party may seek, in any court of appropriate jurisdiction, an injunction and/or any other equitable relief necessary to prevent or cure any such actual or threatened breach thereof, without the necessity of proving monetary damages or posting a bond or other security. The preceding sentence shall in no way limit any other legal or equitable remedy, including monetary damages, the non-breaching Party would otherwise have under or with regard to these Terms and Conditions and/or any SOW.
- 11.5. **Feedback.** During the Term, Client and its Authorized Users may elect to provide us with feedback, comments, and suggestions with respect to the Product(s) and/or Service(s) ("**Feedback**"). Abacus will be free to use, reproduce, disclose, and otherwise exploit any and all such Feedback without compensation or attribution to Client or any Authorized User.
- 11.6. **Network Access.** Only for applicable Product(s)/Service(s) that require such, Abacus personnel may provide Products and/or Services on Client's premises from time to time as needed or requested by Client, and that while on Client's premises such personnel may access Client's network using laptop computers or other devices. Abacus shall have no liability for any access by or disclosure to such Abacus personnel, whether inadvertent or otherwise, of any Confidential Information contained within Client's network, incident to the provision of Products and/or Services.
- 11.7. **Restrictions on Use.** In no event shall Client use Abacus' Confidential Information to reverse engineer or otherwise develop products or services functionally equivalent to the Products or Services.

**12. Ownership of Intellectual Property.** Subject to the terms and conditions hereof, and except as permitted under the applicable SOW, Abacus grants Client a limited, non-exclusive, non-transferable, non-sublicensable, revocable right and license to allow Client's Authorized Users to access and use the Products and Services solely for Client's internal business purposes. As between Abacus and Client: (i) Abacus retains all right, title, and interest, including, without limitation, all Intellectual Property Rights, in and to the Products and Services, the Aggregate Data, and the Usage Data, including all modifications, improvements, adaptations, enhancements, derivatives, or translations made thereto or therefrom, and all Intellectual Property Rights therein, and any other materials provided by Abacus hereunder, and Client shall have no rights with respect to the same other than those license rights expressly granted under the SOW; and (ii) Client retains all right, title, and interest, including, without limitation, all Intellectual Property Rights, in and to the Client Data, will be and remain Clients' sole and exclusive property and Abacus shall have no rights with respect to the same other than those license rights expressly granted under the SOW.

### **13. Client Data.**

- 13.1. **Client Data.** Subject to these Terms and Conditions and any SOW(s), Client grants to Abacus a non-exclusive, worldwide, fully paid, royalty-free right and license, with the right to grant sublicenses, to reproduce, execute, use, store, archive, modify, perform, display, and distribute the Client Data for the purpose of providing the Product(s) and Service(s). Abacus will process any Client Personal Data included in the Client Data in

accordance with the Data Processing Addendum. Client will have sole responsibility for the accuracy, quality, and legality of its Client Data. If these Terms and Conditions conflict with the Data Processing Addendum, the Data Processing Addendum shall control solely with respect to Processing of Client Personal Data. Abacus will not use Client Data for machine learning and/or training any artificial intelligence models Abacus uses in connection with the Product(s) and Service(s) that Abacus provides under any SOW.

13.2. **Aggregate Data.** Notwithstanding anything to the contrary herein, Abacus may use, and may permit Abacus' third-party service providers to access and use, the Client Data, as well as any Aggregate Data for the purposes of operating, maintaining, managing, and improving Abacus' products and services. Aggregate Data does not identify Client or any individual. Abacus may collect, use, publish, disseminate, sell, transfer, and otherwise exploit such Aggregate Data.

13.3. **Data Security.** Abacus (and any third-party hosting provider that Abacus may engage) will employ commercially reasonable physical, administrative, and technical safeguards to secure the Client Data, from unauthorized use or disclosure. Abacus strongly recommends that Client retrieve its Client Data prior to the termination of the Products and/or Service as set forth herein and/or in any Statement of Work(s) as Abacus will not provide Client with any access to Client Data after the termination or expiration of the Products and/or Services as set forth herein and/or in any Statement of Work(s).

