

FRAMEWORK AGREEMENT FOR THE SUPPLY OF SOFTWARE AND SERVICES

DATE:

This Framework Agreement ("Agreement") shall commence on [_____] (Effective Date).

BETWEEN

SAPPHIRE Systems Inc., a company registered in the United States and whose registered office is at The Chrysler Building, 405 Lexington Ave – 46th Floor, New York, New York 10174 ("SAPPHIRE");
AND

Customer - whose registered address is at [_____] (the "Customer");

Hereinafter SAPPHIRE and Customer referred to each as "Party" and collectively as the "Parties".

This Agreement contains the following documents attached as Schedules:

SAPPHIRE Software Support Terms which covers the provision of the software application support service via SAPPHIRE's customer help-desk service	Schedule 1
SAPPHIRE Anywhere Terms and Conditions which covers the supply of computer infrastructure as a service	Schedule 2
SAP B1 Software Licence and Maintenance Agreement. The terms of which are fixed by SAP and in the event of conflict with any terms in these Agreement will take precedence.	Schedule 3
Company Software Licence and Maintenance Agreement for non SAP and non Infor authors' software	Schedule 4

IT IS AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATIONS

1.1. In this Agreement (including the SAPPHIRE Order Form/ Sales Quotation and Schedules) the following expressions shall have the following meanings:

- Additional Documents** means documents which may be incorporated to this Agreement from time to time;
- Affiliates** means Customer and any other entity that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common

control with, Customer, i.e. where control means a minimum of 50% or greater ownership stake;

Charges	means the charges set out in the Order Form/ Sales Quotation payable by the Customer or its Affiliates for the supply of the Software and/or Services by SAPPHIRE.
Company Software	means Software authored by SAPPHIRE or other licensors of Software who are neither SAP nor Infor, and who authorize SAPPHIRE to sub-license to the Customer.
SAPPHIRE Staff	means people who are employed or sub-contracted by, or are agents of SAPPHIRE.
Consultancy Services	means the Services (which may include (indicative but not exhaustive) IT consultancy, computer systems analysis, software installation, software development, training, Software implementation and project management Services) to be provided by SAPPHIRE to the Customer.
Data Protection Legislation	means the Data Protection Regulations, the SHIELD Act and the New York State Information Security Breach and Notification Act
Deliverables	means all documents, products and materials developed by SAPPHIRE.
Effective Date	means the date of signature of this Agreement by the Customer.
Designated Equipment	means the computer hardware, operating system and database, recommended by SAPPHIRE and provided by the Customer on which the Software is installed and will function. The Designated Equipment can be situated on the Customer's premises or can be located in data centers over which the Customer has access rights and control. The Designated Equipment can be supplied and administered by SAPPHIRE and rented from SAPPHIRE by the Customer.
Intellectual Property Rights or IPR	means patents, trade marks, service marks, rights (registered or unregistered) in any designs, applications for any of the foregoing, trade or business names, copyright (including rights in computer software) and topography rights; rights in know-how and other proprietary knowledge and information; internet domain names; rights protecting goodwill and reputation; database rights and all rights and forms of protection of a similar nature to any of the foregoing or having equivalent effect anywhere in the world.
Products or Product	means Equipment and Software (but not Deliverables except to the extent that they form part of the Software in accordance with the terms of this Agreement).
Schedule	means a document attached to this Framework Agreement and listed on page 1.
Services	means the services, including without limitation any Deliverables, to be provided by SAPPHIRE pursuant to an Order Form/ Sales Quotation or any other agreement between the Parties.

Software	means: a) the software listed in an Order Form/ Sales Quotation; b) any Deliverable that: i) is software; ii) is an adaptation of, or intended to add to or work with any of the software listed in an Order Form/ Sales Quotation; and iii) is accepted by the Customer in accordance with the demonstration of the Software functioning with tests or live data; c) any corrected version of any supported Software supplied to the Customer under the Software Support Terms; and d) any other software agreed between the Parties from time to time, all of which will be collectively referred to as the "Software". It only refers to the machine operable versions and does not include source code of such computer programs.
Term	has the meaning attributed to it in clause 8.1
Third Party Software	means any Software supplied by SAPPHIRE to the Customer which is not produced specifically for the Customer and the Intellectual Property Rights in which are owned by a Third Party, and the use of which is either licensed directly to the Customer by the Third Party or sub-licensed to the Customer by SAPPHIRE.
User Manual	means any manual in printed or electronic form designed and intended to assist end users of the Software in the use and operation of the Software.
Withholding Taxes	means any taxes imposed by any governmental taxing authority on the amounts the Customer is liable to pay to SAPPHIRE under this Agreement, including, but not limited to, withholding taxes of whatever nature.
Working Days	means all days except Saturdays, Sundays and federal holidays.
Working Hours	means 9:00am to 5:30pm on Working Days.

1.1 In this Agreement:

- a) Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.
- b) A reference to persons shall include a natural person, corporate or unincorporated body (whether or not having separate legal personality) and references to the singular shall include the plural and vice versa;
- c) A reference to writing or written also includes email and fax;
- d) Any obligation on a Party not to do something includes an obligation not to allow that thing to be done.
- e) Any Software supplied or licensed under this Agreement will not be treated as goods within the meaning of the Article 2 of the Uniform Commercial Code (UCC) and the American Law Institute's Restatement (Second) of the Law of Contracts.

1.2. Except as otherwise expressly provided in any Schedule, if there is any inconsistency between any of the clauses of this Agreement, any Schedule or any other Additional Document referred to in or incorporated into this Agreement or any Schedule, the order of priority for the purposes of construction is:

1.2.1. SAPPHIRE Order Form/ Sales Quotation

1.2.2. Schedule

1.2.3. This Agreement

1.3. The Schedules form part of this Agreement and will have the same force and effect as if expressly set out in the body of this Agreement.

2. FRAMEWORK AGREEMENT

2.1. The purpose of this Agreement is to:

2.1.1. provide a mechanism whereby the Parties may enter into an Order Form/ Sales Quotation;

2.1.2. provide the framework to administer each Schedule; and

2.1.3. set out the obligations of the Parties.

2.2. The Services that may be provided by SAPPHIRE are of the type described in each Schedule.

2.3. SAPPHIRE shall commence provision of the relevant Services in accordance with the Schedule. SAPPHIRE will not commence any Services without an agreed Order Form/ Sales Quotation.

3. COMMENCEMENT DATE

3.1. This Agreement shall commence on the Effective Date and shall continue, in full force and effect, unless terminated earlier, either in whole or in part, in accordance with Clause 8 (Term and Termination).

3.2. Each Term shall be set out in the relevant Schedule. Unless stated otherwise in a Schedule, the Term and the Services provided pursuant to an Order Form/ Sales Quotation may extend beyond the termination or expiry of this Agreement, in which case the provisions of this Agreement shall survive such expiry or termination to the extent that such provisions are relevant to any such Order Form/ Sales Quotation.

3.3. An Order Form/ Sales Quotation may expire or be terminated in accordance with its terms or Clause 8 of this Agreement but such expiry or termination shall not, in and of itself, give rise to an expiry or termination of any other Order Form/ Sales Quotation, Schedule or this Agreement.

4. Order Form/ Sales Quotation PROCESS

4.1. This Agreement governs the overall relationship between the Parties in relation to the Services provided by SAPPHIRE to the Customer and Customer Affiliates, and sets out:

a) in this Clause 4, the procedure for the Customer and Customer Affiliates to request the provision of Services from the SAPPHIRE under separate Schedules; and

b) in each Schedule containing all the relevant terms to be entered into by SAPPHIRE and Customer through the execution of an Order Form/ Sales Quotation.

4.2. The Customer and the Customer Affiliates shall be entitled from time to time to request in writing the provision of Software and/or IT Services from SAPPHIRE.

4.3. After receipt of a written request from the Customer or any Customer Affiliate, SAPPHIRE shall:

a) either notify the Customer or Customer Affiliate that it is not able to provide the requested Software and/or IT Services; or

- b) complete a draft Order Form/ Sales Quotation to the Customer or Customer Affiliate (as applicable) for its written approval. In preparing the draft Order Form/ Sales Quotation, SAPPHIRE shall clearly identify the Charges and all the other terms which will apply to the specific service and which, at the same time will be referencing this Agreement.

4.4. An Order Form/ Sales Quotation and a Schedule shall not enter into force, be legally binding or have any other effect unless:

- a) the Order Form/ Sales Quotation has been signed by the authorized representatives of both Parties; and
- b) as at the date the Order Form/ Sales Quotation is signed, this Agreement has not been terminated.

4.5. Each Order Form/ Sales Quotation shall:

- a) be entered into by the Customer or a Customer Affiliate and SAPPHIRE;
- b) form a separate contract between its signatories and
- c) be attached as a Schedule to this Agreement.

4.6. Any amendment to the terms of this Agreement agreed by the Customer and SAPPHIRE in accordance with Clause 20 (Variation) shall be deemed to apply to all future Order Form/ Sales Quotation entered into after the date of such amendment.

4.7. Each Order Form/ Sales Quotation shall be a binding agreement on the Parties and shall incorporate the terms and conditions of this Agreement.

5. SCOPE OF THE SERVICE

- 5.1. SAPPHIRE shall supply the Services specified in an Order Form/ Sales Quotation in accordance with the terms of this Agreement, the terms of the relevant Order Form/ Sales Quotation and/or any relevant Additional Document that may be agreed between the Parties from time to time.
- 5.2. From the Effective Date of this Agreement, and for the duration of the Term, Customer will engage SAPPHIRE to provide the Services as specified in the relevant Order Form/ Sales Quotation, in this Agreement and in accordance with the SAPPHIRE Order Form/ Sales Quotation.
- 5.3. The Parties have agreed to the general terms contained in this Agreement in respect of the provision of the Services to be rendered by SAPPHIRE. Customer shall ensure that its details, as provided to SAPPHIRE, are complete and accurate. Customer shall also provide SAPPHIRE with sufficient information to allow SAPPHIRE to adequately identify Customer's requirements and to enable SAPPHIRE to fulfil its obligations under this Agreement.