**14. Warranties.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, ANY AND ALL PRODUCTS AND/OR SERVICES ARE PROVIDED "AS IS," WITHOUT ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT OR NON-MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, CUSTOM, TRADE, ACCURACY OF INFORMATIONAL CONTENT OR RESULTS, OR SYSTEM INTEGRATION, AVAILABILITY, COMPLETENESS, CURRENTNESS, ERROR-FREE OR UNINTERRUPTED OPERATION, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE, OR ANY OTHER WARRANTIES OR CONDITIONS ARISING UNDER ANY LEGAL REQUIREMENT. ABACUS MAKES NO WARRANTY WITH RESPECT TO THE ACCURACY OF ANY OUTPUTS GENERATED BY OR THROUGH THE PRODUCTS AND SERVICES OR THAT THE PRODUCTS AND SERVICES WILL MEET THE NEEDS OR REQUIREMENTS OF CLIENT OR ITS AUTHORIZED USERS, WILL OPERATE IN THE COMBINATIONS THAT MAY BE SELECTED FOR USE BY CLIENT OR ITS AUTHORIZED USERS, THAT THE PRODUCTS AND SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ALL ERRORS WILL BE CORRECTED. CLIENT IS SOLELY RESPONSIBLE FOR EVALUATING THE ACCURACY OF ANY OUTPUT, AND CLIENT SHALL NOT RELY ON ABACUS TO DO SO. THE OUTPUT MAY NOT REFLECT CURRENT, CORRECT OR COMPLETE INFORMATION, AND CLIENT AND CLIENT'S AUTHORIZED USERS MAY RELY ON THE OUTPUT AT CLIENT'S AND CLIENT'S AUTHORIZED USERS' SOLE RISK. TO THE EXTENT THAT ABACUS MAY NOT AS A MATTER OF APPLICABLE LAW DISCLAIM ANY IMPLIED WARRANTY, THE SCOPE AND DURATION OF SUCH WARRANTY WILL BE THE MINIMUM PERMITTED UNDER SUCH LAW.

**15. Information Security.** Abacus may prescribe security procedures relating to the use of the Products and/or Services, which may include the use of access devices, digital certificates, and usernames and/or passwords for Authorized Users (collectively, "Security Devices"). Client shall make all reasonable efforts to ensure that all of its Authorized Users: (i) implement and follow such security procedures and use such Security Devices; (ii) do not remove, modify, disable, penetrate or otherwise defeat any such security procedure or Security Device; and (iii) do not share their individual Security Device with any Person not authorized to use or possess it. Client is solely responsible for: (a) maintaining the confidentiality and security of the Authorized Users' Security Devices; and (b) any and all activities that occur under Client's Authorized Users' accounts. Client shall promptly notify Abacus of any unauthorized use of any Authorized User's account and/or breach of any Security Device. Notwithstanding anything in these Terms and Conditions to the contrary, Abacus will not be liable for any loss or liability that Client may incur as a result of any act or omission on the part of Client leading to any unauthorized use of any Authorized User's account and/or breach of any Security Device. Client shall be liable for any and all losses or liabilities incurred by Abacus and/or any third-party as a result of any act or omission on the part of Client leading to any unauthorized use of any Authorized User's account and/or breach of any Security Device. Nothing herein is intended to prevent Client from requiring its Authorized Users to follow security procedures and to use security devices that are supplemental to those required by Abacus. In the course of Abacus performing its duties under these Terms and Conditions and any SOW, Abacus shall: (x) except to the extent authorized by Client, not knowingly transmit Client's Confidential Information outside of the United States (where the contracting entity to the Statement of Work is Abacus Information Technology, LLC) or the United Kingdom

and EEA (where the contracting entity to the Statement of Work is Abacus Information Technology UK Limited; and (y) comply with its obligations in respect of Client Personal Data as set out in the Data Processing Addendum.

- 16. Client Grant of License.** Only for applicable Product(s)/Service(s) that require such, Client grants to Abacus a non-exclusive, non-transferable, non-assignable, revocable, royalty-free license to host Client's applications. To the extent such applications belong to a third party, Client warrants that it may grant such license to Abacus or will obtain such rights for the benefit of Abacus prior to the date Abacus begins hosting Client's applications. Nothing in the foregoing grant of license gives Abacus a license to develop or create any financial product or services or derivative work based on any of the Client's applications.
- 17. Property & Damage.** Client acknowledges that any equipment provided by Abacus which will be resident at Client's office(s) is wholly owned by and shall remain the property of Abacus. Client shall reimburse Abacus for all reasonable repair, restoration or replacement costs associated with physical and non-physical damage to or destruction of the Abacus equipment beyond normal wear and tear or that is caused by the Client's personnel, agent(s), suppliers/contractors or visitors. The necessity for any repair, restoration and/or replacement of Abacus-owned equipment shall be determined by Abacus in its sole discretion.
- 18. Internal Audit Reports.** With respect to each calendar year during the Term of the SOW, Abacus will retain an independent auditor to perform a Service Organization Control (SOC) I Type 2 audit of the control activities and processes maintained by Abacus to provide the Products and Services to Client under these Terms and Conditions and any SOW. Abacus shall: (i) promptly after receipt of each SOC I, Type 2 report post a copy of such SOC I, Type 2 report resulting from each such audit to Client's account or an appropriate section on the Abacus portal; and (ii) reasonably remediate all material issues identified in any such report. Notwithstanding the foregoing, Abacus shall have the right in its sole discretion with respect to any calendar year to retain an independent auditor to perform a SOC II Type 2 audit, and for any calendar year in which an independent auditor has been retained to perform a SOC II, Type 2 audit and for any subsequent calendar year during the term of the SOW, all of Abacus' obligations set forth in this Section 19 shall be deemed to apply to such SOC II, Type 2 audit in lieu of any SOC I Type 2 audit.
- 19. External Audit.** To the extent required by Applicable Law, and only once in any calendar year (unless otherwise required by Applicable Law) Abacus shall permit Client, the appointed agents of Client and/or third party auditors (appointed at Client's cost), at a time mutually agreed by the Parties, with prior reasonable written notice (except where it is not reasonable to provide such prior notice due to instances of emergency or crisis or if provision of such notice would render the relevant audit ineffective), to: (i) access, examine, inspect and audit the provision of the Services to the Client under the SOW; (ii) access, examine and inspect any Abacus premises from which such Services are provided to the Client; and/or (iii) obtain or make copies or extracts of any records and documents of transactions and information of Client given to, stored at or processed by Abacus under the SOW, in each case solely for the purpose of ensuring compliance with the terms of the SOW in relation to its obligations to the Client and the requirements of Applicable Law and so long as any access, examination, inspection or audit is supervised by Abacus. When conducting any audit in accordance with this Section 19, Client shall act reasonably and in good faith, and adopt (wherever reasonably practicable without adversely impacting the purpose of such audit) any virtual or remote means proposed by Abacus as an alternative to on-premise auditing or access to devices, systems and networks. Client shall only request on-premise audits or access to specific devices, systems or networks where the relevant auditor reasonably determines that the virtual or remote means proposed by Abacus are impracticable or insufficient for Client to comply with Applicable Law in respect of the specific purpose of the relevant audit, and then only to the extent required to enable Client to comply with such Applicable Law that it could not otherwise comply with using the virtual or remote means proposed by Abacus. Client shall use all reasonable endeavors to ensure that any audit of Abacus conducted pursuant to these Terms and Conditions does not materially inconvenience or otherwise materially adversely impact the day-to-day operation of Abacus's business.
- 20. Regulator Co-Operation and Audit.** Abacus shall at all times: (a) co-operate as reasonably required with applicable Regulators, and any Persons appointed by them, in relation to the provision of the Services; and (b) permit the Regulators or any appointed agent of the Regulators to: (i) access, examine, inspect and/or audit the provision of the Services under the SOW; and (ii) access, examine and inspect any Abacus premises from which such Services are

provided, but only where the Regulator deems it necessary under Applicable Law. Abacus shall co-operate with the reasonable requests of the applicable Regulator during such access, examination, inspection and/or audit. The Regulators shall carry out any access, examination, inspection and/or audit during business hours and with prior reasonable written notice (except where it is not reasonable to provide such prior notice due to instances of emergency or crisis or if provision of such notice would render the relevant audit ineffective).