6. SAPPHIRE'S OBLIGATIONS

- 6.1. SAPPHIRE shall provide the Services from the Effective Date and any additional services from the date the Additional Document is agreed and executed.
- 6.2. In supplying the Services, SAPPHIRE shall:
 - a) perform the Services with the level of care, skill and diligence in accordance with good practice in the software services industry;
 - b) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that SAPPHIRE's obligations are fulfilled;
 - c) ensure that the Services will conform with all descriptions and specifications agreed between the Parties in the Order Form/ Sales Quotation that may be agreed from time to time;

- d) use all relevant commercial endeavors to perform its obligations in a timely manner by any relevant target dates set out in the agreed Order Form/ Sales Quotation. Any changes to agreed target dates shall be agreed between the Parties in writing. For the avoidance of doubt, all estimated target dates shall not be of the essence.
- e) ensure that it obtains, and maintains all consents, licenses and permissions (statutory, regulatory, contractual or otherwise) it may require and which are necessary to enable it to comply with its obligations in respect of the Services;
- f) comply with all relevant and applicable laws including Data Protection Legislation;

7. CUSTOMER'S OBLIGATIONS

- 7.1. Customer acknowledges that SAPPHIRE's ability to provide the Services is dependent upon the full and timely co-operation of Customer (which Customer agrees to provide), as well as the accuracy and completeness of any materials provided to SAPPHIRE by Customer (including Customer Data).
- 7.2. Customer will inform SAPPHIRE promptly in writing if at any time during the provision of the Services, Customer has reasonable grounds to believe that SAPPHIRE may be proceeding on the basis of any incorrect or out-of-date content, information, data or assumption.
- 7.3. SAPPHIRE shall charge, and Customer shall pay all Charges in respect of all Services in accordance with SAPPHIRE's payment terms referred to at Clause 11.
- 7.4. Customer also shall:
 - a) comply with any reasonable instructions that SAPPHIRE gives Customer relating to the use of the Software or the related User Manual(s);
 - b) provide SAPPHIRE, when required, free of charge suitable access to its premises, the Software as installed on Customer's Designated Equipment, its terminals and PCs as may be reasonably requested by SAPPHIRE during Working Hours or as otherwise agreed by the Parties;
 - c) ensure that only trained employees (or persons under their appropriate supervision) are allowed to operate the Software;
 - d) maintain a suitable internet link, as agreed by SAPPHIRE, to enable the use of on-line fault identification and correction tools by arrangement with Customer;
 - e) co-ordinate calls to SAPPHIRE by a Customer representative via an internal help desk or similar arrangement to provide points of contact;
- 7.5. as soon as it is practical to do so:
 - i. inform SAPPHIRE of any suspected Error of which it becomes aware; and
 - ii. use reasonable endeavors to provide such further information relating to the suspected Error as is available to Customer and which SAPPHIRE may reasonably request in order to perform its obligations under this Agreement pursuant to this Agreement and any Support Services;
- 7.6. commit adequate resources and permit such access to SAPPHIRE staff and provide promptly all information and documents, as may be reasonably requested by SAPPHIRE to enable SAPPHIRE to perform its obligations;
- 7.7. comply with all relevant and applicable laws including Data Protection Legislation;
- 7.8. not engage the services of any Third Party to make any changes, alterations and amendments to the Software, including the application of updates and upgrades and to do

so will be considered a material breach of the Agreement pursuant to this Agreement and any Support Services;

- 7.9. provide suitable media (including DVD or other media as required), working area and storage space as may be reasonably required by SAPPHIRE at no charge to SAPPHIRE;
- 7.10. where reasonably requested provide to SAPPHIRE, in a form and on media to be agreed on a case-by-case basis, data to enable SAPPHIRE accurately to emulate Customer's IT environment, for the purpose of providing Support Services; and
- 7.11. notify in writing at least 10 Working Days in advance of changing any, or all, Customers.

8. TERM AND TERMINATION

- 8.1. This Agreement begins on the Effective Date and continues in full force and effect until terminated by the Parties or the last Order Form/ Sales Quotation expires or is terminated ("Term"). Each Party's obligation of non-disclosure and non-use of the Confidential Information under this Agreement continues for a period of three (3) years from the date of such expiration or termination.
- 8.2. SAPPHIRE may suspend the Services in full or in part or terminate this Agreement, any Order Form/ Sales Quotation and any Services in full or any part thereof with immediate effect without liability by serving written notice on Customer and without prejudice to its other rights, if Customer:
 - a) is in material breach of this Agreement or Order Form/ Sales Quotation where the breach is incapable of remedy;
 - b) is in payment default and fails to remedy such default within fifteen (15) days after receiving written notice from SAPPHIRE; or
 - c) is in material breach of this Agreement or any Order Form/ Sales Quotation (other than breach of payment default) where the breach is capable of remedy and fails to remedy that breach within thirty (30) days after receiving written notice of such breach or other default from SAPPHIRE;

or if any of the following events occur in respect of Customer:

- d) it is, or is deemed for the purposes of any applicable law to be, unable to pay its debts as they fall due for payment;
 - e) a petition is presented or documents filed with a court or any registrar or any resolution is passed for its winding-up, administration or dissolution or for the seeking of relief under any applicable bankruptcy, insolvency, company or similar law;
 - f) any liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, supervisor, administrative receiver, administrator or similar officer is appointed in respect of it or any of its assets; or
 - g) any event analogous to the events listed in (d) to (f) above takes place in respect of it in any jurisdiction.
 - h) In the event of any breach by the Customer of any of its obligations under this Agreement or any Order Form/ Sales Quotation, (including without limitation any obligations as to payment in respect of this or any other agreement with SAPPHIRE then, in addition to any other rights which SAPPHIRE may have), SAPPHIRE may immediately and without notice suspend performance of its obligations under this Agreement until the Customer's obligations have been fully and properly performed.
- 8.3. Clause 8.2 (d – f) above does not apply to a petition for winding-up presented by a creditor which is being contested in good faith and with due diligence and which is discharged or struck out within twenty (20) Working days.

- 8.4. Notwithstanding Clause 8.2, in the event that SAPPHIRE commits any breach of this Agreement, SAPPHIRE shall be given a reasonable opportunity to correct the breach and in any event no less than twenty (20) Working Days (**'Cure Period'**) to repeat performance of the Services within a reasonable time.
- 8.5. Either Party may terminate this Agreement by notice to the other in the event that the other breaches any terms of this Agreement or any Order Form/ Sales Quotation to any material extent and (in the case of a breach capable of remedy) fails to remedy that breach within twenty (20) Working days.
- 8.6. The rights of termination in this Clause 8 are without prejudice to any other rights which SAPPHIRE may have whether under this Agreement any Order Form/ Sales Quotation or otherwise.

9. CONSEQUENCES OF EXPIRY OR TERMINATION

- 9.1. Upon expiration or termination of all parts of this Agreement for any reason:
 - a) all rights granted under this Agreement shall immediately terminate subject to Clause 8.2;
 - b) the Party in default shall promptly return, or destroy and confirm in writing the destruction of, all Confidential Information disclosed to it by the other Party to the extent such is in their possession and is retrievable with ease (and all Customer Data pursuant to Clause 13);
 - c) each Party shall return and make no further use of any property including any Intellectual Property Rights therein (and all copies of them) belonging to the other Party (with the exception of Licensed Software licensed for perpetuity pursuant to the relevant Software License & Maintenance Terms and all supplied documentation); and
 - d) SAPPHIRE shall use reasonable commercial endeavors to deliver the back-up to Customer within thirty (30) days of its receipt of such a written request, provided that Customer has, at that time, paid all Charges outstanding at, and resulting from, termination (whether or not due at the date of termination). Customer shall pay all reasonable expenses incurred by SAPPHIRE in returning or disposing of Data.
- 9.2. Termination shall be without prejudice to the accrued rights of either Party at the termination date.
- 9.3. In accordance with Clause 7 and Clause 8 as applicable, in the event of any breach by Customer of any of its obligations under this Agreement (including without limitation any obligations as to payment in respect of this or any other agreement with SAPPHIRE) then, in addition to any other rights which SAPPHIRE may have, SAPPHIRE may immediately and without notice suspend performance of its obligations under this Agreement or any Order Form/ Sales Quotation, until Customer's obligations have been fully and properly performed.

10. NON-SOLICITATION

- 10.1. For the Term of this Agreement and for a period of 6 months from (a) its expiry or termination or (b) if later, the last day of provision of the relevant Services, the Parties will not directly or indirectly (including via a recruitment agency or through an approach by the person employed by one of the Parties or acting on behalf of one of the Parties), solicit the employment of or engagement of Services by any person employed by, or acting on behalf of one of the Parties in relation to the Services.
- 10.2. If Customer is in breach of this condition, then in recognition that the other Party will suffer substantial damage, Customer will pay the other Party by way of liquidated damages and not by way of penalty a sum equal to 50% of the current annual salary of the employee concerned or \$ 35,000 whichever is the greater amount.

11. CHARGES

- 11.1. Customer shall pay to SAPPHIRE such Charges as are set out in the relevant Order Form/ Sales Quotation and/ or any other Additional Document or as otherwise provided for by this Agreement that are payable in respect of all Services (and any Software pursuant to the applicable Software License Terms). Unless expressly stated otherwise in any document that forms part of this Agreement, all Charges payable in respect of Support Services are due annually in advance of the commencement of each Support Year, the first such payment being due and payable on invoice following receipt of a signed Order Form/ Sales Quotation.
- 11.2. All Charges referred to are exclusive of taxes and Customer shall be responsible for paying to SAPPHIRE all applicable taxes and any other similar taxes imposed on Charges for Services made by SAPPHIRE under this Agreement.
- 11.3. Customer shall be responsible for the payment of any taxes imposed by any governmental taxing authority on the amounts Customer is liable to pay to SAPPHIRE under this Agreement, including, but not limited to, withholding taxes of whatever nature ("Withholding Taxes"). Customer agrees to promptly pay any Withholding Taxes and obtain and deliver to SAPPHIRE proof of payment of such Withholding Taxes together with official evidence thereof issued by the governmental authority concerned, sufficient to enable SAPPHIRE to support a claim for a tax credit in respect of any sum so withheld. If SAPPHIRE is unable to obtain such tax credit due to Customer's failure to comply with the above provision, then Customer agrees to pay to SAPPHIRE a sum equal to the amount of the tax credit not able to be claimed by SAPPHIRE.
- 11.4. SAPPHIRE may invoice for all Charges payable pursuant to this Agreement as they become due and each undisputed invoice shall be paid by Customer within thirty (30) calendar days of the date of the invoice. All sales of Software are subject to mandatory payment with their Order Form/ Sales Quotation.
- 11.5. In the event the Customer wants to dispute an invoice rendered by SAPPHIRE it may do so within 14 (fourteen) days of the date of the invoice. The Customer must provide SAPPHIRE with all necessary detail and reasons for disputing the invoice and in the case of an invoice for Services this must include all documentary evidence and proof that the Services were either not delivered or of such poor quality that there was no benefit to the Customer. Notification of a disputed invoice should be sent in writing (e-mail) to the Customer's account manager.
- 11.6. SAPPHIRE may charge interest on all sums outstanding beyond the date on which they are due for payment under this Agreement from the date payment was due until the date of payment (and before as well as after judgment). Such interest shall accrue and be calculated on a daily basis, at a rate of 2% per annum above the base rate from time to time of Citibank.
- 11.7. Customer shall indemnify and keep indemnified SAPPHIRE against all reasonable legal and other fees and expenses incurred by SAPPHIRE in relation to the collection of any overdue accounts under this Agreement.
- 11.8. All Customer Payments to be made by Customer under this Agreement shall be made without any deduction or set-off.
- 11.9. All Customer Payments payable under the terms of this Agreement shall be payable in currency stated on the invoice and are non-refundable.
- 11.10. Any sum paid to SAPPHIRE by way of deposit or advance payment in respect of an Order Form/ Sales Quotation shall be applied by SAPPHIRE to meet any outstanding Charge due to SAPPHIRE under this Agreement. Any positive balance shall be reimbursed to Customer and any negative balance shall be invoiced to Customer and shall be payable in accordance with the terms of this Agreement and failing such, shall be recoverable as a debt.

11.11. All Charges due in respect of Support Services shall be reviewable by SAPPHIRE who shall be entitled to increase such fees by a reasonable percentage to reflect increases passed on to it by the author of the Software and inflationary cost increases in general subject to no more than one (1) increase per annum. The revised fees shall be notified to the Customer in advance of any renewal date and will take effect as from the commencement of the following Support Year.

11.12. If SAPPHIRE does not receive payment when it is due, without prejudice to any other rights and remedies of SAPPHIRE it may, without liability to Customer:

- a) cease supporting any supported Software and/ or deny access to any rented Software and all or part of the Services and shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remains unpaid; and,
- b) charge interest on the overdue amount at the rate of 2% per annum above the Citibank base rate from time to time (which interest will accrue daily until the date of actual payment and be compounded at the end of each calendar month); or, claim interest and statutory compensation from Customer.

12. DATA PROTECTION, OWNERSHIP OF CUSTOMER DATA AND PERSONAL DATA & DATA LOSS

12.1 Each party shall comply at all times with the Data Protection Regulations and the SHIELD Act and the New York State Information Security Breach and Notification Act in respect of any Personal Information (Personal Data) processed by it pursuant to this Agreement.

12.2 In respect of any Personal Data processed by either party pursuant to this Agreement, each party warrants to the other that it has made all necessary registrations of its particulars where required, in accordance with the Data Protection Regulations.

12.3 The Company agrees that for Personal Data received from or on behalf of the Customer, or otherwise obtained in connection with the performance of its obligations:

12.3.1 that the Customer shall be the Data Controller;

12.3.2 to put in place arrangements and process to enable the Customer (or the relevant Data Controller) to comply with Data Protection Regulations; and

12.3.3 to process such Personal Data as a Data Processor, and not to determine the purposes for the processing of Personal Data unless expressly authorized in writing by the Customer.

The Company as Data Processor agrees:

12.4.1 to ensure that appropriate technical and organizational measures are adopted by it to ensure safekeeping against unauthorized or unlawful processing of the Personal Data and against accidental loss, or destruction of, or damage to the Personal Data;

12.4.2 to use the Personal Data solely for the purpose of performing its obligations under this Agreement and acknowledges that use of the Personal Data for any other purpose, in particular for its own purposes, is expressly prohibited;

12.4.3 to process the Personal Data only in accordance with the instructions of the Customer, and to undertake measures requested by the Customer for the Customer's data protection compliance;

12.4.4 to provide promptly to the Customer from time to time as part of this Agreement such information and access as the Customer may require in relation to the Personal Data and its processing;

12.4.5 to notify the Customer promptly of any unauthorized or non-compliant loss, access or other processing of Personal Data and shall direct data protection enquiries from Data Subjects to the Customer's data protection officer (as notified by the Customer to The Company from time to time) and to promptly forward all subject access reports to the Customer's data protection officer and in any event within five (5) Business Days from receipt;

12.4.6 not transfer any Personal Data outside of the United States of America (USA) without the Customer's prior written approval and such prior written approval may, at the Customer's sole discretion, be subject to The Company entering into a data export agreement (and/or procuring that any relevant sub-contractor of the Processor enters into a data export agreement) as required by the Customer.

12.4.7 to make arrangements to ensure that back-up records of the current Personal Data are maintained and updated on a regular basis;

12.4.8 to have appropriate procedures in place for the archiving and eventual destruction of Personal Data; and

12.4.9 to take reasonable steps to ensure the reliability of any personnel processing Personal Data and that any personnel processing Personal Data receive adequate training to ensure compliance with this Clause 15.

12.5 Should The Company no longer need any of the Personal Data for the performance of the Managed Services it shall return that Personal Data (and any copies of it) to the Customer in hard copy or in electronic form or at the request of the Customer shall destroy the Personal Data.

12.6 Before appointing any subcontractor as a Data Processor, The Company shall request the written approval of the Customer and shall provide all details that the Customer may reasonably require to determine whether the subcontractor should act as a Data Processor pursuant to this Agreement.

12.7 The Company shall seek the express authorization of the Customer for any processing of Personal Data by a subcontractor and shall ensure that the subcontractor acts at all times as a Data Processor of the Personal Data and complies with equivalent obligations set out in this Clause 12.

13. CONFIDENTIALITY

13.1. Each Party undertakes to the other that during the subsistence of this Agreement and thereafter, it shall keep secret and shall not without the prior written consent of the other Party disclose to any Third Party (except to its legal and professional advisors) any Confidential Information learned by the recipient Party or disclosed to the recipient Party by the disclosing Party pursuant to, or otherwise in connection with this Agreement, except to the extent that any Confidential Information:

- a) is (otherwise than by breach of this Agreement) in the public domain;
- b) is already known by the recipient Party other than pursuant to disclosure from the other Party; or
- c) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.

13.2. To the extent that it is necessary to give effect to the terms of this Agreement, the recipient Party may disclose Confidential Information to its Representatives as may reasonably be necessary provided that the recipient Party shall:

- a) before disclosure, make such Representatives aware of their obligations of confidentiality hereunder;
- b) at all times procure compliance with such obligations of confidentiality; and
- c) if requested by the disclosing Party, procure named Representatives to execute a confidentiality agreement directly in favor of the disclosing Party.

13.3. Neither Party shall issue any press release or other public announcement relating to the subject matter of this Agreement without the prior written consent of the other Party.

13.4. This Clause 13 shall survive termination of these this Agreement howsoever arising.

14. WARRANTIES AND INDEMNITIES

14.1. SAPPHIRE shall defend Customer against any claim related to the infringement of any Intellectual Property Rights by SAPPHIRE, and shall indemnify Customer for any amounts awarded against Customer in judgment or settlement of such claims, provided that:

- a) SAPPHIRE is given prompt notice of any such claim;
- b) Customer provides reasonable co-operation to SAPPHIRE in the defense and settlement of such claim, at SAPPHIRE's expense; and,
- c) SAPPHIRE is given sole authority to defend or settle the claim.

14.2. In no event shall any SAPPHIRE Party be liable to Customer to the extent that the alleged infringement is based on:

- a) a modification of the Software or Services by anyone other than SAPPHIRE;
- b) Customer's use of the Software or Services in a manner contrary to the instructions given to Customer by SAPPHIRE; or,
- c) Client's use of the Software or Services after notice of the alleged or actual infringement from SAPPHIRE or any appropriate authority.

14.3. Customer acknowledges that the Services are designed to be compatible only with that software and those systems specified as compatible by SAPPHIRE; and SAPPHIRE does not warrant or represent that the Services will be compatible with any software other than the Software or systems.

14.4. Minor Error(s) or interruptions in the Services shall not be treated as amounting to a breach of any conditions, warranties or other terms relating to the Services.

15. LIMITATION OF LIABILITY

15.1. This Clause 15 sets out the entire financial liability of SAPPHIRE (including any liability for the acts or omissions of its employees, agents and sub-contractors) to Customer arising under or in connection with the terms of this Agreement (for the avoidance of doubt the Customer, although described as separate legal entities, for the purpose of this Agreement, it will be considered as one single entity with a joint and inseparable liability);

- a) in respect of any use made by Customer of the Software and Services or any part of them; and,

- b) in respect of any representation, statement or tortious act or omission (including negligence).
- 15.2. Subject to Clause 15.4, SAPPHIRE shall not be liable to Customer in contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, loss of use of computer equipment, software or data or interruptions of business, loss of Customer staffing and resourcing time, depletion of goodwill and/or similar Losses or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising hereunder.
- 15.3. Subject to Clauses 15.1, 15.2 and 15.4, SAPPHIRE's total aggregate and maximum liability, in contract (including in respect of the indemnity at Clause 14.1), tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the terms of this Agreement shall be limited to:
- a) for physical damage to tangible property (excluding the Software), to the sum of (Two Million Dollars) \$ 2,000,000;
 - b) for all other loss or damage, arising out of this Agreement or any element/ part of this Agreement, the amount paid by SAPPHIRE to the Customer in respect of such Order Form/ Sales Quotation up to a maximum of (Three hundred and fifty thousand dollars) \$ 350,000 or 2 times the value of the Order Form/ Sales Quotation whichever is the greater.
- 15.4. Nothing in this Clause 15 shall however exclude or restrict either Party's liability for (i) fraudulent misrepresentations, (ii) any liability where the law does not permit such exclusion of liability, and (iii) death or personal injury arising from negligence.
- 15.5. SAPPHIRE shall not be in breach of any of its obligations under this Agreement which arise or occur due to the act, omission, and default of Customer and Customer Affiliates or Customer and Customer Affiliate's failure to comply with any of its/their obligations hereunder (including but not limited to where such failure is a result, (directly or indirectly), of the lack of availability of Customer or Customer Affiliate's staff or appropriately skilled resources, Third Party products or services, or the failure of Customer or Customer Affiliates to implement an update within thirty (30) days of such update being provided by SAPPHIRE). Except as expressly set out in this Agreement:
- a) no conditions, warranties or other terms, including any implied terms relating to satisfactory quality or fitness for any purpose, will apply to the Services or to anything supplied or provided by SAPPHIRE under this Agreement which are all provided on an 'as is' basis; and,
 - b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law or arising through trade usage are, to the fullest extent permitted by applicable law, excluded from the terms of this Agreement.
- 15.6. Except in the case of an event of default arising under Clause 15.4, SAPPHIRE shall have no liability to Customer or Customer Affiliates in respect of any claim unless Customer or Customer Affiliates have served valid notice of the same upon SAPPHIRE within thirty (30) days of the date it became aware of the circumstances giving rise to the claim or the date when it ought reasonably to have become so aware.
- 15.7. The Parties acknowledge that the limitations of liability set out in this clause are regarded by the Parties as being reasonable in all the circumstances and is also a recognition of the fact that, inter alia, it is not within SAPPHIRE's control how and for what purpose the Software or the results of Services provided by SAPPHIRE are used by Customer or Customer Affiliates.

16. ANTI-BRIBERY AND CORRUPTION

16.1 In performing the Services (and otherwise undertaking activities in connection with this Agreement) Company shall:

16.1.1 comply with all applicable US law, regulations, codes and sanctions relating to anti-bribery and anti-corruption (“Relevant Requirements”);

16.1.2 not engage in any activity, practice or conduct which would constitute an offence under US anti-bribery and anti-corruption law.

16.1.3 comply with the Customer Group’s Anti-bribery policy as provided to Company and updated from time to time (“Customer Anti-Bribery Policy”);

16.1.4 have and shall maintain in place throughout the Service Period its own policies and procedures, including, but not limited to, adequate procedures under US anti-bribery law, to ensure compliance with the Relevant Requirements, the Customer Anti-Bribery Policy and Clause 16.1.2, and will enforce them where appropriate;

16.1.5 promptly report to Customer any request or demand received by Company in connection with the performance of this Agreement to offer, promise or give any undue financial or other advantage of any kind;

16.1.6 immediately notify Customer if a foreign public official becomes an officer or employee of Company or acquires a direct or indirect interest in Company (and Company warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this Agreement); and

16.1.7 promptly notify Customer if Company or any of its officers, or employees is prosecuted, charged or convicted of any offence under the Relevant Requirements.

16.2 Company represents, warrants and undertakes that, other than as disclosed in writing to Customer none of Company, its officers or employees have been prosecuted, charged or convicted of any offence under the Relevant Requirements.

16.3 Notwithstanding Clauses 18 and 20 of this Agreement, any dispute arising relating to the interpretation of Clause 16 shall be determined by Customer and Company, acting reasonably, and the decision shall be final and conclusive.

16.4 For the purpose of Clauses 16.1 to 16.3 (inclusive), the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with US anti-bribery law. For the purposes of Clauses 16.1 to 16.3 (inclusive), a person, any sub-contractor of Company (including any sub-contractor) under this Agreement will be deemed to be a person associated with Company.

17. INTELLECTUAL PROPERTY

17.1. All Intellectual Property Rights in the Software and the Documentation, all originals and copies and any modifications of the same shall be the exclusive property of SAPPHIRE or its licensors as listed in the schedule of the Software supplied by SAPPHIRE in Appendix 1. Customer shall have no rights, title or interest in the Software and Documentation except as expressly granted under this Agreement.

17.2. SAPPHIRE will procure the defense or (at its option) the settlement of any legal action brought against Customer alleging that use of the one or more elements of the Software and/or the Documentation as authorized under this Agreement infringes the Intellectual Property Rights of any Third Party provided that:

17.2.1. SAPPHIRE is given information, assistance and the sole authority to procure the defense or settlement of the claim;

17.2.2. Customer notifies SAPPHIRE promptly in writing of any alleged infringement and shall make no admissions in respect thereof.

17.3. If Customer's use of the Software in accordance with the terms of this Agreement is held by a court of competent jurisdiction to constitute an infringement of a Third Party's Intellectual Property Rights or if SAPPHIRE believe that such use is likely to constitute such an infringement, then SAPPHIRE shall promptly and at its own expense:

17.3.1. Procure for Customer the right to continue to use the Software; or

17.3.2. Modify the Software so as to avoid the infringement; or

17.4. If sub-Clauses 17.3.1 or 17.3.2 cannot be accomplished on reasonable terms, terminate this Agreement and refund a reasonable proportion of the fees paid by Customer in respect of the affected element(s) of the Software.