**21. Insurance.** Abacus shall obtain and maintain and keep in full force and effect, at Abacus's expense, the forms of insurance with the minimum limits of insurance stated below. All insurance coverage required herein will provide primary coverage, without contribution from other insurance, for all losses and damages caused by the perils or causes of loss covered thereby. Each insurance policy will be maintained with an insurer having a rating of at least an "A-VII" in the most currently available Best's Insurance Reports and will either provide for at least thirty (30) days' prior written notice to Client in the event of any modification or cancellation or Abacus will provide such notice to Client. Abacus will furnish Client with certificates of insurance in satisfactory form, evidencing its compliance with these provisions upon reasonable request. For the avoidance of doubt, Abacus will not name Client as an additional insured party with respect to any insurance policy.

- Workers' compensation coverage, as required by law and employer's liability coverage at \$1,000,000 per occurrence.
- Professional liability (aka Errors & Omissions liability), endorsed to cover services provided by subcontractors, if any, at \$1,000,000 per occurrence and aggregate.
- Commercial general liability on an occurrence basis at \$1,000,000 per occurrence and aggregate, including premises operations, products and completed operations, contractual liability, and personal and advertising injury coverages.
- Commercial automobile liability at \$1,000,000 per occurrence combined single limit for bodily injury and property damage liability, and covering all leased, owned and non-owned vehicles.
- Umbrella liability on a follow form basis at \$6,000,000 per occurrence and aggregate excess of the commercial general liability, commercial automobile liability, and employer's liability insurance.
- Fidelity bond (AKA crime insurance) at \$3,000,000 per occurrence and aggregate, including third party liability or client coverage.
- Cyber insurance at \$3,000,000 per occurrence and aggregate, including third party liability for losses relating to security and privacy breaches.

**22. Limitation of Liability.**

22.1. Liability Exclusion. ABACUS SHALL NOT BE LIABLE TO THE CLIENT, WHETHER IN CONTRACT OR TORT, FOR ANY INDIRECT, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OR LOST PROFITS ARISING OUT OF, RELATED TO OR IN CONNECTION WITH THESE TERMS AND CONDITIONS OR ANY BREACH THEREOF, OR THE PROVISION OF PRODUCTS OR THE PERFORMANCE OF SERVICES CONTEMPLATED HEREUNDER AND/OR ALL RELATED SOWS OR THE PROVISION OF PRODUCTS OR THE PERFORMANCE OF SERVICES THEREUNDER OR ANY BREACH THEREOF REGARDLESS OF THE FORESEEABILITY OF SUCH DAMAGES OR EVEN IF ABACUS HAS BEEN SPECIFICALLY ADVISED OF THE POSSIBILITY THEREOF. ABACUS SHALL HAVE NO LIABILITY OF ANY KIND WHATSOEVER RESULTING FROM OR RELATING TO (A) BUSINESS INTERRUPTION, LOSS OF USE, LOSS OF DATA OR PROFITS OR ANY SIMILAR ACTUAL LOSS, (B) LOSS OF ANY OPPORTUNITY ARISING OUT OF, RELATING TO OR IN CONNECTION WITH THESE TERMS AND CONDITIONS AND/OR ALL RELATED SOWS OR (C) ABACUS' FAILURE TO ARCHIVE OR RETAIN COPIES OF INSTANT MESSAGES SENT OR RECEIVED BY ANY OF CLIENT'S AUTHORIZED USERS. IN NO EVENT SHALL ABACUS BE LIABLE TO CLIENT FOR ANY DAMAGES RESULTING FROM OR RELATED TO ANY DEFECT, FAILURE OR DELAY OF ABACUS IN THE PERFORMANCE OF SERVICES, EXCEPT IN THE CASE OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

22.2. Limitation of Damages. TO THE EXTENT ABACUS SHALL BE LIABLE TO THE CLIENT, ABACUS'S AGGREGATE LIABILITY TO THE CLIENT, IF ANY, SHALL IN NO EVENT EXCEED THE TOTAL AMOUNT PAID AND PAYABLE TO ABACUS IN THE IMMEDIATELY PRECEDING SIX (6) MONTHS PERIOD UNDER THE APPLICABLE SOW UNDER WHICH THE CLAIM ARISES.