17.5. Subject to Customer complying with its obligations under this Clause 17, SAPPHIRE shall indemnify Customer against all damages and costs awarded against Customer or agreed by SAPPHIRE by way of settlement arising by reason of any such infringement up to a maximum sum of \$ 350,000.

17.6. SAPPHIRE's obligations under this Clause 17 shall not apply in the event that the legal action results from:

17.6.1. Use of other than the current corrected level of Software;

17.6.2. The combination or use of the Software with software or data not supplied by SAPPHIRE;

17.6.3. The use of the Software other than as authorized under this Agreement.

17.7. The provisions of this Clause 17 state the sole, exclusive and entire liability of SAPPHIRE for the infringement of the Intellectual Property Rights of any Third Party.

18. DISPUTE RESOLUTION

18.1. The parties shall try in good faith to resolve disputes relating to this Agreement by negotiation.

18.2. If the matter is not resolved through negotiation, the parties shall first try in good faith to resolve the dispute or claim through an Alternative Dispute Resolution (ADR) procedure as recommended to the parties by a mutually agreed Dispute Resolution organization based in the State of New York.

18.3. If the matter has not been resolved by an ADR procedure within 30 days of the initiation of such procedure, or if either party will not participate in an ADR procedure, the dispute shall be referred to litigation.

19. NOTICES

19.1. Any notice given or made under this Agreement shall be in writing and in English and signed by or on behalf of the Party giving it and shall be:

a) delivered by hand;

(A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery).)

- b) sent by pre-paid first-class post or recorded delivery post to the other Party at its address set out in this Agreement, or such other address as may have been notified by that Party for such purposes; or
(A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post.
- c) by email to the relevant Representative as per the details set out in this Agreement
(A notice sent by email shall be deemed to be received as verified by automated receipt or electronic log.)

19.2. The Parties agree that the provisions of this clause shall not apply in relation to the service of any process in any legal action or proceedings arising out of or in connection with this Agreement or the legal relationships established by it.

20. GENERAL

Assignment and Novation: Each Party may not assign or novate the benefits of any rights or obligations arising under this Agreement or Order Form/ Sales Quotation to any of their Affiliates without the other Party written consent (such consent not to be unreasonably withheld) and any attempt at such assignment or novation will be void. Any assignment to another Party shall not relieve the Parties of any of their obligations or liabilities under this Agreement or any Order Form/ Sales Quotation. Either Party may not sub-license any rights granted to it under this Agreement.

Counterparts: This Agreement may be executed in counterparts, including facsimile or email counterparts, each of which will be deemed an original and all of which when taken together will constitute one and the same instrument; and shall be construed as if both Parties jointly wrote it.

Enforceability: In the event of any provision of this Agreement being held for any reason to be void voidable or unenforceable this shall not affect the validity or enforceability of any other provision of this Agreement or of the remainder of this Agreement as a whole.

Entire Agreement: This Agreement (which includes by reference any relevant Order Form/ Sales Quotation and any further Schedules referred to therein as well as any Additional Documents which may be incorporated from time to time) constitutes the entire Agreement and understanding between SAPPHIRE and Customer with respect to the subject matter and supersedes any and all prior contracts, licenses, arrangements and understandings relating to the matters provided for herein. SAPPHIRE and Customer acknowledge that they have not relied on any oral or written representations made by the other Party or the other Party's representatives in entering into this Agreement, including any information or material provided by any person (whether party to this Agreement or not) and will not have any remedy in respect of any misrepresentation (whether written or oral) made to it upon which it relied in entering into this Agreement. Nothing herein shall operate to limit or exclude any liability for fraud or fraudulent misrepresentation.

Force Majeure: Except with respect to the payment of fees hereunder, neither Party will be liable to the other for any failure or delay in performance under this Agreement due to circumstances beyond its reasonable control, including acts of God, acts of war, terrorist acts, accident, labor disruption, acts, omissions and defaults of Third Parties and official, governmental and judicial action not the fault of the party failing or delaying in performance, or the threat of any of the foregoing.

Status: These terms are not intended to create any partnership or joint venture relationship between SAPPHIRE and Customer or authorize either Party to act as agent for the other, and neither Party shall have the authority to act in the name of, or on behalf of, or otherwise to bind the other in any way.

Sub-Contracting: SAPPHIRE may subcontract any of its obligations under the Agreement provided that, SAPPHIRE shall remain responsible to Customer for the performance of any subcontracted obligations.

Variations: Save as expressly provided in this Agreement, no variation to this Agreement or any Order Form/ Sales Quotation, or notice or consent shall be effective unless it is in writing and signed by an authorized signatory of each Party.

Waiver of Remedies: No forbearance, delay or indulgence by either Party in enforcing the provisions of this Agreement shall prejudice or restrict the rights of that Party nor shall any waiver of its rights operate as a waiver of any subsequent breach and no right, power or remedy herein conferred upon or reserved for either Party is exclusive of any other right, power or remedy available to that Party and each such right, power or remedy shall be cumulative.

Rights of Third Parties: Save for an Affiliate which have the right to enforce the terms of this Agreement or any relevant Order Form/ Sales Quotation in accordance with this Agreement, a person who is not a Party to this Agreement has no right under the Contracts as provided by the governing law.

Governing Law & Jurisdiction: This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to conflicts or choice of law rules that would result in the application of the substantive laws of any other jurisdiction. The Parties submit to the exclusive jurisdiction of the New York State Courts.

AS WITNESS the hands of the duly authorized representatives of the parties on the date written below.

On behalf of SAPPHIRE Systems Inc.	Customer
Authorized Signature:	Authorized Signature:
Name Printed: Ralph Bolton	Name Printed:
Title: Authorized Signatory	Title:
Signature Date:	Signature Date:

Schedule 1

SAPPHIRE Systems Inc. – Software Support Terms and Conditions

1. Definitions

Effective Date:

In this Schedule the following definitions shall apply:

- 1.0 “Customer Representative(s)” – means the person or persons, but in any case no more than four people, appointed by the Customer and accepted by SAPPHIRE as those eligible to use the Support Service. The Customer will notify SAPPHIRE in writing of any changes to Customer Representatives.
- 1.1 “Director” - means a statutory director at SAPPHIRE where a matter can be escalated to for a decision
- 1.2 “International Support Hours” – means 24 hours Monday to Friday except on USA, UK, Australian and Indian public holidays.
- 1.3 “Software” – means the computer program(s) supplied by SAPPHIRE to the Customer for which the Support Service is being provided.
- 1.4 “Support Terms” – means this Schedule.
- 1.5 “Support Manager” – means the individual at SAPPHIRE responsible for managing the Helpdesk facility associated with the Software.
- 1.6 “Software Support Service” – means the service being provided by SAPPHIRE relating to the business software used by the Customer under these terms, specifically a telephone helpdesk service, error correction service and update service.
- 1.7 “User Manual(s)” – means the documentation supplied with computer program(s), physical or online, which describes how the software should function under normal operating conditions.
- 1.8 “Working Hours” – means 9:00am to 5:30pm Monday to Friday except US federal holidays.

2. General

- 2.1 These Support Terms relate to the provision by SAPPHIRE to the Customer of Software Support Services. The Software being supported under this Support Agreement, will be known as the Software and is detailed in the Order Form/ Sales Quotation as amended from time to time by additional Order Form/ Sales Quotation.

- 2.2 SAPPHIRE will provide the following as part of the Software Support Service:
- a) a telephone helpdesk service as described in more detail in Clause 3 of these terms;
 - b) an error correction service as described in more detail in Clause 4 of these terms;
 - c) an update service as described in more detail in Clause 5 of these terms.
- 2.3 The Software Support Service will be provided to the Customer during Working Hours. The Customer may take advantage of SAPPHIRE's Support Service which operates during International Support Hours. SAPPHIRE does not have to provide any Support Service outside Working Hours or International Support Hours unless it agrees otherwise in writing. Support Services supplied outside Working Hours or International Support Hours may be charged for on a time and materials basis.
- 2.4 The Support Service will only be provided by SAPPHIRE to authorized Customer Representative(s).

This Agreement will be read in conjunction with the Framework Agreement and together with the terms set out in the Framework Agreement shall form the entire Agreement.

3. Telephone Helpdesk Service

- 3.1 The Telephone Helpdesk service shall be provided as follows:
- a) The service may be accessed during Working Hours or International Support Hours by telephoning the number referred to at <https://support.sapphiresystems.com>. The number may be changed from time to time, in which case SAPPHIRE will notify the Customer of the new number 30 days in advance of any change.
 - b) SAPPHIRE will make sure that suitably qualified and skilled staff are available on the helpdesk during the hours referred to.
 - c) SAPPHIRE will use reasonable efforts to resolve any query that relates to the day to day operation of the Software in normal daily functions, referred to it by the Customer's Representative(s). For clarity this does not include providing this service for the application of corrected software or software updates by the Customer.
 - d) SAPPHIRE will use reasonable efforts to resolve any technical issues which relate to the operation of the Software on the original Designated Equipment, referred to it by the Customer's Representative(s). For clarity this does not include providing this Service when the Software is moved from the original Designated Equipment to new Designated Equipment.

4. Error Correction Service

- 4.1 An error for these purposes is, any failure by the Software to operate in all material respects in accordance with the User Manuals that apply to it; or any other material defect in the Software which has an adverse effect on its use or operation.
- 4.2 If an error in the Software occurs, the Customer must notify SAPPHIRE as soon as it is reasonably possible to do so. Notification may be by phone, fax or e-mail (via the numbers and e-mail address referred to at <https://support.sapphiresystems.com>).

- 4.3 Once it has received notification of an error, SAPPHIRE will log the error in its service management system and allocate the error a reference number which will be provided to the Customer Representative.
- 4.4 SAPPHIRE will then use its reasonable endeavors to correct the error or ascertain a corrected version of the Software from the relevant software author and provide the Customer with a resolution or corrected version of the Software within the time limits set out below in Clause 9, the time limits vary according to the nature and severity of the error. SAPPHIRE will be responsible for determining how severe the error is (and therefore what time limits apply). If the Customer is unhappy with the severity level assigned to a given error by SAPPHIRE, the Customer will have the ability to escalate the matter to the appropriate Support Manager within SAPPHIRE. If agreement cannot still be reached with regards the severity level assigned the matter will be referred to a Director of SAPPHIRE for a final and binding decision.
- 4.5 SAPPHIRE's obligation is only to use its reasonable efforts to correct the relevant error or ascertain the correction from the relevant software author and supply such a corrected version of the Software within the applicable time limits; these time limits are not absolute. Severity categories and applicable time limits are set out in Clause 9 below; failure by SAPPHIRE to meet these time limits will not in itself constitute a material breach for the purposes of these terms and the entire Agreement.
- 4.6 In the course of investigating an error, SAPPHIRE may identify a possible method of using the Software which avoids the error or minimizes its effect and which does not result in substantial extra inconvenience or expense for the Customer (a "Workaround"). If a Workaround is identified and notified to the Customer, then the Customer must implement the Workaround as soon as possible. Once a Workaround has been notified to the Customer, SAPPHIRE may reallocate the relevant error to another severity category as set out in Clause 9.
- 4.7 Once SAPPHIRE has corrected the error or ascertained a corrected version of the software from the relevant software author, it will notify the Customer and supply the corrected version of the Software to the Customer together with any documentation. The Customer will be licensed to use the corrected version of the Software on the relevant terms set out in the relevant license agreement / terms.
- 4.8 The applying of corrected software onto the Designated Equipment is a Service which SAPPHIRE will make an additional charge for on a time and materials basis. This includes, but not limited to, conducting remedial work that becomes necessary as a result of the Customer incorrectly applying the corrected software or attempting an update of the software which subsequently fails.
- 4.9 SAPPHIRE may use any reasonable means to correct error or ascertain a correction from the relevant software author. It does not have to attend on site at the Customer's premises unless it considers that to be the only reasonable means of correcting the error. If requested by SAPPHIRE, the Customer will (provided that it is technically possible to do so) make a copy of the Software and data in which the error has been identified and will send that copy to SAPPHIRE by the quickest reasonable means.
- 4.10 The Customer and SAPPHIRE may agree that the Customer will provide SAPPHIRE with remote access to the Customer's system in order to enable SAPPHIRE to try and correct the error. If so, then unless agreed otherwise the Customer will be responsible for setting up the remote access (and providing the facilities necessary to enable it to take place) and for paying all charges associated with that access. SAPPHIRE must comply with all reasonable requests of the Customer in relation to the remote access

and its use. The Customer may stop remote access by SAPPHIRE but, in that case, SAPPHIRE will not be liable for any failure or delay in providing Support Service arising as a result of remote access being stopped.

5. The Update Service

- 5.1 An update for these purposes is a corrected or updated version of the Software other than one:
- which includes substantial new functionality as compared to the version already in use by the Customer; or
- which is intended for use with a different operating system or different Designated Equipment to that with which the Customer is licensed to use the Software under the relevant license agreement.
- 5.2 If while these Support Terms are in effect, and SAPPHIRE makes an update generally available to its licensees, it will supply the Customer with the update under these Support Terms and without additional charge.
- 5.3 The Customer must implement updates within 30 days of being supplied with them or subject to Clause 4.8 request SAPPHIRE install and implement the updates. This obligation will not apply if:
- I. the update does not have the same or better functionality to the version it replaces; or
 - II. the update contains known errors of severity category 4 or above (as described in the table below Clause 9).

6. Customer's Obligations

- 6.1 The Customer will:
- I. comply with any reasonable instructions that SAPPHIRE gives the Customer relating to the use of the Software or the related User Manuals;
 - II. provide free of charge suitable access to the premises of the Customer or under the control of the Customer, its servants or agents and the Software as installed on the Customer's Designated Equipment, its terminals and PCs as may be reasonably requested by SAPPHIRE during Working Hours or as otherwise agreed;
 - III. ensure that only trained employees (or persons under their supervision) are allowed to operate the Software;
 - IV. maintain a suitable internet link, as agreed by SAPPHIRE, to enable the use of on-line fault identification and correction tools by arrangement with the Customer;
 - V. co-ordinate calls to SAPPHIRE via an internal help desk or Customer Representative or similar arrangement to provide points of contact;
 - VI. as soon as it is practical to do so:
 - a) inform SAPPHIRE of any suspected error of which it becomes aware; and
 - b) use reasonable endeavors to provide such further information relating to the suspected error as is available to the Customer and which SAPPHIRE may reasonably request in order to perform its obligations under this Agreement;
 - VII. commit adequate resources and permit such access to SAPPHIRE staff and provide promptly all information and documents, as may be reasonably requested by SAPPHIRE to enable SAPPHIRE to perform its obligations;

- VIII. not engage the services of any third party to make any changes, alterations and amendments to the Software, unless agreed in writing by SAPPHIRE, including the application of updates and upgrades and to do so will be considered a material breach of the Agreement.
- IX. provide suitable working area and access to the designated equipment as may be reasonably required by SAPPHIRE at no charge;
- X. where reasonably requested provide SAPPHIRE, with data to enable SAPPHIRE accurately to emulate the Customer's IT environment, for the purpose of providing Software Support Services; and
- XI. notify in writing at least 10 Working Days in advance of changing any, or all, of the Customer Representatives.

7. Payment and Charges

- 7.1 The Order Form/ Sales Quotation sets out the annual support & maintenance fee and other charges payable by the Customer under these Support Terms. Unless otherwise expressly set out in the Order Form/ Sales Quotation, the annual support & maintenance fee is due annually in advance of the commencement of each Support Year, the first such payment being due and payable on invoice following receipt of a signed Order Form/ Sales Quotation.
- 7.2 Time spent in respect of any on-site visits pursuant to Clause 4 of these Support Terms that is in excess of any pre ordered or contracted days, as specified in the Order Form/ Sales Quotation, shall be charged on a time and materials basis.
- 7.3 The SAPPHIRE may increase the annual support & maintenance fee by a reasonable percentage to reflect increases passed onto it by the software author(s) and inflationary cost increases in general. Only one increase may be made to the annual support & maintenance fee in relation to each Support Year. The revised annual support & maintenance fee will then apply in the following Support Year.

8. Term and Termination

- 8.1 These Support Terms will come into effect on the Effective Date for an Initial Term. It will then continue on an annual basis until terminated in accordance with this clause 8 or the other relevant terms of this Agreement and the Framework Agreement.
- 8.2 For the duration of the Initial Term this Agreement cannot be terminated by either party for any reason other than material breach. After the Initial Term the Customer may extend the Agreement for a further term but in any case for a period not less than 1 full year.
- 8.3 SAPPHIRE or the Customer may terminate these Support Terms by giving not less than 90 days written notice, provided that such a notice must expire on the last day of a Support Year. For the avoidance of doubt, no refund, credit or cancellation of all or part of an annual support & maintenance fee that falls due will be given to the Customer if the Customer fails to give such notice, and no pro rata refund, credit or cancellation will be given to the Customer of the annual support & maintenance fee in respect of any current Support Year irrespective of the period of notice given.
- 8.4 Termination of these terms will not automatically terminate any other Agreement that may be in place between the Customer and SAPPHIRE at the time of termination. Further more termination of these terms will not automatically terminate any software license agreement that maybe in place.

9. Severity Levels and Target Resolution Times

Priority ONE			
Description: System down or failure	Example: Data corruption or major system failure that prohibits users from logging in or using the system	<p>Support call as soon as possible and certainly within 30 minutes</p> <p>Updates every 2 hours or at agreed time.</p> <p>Monitored by senior consultant</p> <p>Escalated to support manager after 2 hours.</p> <p>Escalated to a director of SAPPHIRE after 4 working hours.</p>	Fix Time: To have a resolution within 4 working hours.
Priority TWO			
Description: Critical Business Process or System Function Failure	Example: Payment run failure or inability to produce sales invoices therefore impeding a major business function.	<p>Support call as soon as possible and certainly within 30 minutes</p> <p>Updates every 3 hours or at agreed time.</p> <p>Monitored by senior consultant</p> <p>Escalated to support manager after 4 working hours.</p> <p>Escalated to a director of SAPPHIRE after 8 working hours.</p>	Fix Time: To have a resolution within 6 working hours.
Priority THREE			
Description: Program Failure	Example: Problem affecting one user or one non business critical function.	<p>Support call as soon as possible and certainly within 60 minutes.</p> <p>Updates every 4 hours or at agreed time.</p> <p>Monitored by a senior consultant daily</p> <p>Escalated to support manager after 2 working days</p> <p>Escalated to a director of SAPPHIRE after 5 working days</p>	Fix Time: To have a resolution or workaround within 1 working week.

Priority FOUR			
Description: Request for information or request for a cosmetic change	Example: General query of the "How do I, How can I" type. Would like something changed within the system that is cosmetic or a nice to have.	Support call as soon as possible and certainly within 4 hours Updates daily or at the agreed time Monitored by senior consultant daily Escalated to support manager after 7 working days	Fix Time: To have an answer to the question within 1 working day or a workaround within 2 working weeks and a resolution if one is possible within 30 working days

The parties agree to the terms of this Agreement as set out in sections 1 to 9 above.

Schedule 2

SAPPHIRE Anywhere Managed Infrastructure Services Agreement

9. Recitals

Sapphire is a business software solutions provider offering, amongst other services, the Sapphire Anywhere Managed Infrastructure Services for the running of the business software solutions supplied by Sapphire with the Sapphire partner data center organizations (Amazon Web Services Inc (AWS) based in the US who provide the physically secure Tier 3 environmentally controlled server infrastructure locations. The parties have agreed that Sapphire will provide, and Customer will receive a Sapphire Anywhere Managed Infrastructure Service on the terms and conditions set out in this Agreement and the Framework Agreement.

10. Interpretation

10.1. In this Agreement the following terms shall have the following meanings:

Term	Meaning
"Act"	Means: The Telecommunications Act 1996.
"Acceptance Tests"	Means: The tests to be undertaken and the criteria to be met prior to the commencement of SAPPHIRE Anywhere Managed Infrastructure Service.
"Customer "	Means: Customer's business solution Infrastructure and its affiliates.
"SAPPHIRE Anywhere Managed Infrastructure Service"	Means: The provision & support of SAPPHIRE supplied business solutions using dedicated virtual machines based at SAPPHIRE's partner AWS headquartered in Ohio, USA.
"Annual Fee"	Means: The fee payable in respect of, but not limited to, platform rental, platform support and software rental.
"Sub Contractor"	Means: An organization chosen by SAPPHIRE to provide any element(s) of the SAPPHIRE Anywhere Managed Infrastructure Service.
"Cover Hours"	Means: The hours during which the SAPPHIRE Anywhere Managed Infrastructure Service will be provided
"Equipment"	Means: All Servers, Software, Cabling, etc provided by SAPPHIRE for the sole purpose of delivering the Service to Customer
"IT Services"	Means: Customer's IT Department or IT representatives

Term	Meaning
"LAN"	Means: Local Area Network.
"Written Notice"	Means: Written notification of a Material Breach or an intention to terminate the Contract.
"Network Service Provider"	Means: Providers of analogue and digital Telecommunications Circuits.
"NTP"	Means: Network Services Termination Point.
"OFCOM"	Means: The Office of Communications.
"PTO"	Means: BT, C&W, NTL or any alternative Public Telecommunications Operator(s).
"SAPPHIRE Service Desk"	Means: SAPPHIRE's Service Desk which is responsible for monitoring, management, fault diagnosis and tracking resolution.
"Service Level Agreement"	Means: The description of the standards to which various elements of the SAPPHIRE Anywhere Managed Infrastructure Service will be provided and contained in Appendix 1.
"Service Cessation Date"	Means: The date upon which the SAPPHIRE Anywhere Managed Infrastructure Service shall cease to be provided under the terms of this Agreement which (for the avoidance of doubt) may arise either prior to or after the expiry of the Service Period which shall be determined by reference to the nature and cause of the termination of this Agreement.
"Service Commencement Date"	Means: The date upon which the SAPPHIRE Anywhere Managed Infrastructure Service is to be made available by SAPPHIRE for use in accordance with the terms of this Agreement
"Service Period"	Means: The period specified of 36 months.
"Service Year"	Means: A period of 12 months of SAPPHIRE Anywhere Managed Infrastructure Service provision following either the Service Commencement Date or following each anniversary of the Service Commencement Date thereafter.
"Supervising Officer"	Means: The person for the time being or from time to time duly appointed by Customer and notified in writing to SAPPHIRE, to act as Customer's authorized representative for the purpose of this Agreement.
"Telecommunications Circuits"	Means: Telecommunications Circuits provided by Network Service Providers interconnecting Customer Sites.

Term	Meaning
"WAN"	Means: Wide Area Network.

10.2. The following are attached as Appendices to this Schedule

Appendix Number	Contents
"Appendix I"	Service Level Agreement

In this Schedule unless the context otherwise requires

- 2.2.1 Words used in the singular only shall include the plural where appropriate and vice versa, words denoting any gender shall include every gender and references to persons shall include bodies incorporated and unincorporated; and
- 2.2.5 This Schedule shall be read in conjunction with the terms set out in the Framework Agreement, the Service Level Agreement, the Order Form/ Sales Quotation and Schedules which all together shall form the entire Agreement.