**23. Indemnification.**

23.1. Indemnification by Abacus. Subject to Section 23 above, Abacus shall, at its expense, defend, indemnify and

hold harmless Client and its Representatives from and against all Losses incurred in connection with: (i) Abacus' gross negligence or willful misconduct; or (ii) any Third-Party Claim alleging that the Product(s) and/or Services(s) when used in accordance with these Terms and Conditions and any applicable SOW infringe any United States (where the contracting entity to the Statement of Work is Abacus Information Technology, LLC) or United Kingdom (where the contracting entity to the Statement of Work is Abacus Information Technology UK Limited) patent or copyright issued as of the date of the SOW. The foregoing obligation is conditioned upon the following: (i) Client shall promptly notify Abacus of such Third-Party Claim in writing, provided, that the failure of Client to notify Abacus shall not relieve Abacus of its indemnification obligations hereunder except to the extent that Abacus has been materially prejudiced by such failure; (ii) Client shall provide Abacus the opportunity to assume sole control over the defense of the Third-Party Claim, with counsel of Abacus' choice; (iii) Client shall provide Abacus any reasonable assistance requested by Abacus for the defense of the Third-Party Claim; and (iv) Abacus shall not concede any infringement of Intellectual Property Rights vis-a-vis third parties, or agree to any settlement or compromise of any Third-Party Claim without the prior written consent of Client. Abacus shall not be responsible for any settlement not approved by Abacus in writing. In the event Abacus declines to assume control of the defense, Abacus shall promptly advance Client's defense costs as they are incurred. THE FOREGOING IS IN LIEU OF ANY WARRANTIES OF NONINFRINGEMENT, WHICH, AS INDICATED IN SECTION 14 ABOVE, ARE DISCLAIMED. In the event that Abacus reasonably determines that the Products and/or Services are likely to be the subject of a Third-Party Claim, Abacus will have the right (but not the obligation), at Abacus' own expense, to: (a) procure for Client the right to continue to use the Products and/or Services as set forth herein and/or in any Statement of Work(s); (b) replace the infringing components of the Products and/or Services with other components with equivalent functionality; or (c) suitably modify the Products and/or Services so that they are non-infringing and functionally equivalent. If none of the foregoing options are available to Abacus on commercially reasonable terms, Abacus may terminate the Products and/or Services as set forth herein and/or in any Statement of Work(s) and provide Client a pro-rata refund of unused portion of any fees that Client has prepaid. The foregoing obligation of Abacus does not apply with respect to Products, Services or portions or components thereof: (i) based upon Client or Client's Authorized Users' use of the Products and/or Services not in accordance with the Abacus Schedules or the terms and conditions as set forth herein and/or in any Statement of Work(s); (ii) that are not supplied by Abacus; (iii) that are third party software; (iv) any unauthorized modifications, alterations, or implementations of the Products and/or Services made by or on behalf of Client (other than by Abacus), after delivery by Abacus, without the written consent of or by Abacus, if the alleged infringement relates in any way to such modification; (v) use of the Products and/or Services in combination with unauthorized modules, apparatus, hardware, software, or services not supplied or expressly permitted in writing by Abacus, where the alleged infringement relates in any way to such combination; (vi) use of the Products and/or Services in a manner or for a purpose for which it was not designed; (vii) where Client continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement; (viii) where Client's use of the Product(s) and/or Service(s) is incident to an infringement not resulting primarily from the Product(s) and/or Service(s) and its intended application; or (ix) where Client's use of the Product(s) and/or Service(s) is not in accordance with these Terms and Conditions, and SOW's, or any applicable license agreement or is misuse or unauthorized use of the Product(s) and/or Service(s) (each of (i)-(ix), an "*Abacus Indemnification Exclusion*"). This Section 23.1 states Customer's sole and exclusive remedy, and our sole and exclusive liability, regarding any Infringement Claim.

- 23.2. Indemnification by Client. Client shall, at its expense, defend, indemnify and hold harmless Abacus and its Representatives from and against any and all Losses incurred by any of such parties in connection with any Third-Party Claim arising from (i) Client's gross negligence or willful misconduct; (ii) any Abacus Indemnification Exclusion, as set forth in paragraph 23.1 above; (iii) any unauthorized access to the Product(s) and/or Service(s) due to a failure of Client to comply with Section 5 above; (iv) Client or any of Client's Authorized Users' breach or violation of the terms and conditions as set forth in these Terms and Conditions and/or in any related Statement of Work(s), including any of Client's representations and warranties hereunder; (v) arising from or related to Abacus' performance of its obligations under these Terms and Conditions and/or all related Statement of Work(s), except as a result of Abacus' gross negligence or willful misconduct; (vi) arising out of or related to any Client activity that is in violation of any Applicable Law or any applicable license agreement to the extent applicable to the Products or Services; (vii) alleging that the use of

the Client Data in accordance with the terms and conditions as set forth in these Terms and Conditions and/or in any Statement of Work(s) infringes, violates, or misappropriates any third-party intellectual property or privacy rights; (viii) any Abacus Indemnification Exclusions, or (ix) arising from or related to any taxes assessed against Abacus that are the obligation of Client pursuant to Section 9.11. The foregoing obligation is conditioned upon all of the following: (i) Abacus shall promptly notify Client of a Third-Party Claim in writing, provided, that the failure of Abacus to notify Client shall not relieve Client of its indemnification obligations hereunder except to the extent that Client has been materially prejudiced by such failure; (ii) Abacus shall provide Client the opportunity to assume sole control over the defense of the Third-Party Claim, with counsel of Client's choice; (iii) Abacus shall provide Client reasonable assistance requested by Client for the defense of the Third-Party Claim; and (iv) Client shall not agree to any settlement or compromise of any Third-Party Claim without the prior written consent of Abacus. Client shall not be responsible for any settlement not approved by Client in writing. In the event Client declines to assume control of the defense of the Third-Party Claim, Client shall promptly advance Abacus' defense costs as they are incurred. In addition to the foregoing obligations, Client shall indemnify and hold Abacus harmless against any loss of use or loss of equipment, whether temporary or permanent, caused by or related to any litigation, whether or not any claim is asserted against Abacus. Client shall pay Abacus any reasonable expense incurred by Abacus in complying with or responding to any request (by subpoena or otherwise) for testimony, documents or other information concerning Client by any: (i) governmental agency; (ii) investigative body; or (iii) party in any litigation or dispute other than litigation or disputes by Client against Abacus.

**24. Non-Solicitation.** Both Parties covenant and agree not to, directly or indirectly, solicit or attempt to solicit any individual employed or engaged by the other Party at any time during the provision of Product(s) and/or performance of Service(s) set forth in these Terms and Conditions or any SOW until the expiration of 12 months following the earlier of: (i) the termination of any SOW and payment in full of all amounts due (as confirmed by Abacus's written receipt of such amounts from Client); or (ii) the termination of such individual's or entity's employment or engagement; provided, that soliciting or hiring any individual who responded to a general advertisement or solicitation, including but not limited to advertisements or solicitations through newspapers, trade publications, periodicals, radio or internet databases, or efforts by any recruiting or employment agencies, in each case which are not specifically directed at employees of either Party, shall not be a breach of this Section 24. The Parties acknowledge that this provision is material to the terms of these Terms and Conditions and SOWs. The Parties further agree that as liquidated damages for violation of this paragraph, the violating Party shall pay the non-violating Party an amount equal to six (6) months' of each affected employee's starting salary, inclusive of any bonus paid as a term of the formation of the employment relationship, and that such amount reasonably approximates the amount of damages incurred by the non-violating Party for any breach of this provision.

**25. Severability.** In the event a provision of these Terms and Conditions set forth herein or any portion of any Statement of Work(s) thereof shall be held to be illegal, invalid or unenforceable by a court of competent jurisdiction, such illegality, invalidity or unenforceability shall attach only to such provision and shall not in any manner affect or render illegal, invalid or unenforceable any remaining portion of such provision or any other provisions of these Terms and Conditions or Statement of Work(s) and, to that end, the provisions of these Terms and Conditions and Statement of Work(s) are intended to be and shall be deemed severable.

**26. No Waiver.** Except as otherwise expressly provided herein, no waiver of any covenant, condition, or provision of these Terms and Conditions or any Statement of Work(s) shall be deemed to have been made unless expressly in writing and signed by the Party against whom such waiver is charged; and (i) the failure of any Party to insist in any one or more cases upon the performance of any of the provisions, covenants, or conditions of these Terms and Conditions or Statement of Work(s) shall not be construed as a waiver or relinquishment for the future of any such provisions, covenants, or conditions, (ii) the acceptance of performance of anything required by these Terms and Conditions or any Statement of Work(s) to be performed with knowledge of the breach or failure of a covenant, condition, or provision hereof shall not be deemed a waiver of such breach or failure, and (iii) no waiver by any Party of one breach by another Party shall be construed as a waiver with respect to any other or subsequent breach.

**27. Governing Law; Jurisdiction.**

- 27.1. **Abacus Information Technology UK Limited**. This Section 27.1 only applies where the contracting entity to the Statement of Work is Abacus Information Technology UK Limited. These Terms and Conditions, all Statement of Work(s), and any dispute or claim (whether contractual or non-contractual) arising out of or in connection with it, its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) arising out of or in connection with the SOW, its subject matter or formation. Where the contracting entity to this SOW is Abacus Information Technology UK Limited, no person shall have any right to enforce any provision of this SOW under the Contracts (Rights of Third Parties) Act 1999.
- 27.2. **Abacus Information Technology, LLC**. This Section 27.2 only applies where the contracting entity to the Statement of Work is Abacus Information Technology, LLC. These Terms and Conditions, all Statement of Work(s), and any dispute or claim (whether contractual or non-contractual) arising out of or in connection with it, its subject matter or formation shall be governed by and construed in accordance with the laws of the State of California. Each party irrevocably agrees that the state and federal courts of San Francisco County, California shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) arising out of or in connection with these Terms and Conditions, its subject matter or formation.
- 28. Prevailing Party**. In the event of an action or proceeding is brought regarding any dispute under or related to the applicable SOW, the prevailing Party in any such action or proceeding shall be entitled to reimbursement of its actual reasonable and documented legal fees, costs and expenses from the non-prevailing Party.
- 29. Export Control Laws**. Client shall not, directly or indirectly, use, sell, supply, export, reexport, transfer, divert, release, or otherwise dispose of the Products and/or Services and any products, software, technical data or technology (including products derived from or based on such technology) received from Abacus as set forth herein and/or in any applicable SOW in breach of any Applicable Laws , including (without limitation) United States, United Kingdom and European Union export control laws ("Export Control Laws"), to any country for which the government or any agency thereof at the time of export requires an export license or other governmental approval without first obtaining such license or approval.
- 30. Force Majeure**. Neither Party shall be liable for any failure to perform, or delays in the performance of its obligations under these Terms and Conditions or any SOW (except for payment obligations of the Client) if and to the extent such failure or delay is due to force majeure, which shall include but shall not be limited to, acts of God, acts of any governmental body, war, insurrection, sabotage, armed conflict, terrorism, embargo, fire, flood, civil disturbance, NASDAQ, NYSE or other global exchange outages, COVID-19, quarantine restrictions, freight embargoes, Harmful Code, virus attacks or hackers, unavailability of or interruption or delay in telecommunications or third-party services, any other telecommunication or network connectivity failures, or any other cause beyond the reasonable control of the Parties (any such event, a "Force Majeure Event").
- 31. Publicity**. Neither Party shall use any advertising, sales promotion or publicity materials that identify the other Party by name or other identifiable information without the prior written consent of such Party, consent not to be unreasonably withheld.
- 32. Independent Contractors**. The Parties agree that they are independent contractors under these Terms and Conditions and any applicable SOWs and that their relationship will not be represented as anything other than that of independent contractors. Neither Party will be deemed to be an employee, agent, partner, joint venturer, or legal representative of the other Party for any purpose, and neither Party will have any right, power, or authority to obligate the other Party.