11. Term

- 3.1 This Schedule shall come into effect on the Service Commencement Date, from which time SAPPHIRE will provide the SAPPHIRE Anywhere Managed Infrastructure Service and, subject to the provisions for earlier termination, shall continue until the end of the Service Period.
- 3.2 This Schedule will continue in full force until the end of the Service Period and no termination for convenience is permitted.

Should a Party wish to terminate this Agreement prior the end of the Service Period it shall give the other Party Ninety (90) days written notice to do so provided that and no refund of the Charges paid and to be paid for the whole of the Service Period will be given.

12. SAPPHIRE's Obligations

- 4.1 SAPPHIRE shall provide all necessary technical skills, as defined within the Service Level Agreement, to deliver the SAPPHIRE Anywhere Managed Infrastructure Service
- 4.2 SAPPHIRE shall deliver the SAPPHIRE Anywhere Managed Infrastructure Service in accordance with Appendix 1.
- 4.3 SAPPHIRE shall ensure that all data on a system is incrementally replicated to S3 storage.
- 4.4 Full system level backups shall be taken daily by performing EBS snapshots.
- 4.5 SAPPHIRE shall not be held responsible for failure to deliver the SAPPHIRE Anywhere Managed Infrastructure Service through the failure of the Network Service Provider or any other third party which is outside of SAPPHIRE's control, to honor their obligations in accordance with this Schedule.

13. Provision of the SAPPHIRE Anywhere Managed Infrastructure Service

- 5.1 Telecommunications Circuits and Internet Connections forming part of the Service shall at all times be the property of the Network Services Provider, with Sapphire renting the circuits or services directly from the Network Services Provider and therefore the Customer shall acknowledge and agree that Sapphire shall not be held accountable nor liable in the event of an AWS network unavailability or Internet Connection error which could delay or impair the Service.
- 5.2 All Equipment shall be the property of AWS if the service is being provided for US customers.
- 5.3 SAPPHIRE shall provide the SAPPHIRE Anywhere Managed Infrastructure Service in accordance with this Schedule, the Framework Agreement and the description and Service Levels set out in Appendix 1, subject always to any relevant provisions of the Act.
- 5.4 SAPPHIRE shall install the Equipment in accordance with acknowledged best practice, manufacturer guidelines and installation standards.
- 5.5 Customer acknowledges that the SAPPHIRE Anywhere Managed Infrastructure Service cannot be provided error free.
- 5.6 All faults will be dealt with in accordance with Appendix 1. SAPPHIRE shall provide the SAPPHIRE Anywhere Managed Infrastructure Service to the levels specified in this Agreement and shall regularly review the provision of the service and recommend improvements where appropriate.
- 5.7 SAPPHIRE shall be entitled to carry out system maintenance during maintenance windows for the continued provision of the Managed Infrastructure Service, provided that:
 - 5.7.1 SAPPHIRE undertakes only to use appropriately skilled personnel in the provision of the SAPPHIRE Anywhere Managed Infrastructure Service to Customer.

14. Use

- 6.1 Customer shall use the SAPPHIRE Anywhere Managed Infrastructure Service only in accordance with the operating instructions set out in Appendix 1, and the same may be updated by agreement between the Parties from time to time.

15. Changes to the SAPPHIRE Anywhere Managed Infrastructure Service

- 7.1 Changes to this Agreement may be proposed by either Party at any time. Only after receipt of written agreement from both Parties to the proposed change will the change be implemented.
- 7.2 Changes to the SAPPHIRE Anywhere Managed Infrastructure Service will be undertaken in accordance with Change Control as defined within the Service Level Agreement
- 7.3 Customer may at any time request a change to the SAPPHIRE Anywhere Managed Infrastructure Service. SAPPHIRE will respond as detailed in Appendix 1 with details of when such change could be provided and of any resultant amendment of the Charges. On receipt of a written request from Customer that

it wishes to proceed with the change, SAPPHIRE will implement the change in accordance with the proposed timescales.

16. Charges

- 8.1 Customer will pay SAPPHIRE all appropriate Charges at the rates set out in the SAPPHIRE Anywhere Managed Infrastructure Service proposal.
- 8.2 All invoices for Charges issued to Customer by SAPPHIRE shall be accurate, relate only to those Charges properly due from Customer under this Agreement.
- 8.3 The Charges shall be payable annually in advance.
- 8.4 Additional or reduced Charges arising from changes to the SAPPHIRE Anywhere Managed Infrastructure Service shall be separately itemized and invoiced or credited, when confirmed and in the case of an invoice calculated to co-terminate with original annual contract date. All changes will be in accordance with the Change Control process as detailed in the Service Level Agreement
- 8.5 All Charges due to SAPPHIRE are payable within 30 days of the receipt of a correct invoice or bill and shall be paid in full without set-off, deduction or withholding of any kind.

9.0 Limitation of Liability

- 9.1 Sapphire shall not be held accountable nor liable in the event of an AWS network unavailability or Internet Connection error which could delay or impair the Service.

Appendix 1

FOR

THE PROVISION OF SAPPHIRE ANYWHERE MANAGED INFRASTRUCTURE SERVICE

17. Contact Details

17.1. Customer Contract Team and Contact Details

Position	Name	Telephone Number	Mobile Number	Email Address

17.2. Customer – Authorized Staff

The following staff are authorized by CUSTOMER to instruct SAPPHIRE to undertake additional chargeable works.

Position	Name	Telephone Number	Mobile Number	Email Address

17.3. SAPPHIRE's – Contract Management Team and Contact Details

Position	Name	Telephone Number	Mobile Number	Email Address

18. Services

18.1. Overview of the SAPPHIRE Anywhere Managed Infrastructure Service (SAPPHIRE Anywhere)

SAPPHIRE will be responsible for the provision of a SAPPHIRE Anywhere Managed Infrastructure Service to Customer, encompassing:

- Dedicated VPC's hosting Microsoft Windows 2016 (or later versions when supported) virtual servers for SQL 2016 / HANA (or later versions when supported) PRODUCTS Terminal Services and Active Directory required to deploy PRODUCTS
- Pro-active monitoring, support, management and maintenance of the virtualized VPC's & Microsoft server products used to deploy Sapphire Anywhere;
- 2nd and 3rd line support & configuration management;
- Fault tracing and resolution;
- Change Control Management;
- Account and Operation Review Meetings;
- Annual Management Review Meetings.

18.2. CUSTOMER Responsibilities

CUSTOMER is responsible for:

- First line helpdesk services.
- Secure, Business grade Internet connections at all sites requiring connection to the SAPPHIRE Anywhere service
- Remote site Local Area Network & Workstation hardware
- PRODUCTS administration, which is the monitoring by CUSTOMER senior user of PRODUCTS of day to day business use of PRODUCTS licensed to CUSTOMER and installed in the SAPPHIRE Anywhere environment

18.3. Definitions

18.3.1. Cover Hours

These are the times when SAPPHIRE will provide technical support for the SAPPHIRE Anywhere Managed Infrastructure Service Contract.

The Cover Hours are currently 24 x 5 Monday to Friday. However, SAPPHIRE Anywhere is available for use 24 x 7 x 365.

In addition to the Cover Hours, SAPPHIRE will provide an on call P1 (System Down) technical support service at the weekends and bank holidays.

Any changes made to cover hours will be agreed and documented through the formal contract change control process.

18.3.2. CUSTOMER Working Hours

These are the standard hours 7.00am to 23.30pm Eastern Monday to Friday inclusive when CUSTOMER sites are occupied.

18.3.3. Service Outages

A planned 'Service Outage' is one which is known about at least five days before the service outage takes place.

An 'Emergency Service Outage' is one which is known about less than five days before the 'Service Outage' occurs. In some instances, 'Emergency Service Outages' may occur at short notice (with less than 8 hours' notification).

18.3.4. Event

Any condition which indicates there is a problem or fault with CUSTOMER's systems.

18.3.5. Call Logged

A fault call, request for change, request for information or notification which has been recorded on SAPPHIRE's call logging system and has been notified to CUSTOMER.

18.3.6. Configuration Management

The definition and application of specific agreed conditions on devices to ensure that they operate in accordance with the requirements to deliver the service required.

18.3.7. SNMP Event

An automatically generated Simple Network Management Protocol condition which is indicative of any given device or component failure.

18.3.8. Reliability

Reliability is defined as the numbers of incidents affecting the availability within the period.

18.3.9. Issue

Any reoccurring event which can not be resolved by SAPPHIRE due to the failure of a third party, hardware or entity outside of SAPPHIRE's reasonable control

18.3.10. Availability

Availability is defined as the proportion of time when CUSTOMER's systems are available for use within the Cover Hours.

'Availability' will be measured on a monthly basis. Excluded from the Availability calculation will be all agreed and authorized maintenance, scheduled server reboots and scheduled 'Downtime'.

18.3.11. Maintenance Window

A period mutually agreed between SAPPHIRE and CUSTOMER when scheduled maintenance can take place. This is normally within US working hours 8.30am to 5.00pm Eastern Monday to Friday inclusive, out-of-hours work is also available at extra cost.

18.3.12. Occurrence

An occurrence is defined as each and every instance or incident whereby a specific Service Level is not achieved.

19. Service Delivery Process

19.1. Service Levels

SAPPHIRE will make the Managed Infrastructure Service available during the Cover Hours. Scheduled outages will be excluded from this measure providing they are agreed in advance with CUSTOMER.

19.1.1. Availability

Availability	SLA Metric (Measured over the Cover Hours)		Measurement Interval
	Availability		
CUSTOMER systems	Greater than or equal to 99.5%		Continuous

The availability measure will be applied to each calendar month period.

19.1.2. Target Fault Resolution Times

Priority	Definition	Response Time	Total Fix Time
CRITICAL (P1)	Complete application failure or major disruption to normal business operations	1 hour	4 hours
HIGH (P2)	Partial application failure or a fault which effects all users at a single location causing significant disruption to business operations	2 hour	6 hours
MEDIUM (P3)	A fault that effects a workgroup with little effect on normal business operations	4 hour	10 hours
LOW (P4)	A fault that effects individual users that does not have any impact on normal business operations	8 hours	16 hours

19.1.3. Change Management

Change Management	SLA Metric
Implementation of an approved change request	Less than or equal to 48 hours, or such other reasonable time as may be agreed with CUSTOMER
New Provision Quotation	Less than or equal to 5 Days , or such other reasonable time as may be agreed with CUSTOMER

19.2. SAPPHIRE Anywhere Managed Infrastructure service helpdesk (Infrastructure Helpdesk)

SAPPHIRE's Infrastructure Helpdesk shall be responsible for the provision of Managed Infrastructure Service during the Cover Hours.

SAPPHIRE's Infrastructure Helpdesk will monitor CUSTOMER systems on a 24 x 7 basis.

SAPPHIRE's Infrastructure Helpdesk shall be the primary point of contact for CUSTOMER.

SAPPHIRE Infrastructure Helpdesk to notify Customer elected staff in case of detected system issues impacting user performance.

19.3. Management

SAPPHIRE shall deploy and maintain an appropriate Network Management System (NMS) to monitor, and generate statistics on the performance of the servers.

SAPPHIRE shall configure the NMS to discover all equipment to be managed for which Managed Infrastructure Service will be provided. This will entail, but will not be restricted to, receiving SNMP events and statistical data.

19.4. Backup

Sapphire shall backup all databases to AWS S3 Storage every day on a 7-day retention policy with the option to further Archive upon request. Sapphire will take snapshots of all disks (EBS Volume) every day on a 7-day retention policy with the option to further Archive upon request.

19.5. Disaster Recovery

In the event of a loss of Service due to AWS catastrophic site failure leading to the loss of an AWS Availability Zone, the Parties shall treat this unexpected and unpredictable event as a Force Majeure event as per clause 12 of the Agreement.

Sapphire therefore, as soon as reasonably possible shall instigate a full failover into a new environment in another AWS Availability Zone in the same AWS Region in order to minimize further disruption to the Service. Full failover will only be instigated once initial review of the system outage, by support, confirms that a failover is the most effective resolution. Individual component failures do not constitute a site failure.

19.6. Fault Calls

19.6.1. Call Logging

SAPPHIRE shall operate a "Call Logging System" to log and record:

- All faults raised automatically from NMS upon receipt of a pre-defined SNMP event;
- All faults or questions raised manually by SAPPHIRE's Infrastructure Helpdesk;
- All faults or questions raised manually by CUSTOMER's identified representatives.
- The call logging system will have the ability to record CUSTOMER call reference number and allow searching and the recovery of fault or question details from this call reference number.
- CUSTOMER shall, at all times, have real-time visibility of the Call Logging System via a web interface. Call logging using the Helpdesk web interface will be made available at SAPPHIRE's discretion following the first three months of Managed Infrastructure Service delivery.

19.6.2. SAPPHIRE Infrastructure Helpdesk Diagnosed Faults

3.6.2.1 Hardware and Software Faults

Where SAPPHIRE's NOC diagnoses a hardware or software fault with an item of equipment, a new call will be logged on SAPPHIRE's Call Logging System. Each new call shall be allocated a unique, automatically generated call reference number.

SAPPHIRE's NOC shall be responsible for notifying CUSTOMER of the existence of the fault and the call reference number, managing the call until final resolution, entering regular updates on the Call Logging System regarding the status of the call, including any fault reference number allocated by CUSTOMER, resolving the fault remotely and or dispatching an engineer and replacement parts to site, as required.

Following resolution of the fault, SAPPHIRE's NOC shall be responsible for obtaining CUSTOMER agreement that the fault has been resolved to their satisfaction. However, the call will be automatically closed if the customer does not respond to three requests for confirmation.

19.6.3. CUSTOMER Diagnosed Faults

3.6.3.1 Process

CUSTOMER will provide a focal point for all CUSTOMER users to raise faults and will be responsible for undertaking first line diagnosis of all faults raised with them.

Only authorized CUSTOMER Staff will be able to raise faults with SAPPHIRE's Infrastructure Helpdesk. All CUSTOMER staff authorized to raise faults are identified in Section 1.2 of this SLA.

19.6.4. Fault Resolution

Faults will be classified by priority, responded to and targeted to be rectified within the times set out in table 3.1.2 above. The priority of an incident is agreed between CUSTOMER and SAPPHIRE and is primarily determined by the impact on business operations and the urgency with which a resolution or work-around is needed; this is reflected in the overall classification.

Faults identified outside CUSTOMER Working Hours will be logged. Resolution of all faults will begin at the commencement of the period of Cover Hours; or in the case of a Critical (P1) system down call at the time when the fault is logged.

SLA timers will be paused outside of Cover Hours.

19.6.5. Fault Signoff

Following resolution of any fault, SAPPHIRE shall be responsible for obtaining CUSTOMER's agreement that the fault has been resolved to their satisfaction. However, the call will be automatically closed if the customer does not respond to three requests for confirmation.

19.7. Escalation Procedure

In the event that the defined service level targets are not achieved, the following escalation procedure will be followed:

Escalation Threshold	Escalation To:
When SLA Target is breached	SAPPHIRE Anywhere Technical Delivery CUSTOMER
Every 4 hours after SLA target breached	Personnel to be agreed with CUSTOMER

19.8. SLA Exclusions

Any service affecting issue resulting from the failure of a third party outside of the control of SAPPHIRE, including but not limited to the Hardware Maintainer, Internet Service Provider, Network Service Provider, and failure of Telecommunications Circuits including the Internet.

SAPPHIRE shall not be held responsible for breach of Availability or SLA caused by any event outside of its reasonable control.

20. Service Levels

20.1. Service Intention

SAPPHIRE will endeavor to ensure that the Customer will be able to access the Services in line with this SLA Schedule.

20.2. Planned Outages

The SAPPHIRE will give to the Customer at least five days' notice of its intention to undertake a Planned Outage, or where system upgrade or additional configuration work is required to be undertaken as a result of the requirement of a third party SAPPHIRE or body in order to ensure the Service continues or such period of notice as may be reasonable taking into account the notice which the SAPPHIRE may have received from such third party. The SAPPHIRE will make reasonable endeavors to undertake the planned outage within a mutually agreed time window. Planned outages do not constitute Downtime as per the SLA.

20.3. Emergency Outages

Where SAPPHIRE is unable to give more than 48 hours' notice of its intention to undertake an Emergency Outage, should critical Microsoft, AV or other updates be required for example, SAPPHIRE will make reasonable endeavors to undertake the service within a mutually agreed time window. Emergency outages do not constitute Downtime as per the SLA.

20.4. Downtime

Downtime of the Service which occur for any reason outside of Planned and Emergency Outages described in 4.2 and 4.3 above, must be reported by the Customer to SAPPHIRE as soon as reasonably possible at or around the time of the Downtime incident to allow SAPPHIRE to reasonably fulfil its obligations under this Service Agreement. However, in the event that the

SAPPHIRE becomes aware of such Downtime before the Downtime is reported by the Customer the SAPPHIRE shall notify the Customer of the Downtime incident as soon as reasonably possible.

SAPPHIRE will at all times use its most reasonable endeavors to ensure (regardless of the reason for any Downtime) that the disruption caused to the Customer is minimized and that the Services are restored as soon as possible.

20.5. Service Credits

The Target Service Availability levels are detailed in this SLA schedule document, If the Customer is unable to access the Service for the agreed Target Service Availability levels as recorded in any single calendar month as a result of Downtime, the Customer shall receive Service Credits (as defined below in section 5), in the form of a credit note. Downtime incidents as a result of Planned and Emergency outages are not eligible for calculation of potential Service Credits.

20.6. Out of Scope Services

Any services that the SAPPHIRE is not obligated to provide under a Service Contract but that the SAPPHIRE may perform for the Customer at the Customers request and without additional charge is provided as is.

21. Service Credits

As per the stated Service Levels (see section 4) unplanned outages are subject to potential Service Credits payable by SAPPHIRE to the Customer in the form of a Credit Note issued during the month after the target service level was not achieved. Service Credits are calculated and issued against Platform Rental and Platform Support costs charged to the Customer by SAPPHIRE. Service Credits are not issued against any Platform Licensing costs paid by the Customer to SAPPHIRE for the Service.

KPI	Service Level	Service Credit (affected service)
Target Availability	<99.5-99.25%	5% of calculated monthly Platform Rental plus Platform Support fee (excluding Platform Licensing)
	<99.25-98.75%	10% of calculated monthly Platform Rental plus Platform Support fee (excluding Platform Licensing)
	<98.75%	15% of calculated monthly Platform Rental plus Platform Support fee (excluding Platform Licensing)
KPI	Service Level	Service Credit (affected service)
Target Availability	<99.5-99.25%	5% of calculated monthly Platform Rental plus Platform Support fee (excluding Platform Licensing)
	<99.25-98.75%	10% of calculated monthly Platform Rental plus Platform Support fee (excluding Platform Licensing)
	<98.75%	15% of calculated monthly Platform Rental plus Platform Support fee (excluding Platform Licensing)

22. Change Management

22.1. Procedures

Both CUSTOMER and SAPPHIRE can generate Requests for Information (RFIs), Requests for Change (RFCs) and Notifications.

SAPPHIRE's Infrastructure Helpdesk will act as a single point of contact for the receipt, acknowledgement, and progression of all RFIs, RFCs and Notifications raised by CUSTOMER, ensuring that they are actioned by SAPPHIRE's relevant business area.

CUSTOMER's representative staff will act as a point of contact for the receipt, acknowledgement, and progression of all RFIs, RFCs and Notifications raised by SAPPHIRE

All RFIs, RFCs and Notifications will be distributed electronically to SAPPHIRE's Infrastructure helpdesk as required. Depending upon the nature of the request, the following matters will normally be addressed during the Change Control Procedure:

- Site/equipment affected;
- Requestor name;
- Detailed plan;
- Action date/time;

- Risk analysis including estimate of downtime or business disruption;
- Financial Impact;
- Approval and sign off;

22.1.1. Authority – CUSTOMER

All RFIs raised by CUSTOMER must originate from CUSTOMER's staff representatives before being processed by SAPPHIRE.

All RFCs must be signed off by both CUSTOMER and SAPPHIRE before implementation.

All Notifications raised by CUSTOMER must originate from CUSTOMER's staff representatives and be acknowledged by SAPPHIRE Anywhere Technical Manager.

22.1.2. Authority – SAPPHIRE

All RFIs raised by SAPPHIRE must originate from SAPPHIRE Anywhere Technical Manager or his nominated deputy prior to being processed by CUSTOMER.

All RFCs must be signed off by both CUSTOMER and SAPPHIRE before implementation.

All Notifications raised by SAPPHIRE must originate from SAPPHIRE Anywhere Technical Manager or his nominated deputy and acknowledged by CUSTOMER's staff representatives.

In order to accommodate for the unavailability of SAPPHIRE Anywhere Technical Manager, SAPPHIRE will provide CUSTOMER with a list of Officers authorized to act on behalf of the Service Delivery Manager.

22.2. Adds, Moves and Changes

SAPPHIRE's Infrastructure Helpdesk assumes responsibility for the change control process for CUSTOMER's systems. Where appropriate, a full and detailed implementation and fall back plan is developed for any proposed change. Risk analysis of the potential impact of a change on existing live services is carried out and with discussion on a suitable schedule for the change. SAPPHIRE assumes all responsibility for the change control process for CUSTOMER. Suitable levels of sign-off, approval and escalation throughout the change process are agreed prior to the change taking place and to ensure that there is enough time to plan. Suitable notification periods are agreed in advance. CUSTOMER's identified representatives will be responsible for SAPPHIRE's proposed solution sign off.

22.3. Planned Outages

From time to time, SAPPHIRE and AWS will need to undertake planned maintenance on CUSTOMER's systems, which may result in the Service or parts of the Service being unavailable for short periods.

SAPPHIRE will undertake these to minimize downtime following consultation with and written agreement of the Maintenance Window from CUSTOMER.

SAPPHIRE will only ever undertake planned outages following consultation with and written agreement from CUSTOMER.



22.3.1. Emergency works

It is possible that occasionally essential emergency engineering work could affect the services offered, and in such cases SAPPHIRE will endeavor to give at least 8 hours and a minimum of 2 hours notice to CUSTOMER. Notice of any emergency works will be communicated to Customer elected staff by telephone and confirmed in writing via e-mail.

SAPPHIRE will endeavor to ensure that no emergency works will result in a network downtime (without a work around) for more than one hour.

22.4. Network Developments

All developments on the network (excluding the test environment) must adhere to the processes described above, and will be managed as development projects.

23. Service Management

23.1. Review Meetings

Regular review meetings between SAPPHIRE and CUSTOMER are an important control mechanism to ensure that any potential Issues can be identified before they become problems and managed accordingly

Such meetings present the opportunity for both parties to ensure the direction that the service is taking is the right one and also provides a forum to ensure the development of the service in line with expectations.

23.1.1. Regular Account Management and Operations Service Review Meetings

The focus of the Account Management and Operational Service Review Meetings will be to review the performance of the Managed Infrastructure Service at an operational level and plan for future use of the Service.



Schedule 3

**SAP Business One Solution
Software License**

WHEREAS,

It has been agreed between the Parties that the Customer has purchased a license to use Software as set out in Appendix 1 and related Services on the terms and conditions set out in this Agreement and in the Framework Agreement.

This Agreement shall be read in conjunction with the Framework Agreement and together with the terms set out in the Framework Agreement shall form the entire Agreement.

IT IS HEREBY AGREED AS FOLLOWS:

1. Definitions

1.1 In this Agreement, unless the context otherwise requires, the following expressions shall have the meanings set opposite them:

"Annual Fee"	the annual fee payable in respect of each calendar year for support and maintenance services for the Software set out in the Schedule;
"Designated Equipment"	the computer system of Customer on which the Software functions as detailed in the Schedule hereto and which shall be situated at premises in the Territory and be owned and/or controlled by Customer;
"Documentation"	the information supplied with the Software by SAPPHERE in machine readable form;
"Installation"	all components of the Software which have direct or indirect access to a database instance or which interact with a database instance, a database instance being determined by the fact that each database table appears only once;
"Intellectual Property Rights"	all rights arising by virtue of or in relation to copyright, trade marks (registered or unregistered) or patents, applications for any of the foregoing, know-how, trade and business secrets and any other similar rights in any country;



"Named User"	an individual employee, agent or servant of Customer who has access to the Software and whose name and password is registered in the Software. The number of Named Users authorized by this Agreement is set out in the Schedule;
"Software"	the software specified in the Schedule and supplied by SAPPHIRE (including any new releases and/or supported packages relating to the same which may be periodically supplied hereunder);
"Territory"	United States of America and/or other countries as agreed from time to time during the course of this Agreement and listed in the Schedule.
"Supported Release"	the release, version or revision of the Software that remains supported and maintained by SAP Inc. and SAPPHIRE.

2 Grant of Rights

- 2.1 Subject to Clause 8 (Term and Termination) of the Framework Agreement and to the provisions of this Agreement, including, without limitation, payment for the Software together with of the first year's Annual Fee, SAPPHIRE hereby grants to the Customer a non-exclusive, non-transferable, perpetual license for Named Users to use the Software within the Territory.
- 2.2 SAPPHIRE will deliver to the Customer one copy of the Software, subject to export requirements, which Customer shall be responsible, unless otherwise agreed, for installation, together with one copy of the Documentation.
- 2.3 SAPPHIRE warrants that it has the authority to license the Software upon the terms and conditions of this Agreement.

3. Use of the Software

- 3.1 The Customer may use any Supported Release of the Software (as corrected by the Support Packages relating thereto) provided to the Customer by SAPPHIRE hereunder. The Customer shall not unreasonably refuse to accept a newer or latest release of the Software from SAPPHIRE.
- 3.2 The Software may only be installed on the Designated Equipment and used only for the Customer's own internal business purposes and that of its Affiliates.
- 3.3 Access to and use of any SAPPHIRE software or Third Party software shipped with the Software but not specified in the Schedule is not permitted by this Agreement regardless of the Customer's technical ability to do so.
- 3.4 Customer may close down an Installation and reallocate the Software to another Installation subject to the terms of this Agreement. Customer may also replace (and update the details of the same in the Schedule) the Designated Equipment as and when necessary and in doing so must make SAPPHIRE aware of such change.
- 3.5 Customer may make copies of the Software only for back-up purposes provided that the copyright notice(s) that appear in original programs and/or on the original media on which the Software is delivered must be reproduced on all copies.
- 3.6 Customer shall at all times keep the Software properly stored and protected and under its exclusive control.

- 3.7 Customer shall not decompile, disassemble or reverse engineer any part of the Software or attempt to do so unless permitted by law, and shall not modify the Software without the prior written consent of SAPPHIRE.
- 3.8 Customer acknowledges that SAPPHIRE will not provide the requisite database to the Customer and that it is responsible for procuring a valid database management software license for each Installation before use of the Software may commence. Customer shall provide details of such database management software license on SAPPHIRE's request.
- 3.9 Customer shall provide all information necessary to allow SAPPHIRE to verify usage of the Software and shall permit SAPPHIRE and its licensors reasonable direct and/or remote access to the Designated Equipment and the Software for this purpose. If Customer exceeds the number of Named Users permitted by this Agreement, Customer shall be liable to pay an additional fee for such excess usage based on SAPPHIRE's then current price list.
- 3.10 Customer accepts direct responsibility for the acts and omissions of its Affiliates.
- 3.11 Use of the Software for the control of power stations or mass transportation is specifically prohibited.
- 3.12 There is a code for starting up the Software and the release of this code is exclusively effected by SAP Inc.

4. Maintenance and other Services

- 4.1 The minimum period for the provision of support and maintenance services under this Agreement is one year. Unless this Agreement is terminated pursuant to Clause 8 of the Framework Agreement, support and maintenance services shall continue to be provided under this agreement for successive one year periods.
- 4.2 SAPPHIRE shall provide support and maintenance services for the Software to the Customer from delivery of the Software for the duration of this Agreement. Such maintenance services shall be provided in accordance with SAPPHIRE Standard Support Agreement.
- 4.3 Any other services required by the Customer, such as installation of the Software on the Designated Equipment, shall be subject to SAPPHIRE terms and conditions agreed with the Framework Agreement and any additional terms detailed in the Order Form/ Sales Quotation.

5. Fees and Payment

- 5.1 Customer will pay the initial software license Charge, plus the first year's Annual Fee, on execution of this Agreement and thereafter the Annual Fee annually in advance. All invoices delivered under the terms of this Agreement are payable within 30 days of the date of invoice. The Annual Fee for any part calendar year will be apportioned on a pro-rata basis. SAPPHIRE reserve the right to review the Annual Fee and will inform you in writing of any change.



APPENDIX 1

Software Licenses: SAP BUSINESS ONE SOFTWARE

Module	Number of Users	License type	Comment

Territory: United States of America and/or other countries as agreed from time to time during the course of this Agreement and listed in this Appendix.



Schedule 4

**Company Software Licence
and Maintenance Terms**

1. Definitions

1.1 In this Schedule, unless the context otherwise requires, the following expressions shall have the meanings set opposite them:

"Annual Fee"	the annual fee payable in respect of each calendar year for Support Services and Maintenance Services for the Company Software set out in the Statement of Work/ Sales Order Form/ Sales Proposal;
"Documentation"	the information supplied with the Company Software by SAPPHIRE on line or in hard copy form.
"Installation"	all components of the Company Software which have direct or indirect access to a database instance or which interact with a database instance, a database instance being determined by the fact that each database table appears only once;
"Maintenance Services"	the provision to the Customer of Support Packages and new versions of the Company Software by SAPPHIRE.
"Named or Concurrent User"	an individual employee, agent or servant of Customer who has access to the Company Software and whose name and password is registered in the Company Software. The number of Named Users authorised by this Agreement is set out in the Schedule;
"Territory"	the United States of America;
"Supported Release"	the release, version or revision of the Company Software that remains supported and maintained by SAPPHIRE.
"Support Packages"	periodic updates to the Company Software, released to SAPPHIRE which incorporate corrections to known faults and also minor functional enhancement, which in turn will be provided to the Customer either upon request or to correct a fault reported by the Customer.
"SAPPHIRE Systems Limited Standard Support Terms and Conditions"	the Agreement entered into by both Parties which governs the provision of Support Services, by Sapphire for the Company Software, to the Customer.



“Framework Agreement” SAPPHIRE’s standard terms and conditions and any Statement of Work/ Sales Order Form/ Sales Quotation, Schedule and any other document eventually attached to it.

2. Grant of Rights

- 2.1 Subject to Clause 8 (Terms and Termination) of the Framework Agreement and to the provisions of this Agreement, including, without limitation, payment for the Company Software together with the first year’s Annual Fee, SAPPHIRE hereby grants to the Customer a non-exclusive, non-transferable, rolling license for Named Users and or Concurrent Users to use the Company Software within the Territory. This license will remain valid only while the Customer continues to pay the Annual Fee to SAPPHIRE.
- 2.2 SAPPHIRE will deliver to the Customer one copy of the Company Software, (subject to export requirements, for which the Customer shall be responsible), unless otherwise agreed in the Statement of Work/ Sales Order Form/ Sales Quotation, for installation on the Designated Equipment, together with one copy of the Documentation.
- 2.3 SAPPHIRE warrants that it has the authority to license the Company Software upon the terms and conditions of this Agreement.

3. Use of the Company Software

- 3.1 The Customer may use any Supported Release of the Company Software (as corrected by the Support Packages relating thereto) provided to the Customer by SAPPHIRE hereunder. The Customer shall not unreasonably refuse to accept a newer or latest release of the Company Software from SAPPHIRE.
- 3.2 The Company Software may only be installed on the Designated Equipment and used only for the Customer’s own internal business purposes and those of its Affiliates.
- 3.3 Access to and use of any other Company Software or third party software inadvertently shipped with the Company Software and which is not detailed in the Schedule is not permitted by this Agreement regardless of the Customer’s technical ability to do so.
- 3.4 Customer may close down an Installation and reallocate the Company Software to another Installation subject to the terms of this Agreement. Customer may also replace (and update the details of the same in the Schedule) the Designated Equipment as and when necessary and in doing so must make SAPPHIRE aware of such change.
- 3.5 Customer may make copies of the Company Software only for back-up purposes provided that the copyright notice(s) that appear in original programs and/or on the original media on which the Company Software is delivered must be reproduced on all copies.
- 3.6 Customer shall at all times keep the Company Software properly stored and protected and under its exclusive control and will not provide copies to any unauthorized third parties.
- 3.7 Customer shall not decompile, disassemble or reverse engineer any part of the Company Software or attempt to do so unless permitted by law, and shall not modify the Company Software without the prior written consent of SAPPHIRE.

- 3.8 Customer acknowledges that SAPPHIRE will not provide the requisite database to the Customer and that it is responsible for procuring a valid database management software license for each Installation before use of the Company Software may commence. Customer shall provide details of such database management software license on SAPPHIRE's request.
- 3.9 Customer shall provide all information necessary to allow SAPPHIRE to verify usage of the Company Software and shall permit SAPPHIRE reasonable direct and/or remote access to the Designated Equipment and the Company Software for this purpose. If Customer exceeds the number of Named or Concurrent Users permitted by this Agreement, Customer shall be liable to pay an additional fee for such excess usage based on SAPPHIRE's then current price list.
- 3.10 Customer accepts direct responsibility for the acts and omissions of its Affiliates as if they were its own.
- 3.11 There is a code for starting up the Company Software and the release of this code is exclusively effected by SAPPHIRE.

4. Maintenance Services

- 4.1. The minimum period for the provision of Maintenance Services under this Agreement is one year. Unless this Agreement is terminated pursuant to Clause 8 (Terms and Termination) of the Framework Agreement, Maintenance Services shall continue to be provided under this Agreement for successive one year periods.
- 4.2. In consideration for the Annual Fee SAPPHIRE shall provide Maintenance Services for the Company Software to the Customer from delivery of the Company Software for the duration of this Agreement.
- 4.3. Any other services required by the Customer, such as installation of the Company Software on the Designated Equipment, shall be subject to SAPPHIRE terms and conditions set out in the Framework Agreement and any additional terms detailed in the Statement of Work/ Sales Order Form/ Sales Quotation.

5. Fees and Payment

- 5.1. Customer will pay the first Annual Fee on delivery of the Company Software in readiness to be installed on the Designated Equipment and thereafter annually in advance on the anniversary of such delivery. All invoices delivered under the terms of this Agreement are payable within 30 days of the date of invoice.
- 5.2. SAPPHIRE reserve the right to review the Annual Fee and will inform you in writing of any changes. Such an increase can only happen at the beginning of the Maintenance Year. Any proposed increase will be notified to the Customer in writing.



APPENDIX 1

Company Software Licenses supplied by SAPPHIRE

Module	No. of Users	License type, Named, Concurrent, SaaS	SaaS Renewal Date	Licensor

Additional Notes: