

VISUAL KNOWLEDGE SHARE LTD.

Terms of Service

Visual Knowledge Share Ltd. (“**VKS**”) owns or licenses certain software applications that it has developed and makes commercially available to its customers either as a: (a) customer installed on-premise or customer hosted and managed application, or (b) VKS hosted and managed software as a service offering. In connection with the use of the Software and the provision of Maintenance and Support (all as further defined below), you and/or your organization or corporation (the “**Customer**”) hereby agree to the terms of service and conditions contained herein (collectively, the “**Terms of Service**”).

BY ACCEPTING THE TERMS OF SERVICE, EITHER BY: A) ACCEPTING THE TERMS OF SERVICE ONLINE, B) SIGNING THE ORDER FORM (AS DEFINED BELOW) WHICH REFERENCES THE TERMS OF SERVICE, OR C) USING, INSTALLING, ACCESSING OR ACTIVATING THE SOFTWARE OR THE SERVICE AFTER BEING MADE AWARE OF THESE TERMS OF SERVICE, THE CUSTOMER ACKNOWLEDGES THAT IT HAS READ AND UNDERSTOOD ALL OF THE PROVISIONS, AND HAS THE AUTHORITY TO AGREE TO, AND IS CONFIRMING THAT IT IS AGREEING TO, COMPLY WITH AND BE BOUND BY, ALL OF THE TERMS AND CONDITIONS CONTAINED HEREIN, TOGETHER WITH ANY ORDER FORM AND INCLUDING THE VKS PRIVACY POLICY LOCATED AT VKSAPP.COM/PRIVACY-POLICY, ALL OF WHICH ARE INCORPORATED BY REFERENCE AND DEEMED TO BE PART OF THE ENTIRE AGREEMENT ENTERED INTO BETWEEN VKS AND THE CUSTOMER. IF, AFTER READING THE TERMS OF SERVICE, THE CUSTOMER DOES NOT ACCEPT OR AGREE TO THE TERMS AND CONDITIONS CONTAINED HEREIN, THE CUSTOMER SHALL NOT USE, INSTALL, ACCESS OR ACTIVATE THE SOFTWARE OR THE SERVICE.

IF YOU ARE AN AGENT OR EMPLOYEE OF ANOTHER ENTITY THEN YOU HEREBY REPRESENT AND WARRANT THAT: (I) THE INDIVIDUAL ACCEPTING THIS AGREEMENT IS DULY AUTHORIZED TO ACCEPT THIS AGREEMENT ON SUCH ENTITY’S BEHALF AND TO BIND SUCH ENTITY, AND (II) SUCH ENTITY HAS FULL POWER, CORPORATE OR OTHERWISE, TO ENTER INTO THIS AGREEMENT AND PERFORM ITS OBLIGATIONS HEREUNDER.

1. Definitions

In this Agreement:

“**Access Credentials**” means any User name, identification number, password, licence or security key, security token, personal identification number (PIN) or other security code, method, technology, or device used alone or in combination, to verify an individual’s identity and authorization to access and use the VKS Service.

“**Affiliate**” means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “**Control**”, for purposes of this definition, means direct or indirect ownership or control of more than fifty percent (50%) of the voting interests of the subject entity.

“**Agreement**” means the Order Form and these Terms of Service.

“**Beta Products**” means VKS Products that are not generally available to customers.

“**Business Contact Information**” means information that is used for the purpose of communicating or facilitating communication with an individual in relation to their employment, business or profession such as the individual’s name, position name or title, work address, work telephone number, work fax number or work electronic address.

“**Business Location**” means the site or physical location where one or more Customer products are manufactured or assembled using the Software or VKS Service.

“**Customer**” means the customer named in the applicable Order Form, including its Affiliates.

“Customer Data” means the data provided by Customer, including Personal Information, that resides in Customer’s service environment in the VKS Service, including, but not limited to text, photographs, images, video clips, electronic data and information submitted by or for Customer to the VKS Service or collected and processed by or for Customer using the VKS Service, excluding Non-VKS Applications.

“Data Protection Laws” means all laws and regulations, including laws and regulations of Canada (including the *Personal Data Protection and Electronic Documents Act* (Canada) and the Canadian Anti-Spam Legislation, each as amended or superseded from time to time), the European Union, the European Economic Area and their member states, Switzerland and the United Kingdom, including the GDPR, applicable to the Processing of Personal Information under the Agreement.

“Documentation” means the written or electronic documentation, including user manuals, reference materials, installation manuals and/or release notes that VKS generally makes available to licensees of the Software or subscribers to the VKS Service, as the case may be.

“DPA” means the Data Processing Addendum between the parties, the current version of which is available at vksapp.com/data-processing-addendum.

“Fees” mean License Fees, Subscription Fees and Maintenance Fees, as applicable.

“GDPR” means the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the Processing of Personal Information and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

“Initial Term” means the initial term of a License or a Subscription as specified in the applicable Order Form, as defined in Section 15.1.

“License” means a license granted by VKS to the Customer to install and use the Software and Documentation in accordance with the terms of this Agreement and the applicable Order Form.

“License Fee” means the fee payable by Customer for a License as set out in the Order Form.

“License Term” means the period of time that Customer is licensed by VKS to use the Software and Documentation (including the Documentation) and includes the Initial Term and any Renewal Terms.

“Maintenance and Support” means the VKS technical support services for the Software and the VKS Service provided by VKS as described in, and in accordance with, the Support Terms.

“Maintenance Fee” means the fee specified in the applicable Order Form payable by a Customer that has obtained a License to the Software for Maintenance and Support for the Software provided by VKS in accordance with the Support Terms and this Agreement.

“Malicious Code” means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.

“Non-VKS Application” means a web-based or offline software application that is provided by Customer or a third party and interoperates with the VKS Service, including, for example, an application that is developed by or for Customer.

“Order Form” means (i) an electronic form provided by VKS on its website for ordering Software Licenses or VKS Service Subscriptions, Technical Services, and/or Maintenance and Support, or (ii) a written document executed by VKS and Customer in respect to Customer’s purchases of Software Licenses, Service Subscriptions, Technical Services, and/or Maintenance and Support from VKS.

“Personal Information” means any information relating to an identified or identifiable natural person as defined under applicable Data Protection Laws.

“Privacy Policy” means VKS’ privacy policy, currently posted at vksapp.com/privacy-policy.

“Processing” means any operation or set of operations which is performed upon Personal Information, whether or not by automatic means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

“Products” means the Software, VKS Service, Maintenance and Support, Technical Services and other products and services that are ordered by Customer under an online trial, pilot program, an Order Form or a Statement of Work and made available by VKS, as described in the Documentation. “Products” exclude Non-VKS Applications.

“Renewal Term” means the renewal term for a License or a Subscription, as defined in Section 15.1.

“Software” means the VKS proprietary software program(s) in object code format specified in an Order Form, including the Documentation for such program(s) and which is made available by VKS for installation on the Customer’s servers and computers or as the VKS Service for use by small to large sized businesses to, among other things, create and share visual instructions of all types (including work instructions and service manuals) with their Users.

“Statement of Work” means a statement of work entered into between VKS and Customer for the delivery of Technical Services.

“Subscription” means the right granted by VKS to Customer to access and use the VKS Service in accordance with the terms of this Agreement and the applicable Order Form, for the Subscription Term specified in the applicable Order Form.

“Subscription Fee” means the fee payable by Customer for a Subscription as set out in the Order Form.

“Subscription Term” means the period of time that Customer is authorized by VKS to access and use the VKS Service (including the Documentation), and includes the Initial Term and any Renewal Terms.

“Support Terms” means the terms on which VKS provides Maintenance and Support for the Software and the VKS Service to its customers and made available by VKS at vksapp.com/support-terms.

“Technical Services” means the services provided by VKS pursuant to an Order Form and the terms of Section 18 hereof, which services, the fees and any other terms and conditions applicable thereto shall be described in the Order Form or in any Statement of Work entered into in relation to the delivery of Technical Services by VKS to Customer.

“User” means an individual who is authorized by Customer to use a Product, for whom Customer has ordered a Product, and to whom Customer (or VKS at Customer’s request) has supplied a user identification and password. Users may include, for example, employees, consultants, contractors and agents of Customer, and third parties with which Customer transacts business.

“VKS” means Visual Knowledge Share Ltd.

“VKS Service” means the Software for which Customer is granted rights of access and use under this Agreement, which resides on a server operated by, or on behalf of VKS and which will be remotely accessible over the Internet by Customer and its Users, including any ancillary services available in connection therewith, as such VKS Service may be updated from time to time by VKS in its sole discretion.

2. Grant of Licenses

2.1 License Grant.

(a) *Software License.* If an Order Form specifies that a License is being granted to Customer for the Software identified in the Order Form, then subject to the terms and conditions of this Agreement and Customer's payment of the applicable License Fees specified in the Order Form, VKS hereby grants to Customer a non-exclusive, non-transferable, non-sublicensable license to (i) use the Software, in object-code form, solely during the License Term by up to the number of concurrent Users, on the number of Customer servers (including the number and type of environments, if applicable), and the number of Business Locations served by the Software, each as specified in the applicable Order Form; and (ii) use the Documentation as reasonably necessary to support the licensed use of the Software during the License Term. Customer may only make a backup copy of the Software in whole or in part as necessary for Customer's internal use of Software on a computer system. Customer shall cause each Affiliate to comply with the terms and conditions of this Agreement to the full extent as if such Affiliate were a party hereto, and any act or omission relating to this Agreement by such Affiliate shall be deemed an act or omission by Customer.

(b) *VKS Service Subscriptions.*

(i) If an Order Form specifies that a Subscription to the VKS Service identified in the Order Form is being purchased by the Customer, then subject to the terms and conditions of this Agreement (including the applicable Order Form) and payment of the applicable Subscription Fees, VKS hereby grants to Customer a non-exclusive, worldwide, non-transferable, non-sublicensable, internal right to (A) access and use (and to permit Users to access and use) the VKS Service, solely during the Subscription Term by up to the number of concurrent Users and Business Locations, each as specified in the applicable Order Form; and (B) access and use, and to permit Users to access and use, the Documentation as reasonably necessary to support the Customer's permitted use of the VKS Service during the Subscription Term.

(ii) Unless otherwise provided in the applicable Order Form, (A) the VKS Service is purchased on a Subscription basis, (B) Subscriptions may be added during a Subscription Term at the same pricing as the underlying Subscription pricing, prorated for the portion of that Subscription Term remaining at the time the Subscriptions are added, and (C) any added Subscriptions will terminate on the same date as the underlying Subscriptions, (D) Subscription Terms may be either monthly, annual, multi-year or server based.

2.2 Limits on Concurrent Users and Business Location. A User identification may be reassigned to a new individual replacing one who no longer requires ongoing use of the Products. If Customer exceeds the number of concurrent Users or Business Locations specified in the applicable Order Form(s), VKS may work with Customer to seek to reduce Customer's usage so that it conforms to the applicable limit. If, notwithstanding VKS's efforts, Customer is unable or unwilling to abide by a contractual usage limit, Customer will execute an Order Form for additional Users or Business Locations promptly upon VKS's request, and/or pay any invoice for excess usage in accordance with the terms hereof.

2.3 Application Programming Interface (API) Terms. Subject to the terms and conditions of this Agreement and Customer's payment of the applicable Fees specified in the Order Form, Customer may access VKS Account data via an API. Any use of the API, including use of the API through a third-party product that accesses VKS Account data, is subject to the terms of this Agreement, plus the following specific terms: (a) Customer expressly understands and agrees that VKS shall not be liable for any direct, indirect, incidental, special, consequential or exemplary damages, including but not limited to, damages for loss of profits, goodwill, use, data or other intangible losses (even if VKS has been advised of the possibility of such damages), resulting from Customer's use of the API or third-party products that access data via the API; and (b) abuse or excessively frequent requests to VKS via the API may result in the temporary or permanent suspension of Customer's account's access to the API and VKS, in its sole discretion, will determine abuse or excessive usage of the API and will make a reasonable attempt via email to warn the account owner prior to suspension.

2.4 Reservation of Rights. The Software, VKS Service and Documentation are licensed, not sold. VKS and its licensors own and shall retain all right, title and interest (including without limitation all patent rights, copyrights, trade-mark rights, trade secret rights and all other intellectual property rights), in and to the Software, VKS Service and Documentation and any copies, corrections, bug fixes, enhancements, modifications or new

versions thereof, all of which shall be deemed part of the Software and subject to all of the provisions of this Agreement. Customer shall keep the Software and Documentation free and clear of all liens, encumbrances and/or security interests. Subject to the limited rights expressly granted in this Agreement, VKS reserves all rights, title and interest in and to the Software and Documentation. No rights are granted to Customer pursuant to this Agreement other than as expressly set forth in this Agreement.

2.5 Restrictions.

(a) *Software Licenses.* Customer shall use the Software solely for Customer's internal business purposes as contemplated by this Agreement and shall not: (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Software available to any third party, other than to Users or as otherwise contemplated by this Agreement; (ii) use the Software in violation of applicable laws; (iii) reverse engineer, disassemble, reverse translate, decompile or in any other manner decode the Software except to the extent the foregoing restriction is expressly prohibited by applicable law notwithstanding a contractual obligation to the contrary, (iv) unbundle any component of the Software and/or Documentation, (v) circumvent any User or Business Location limits or other license timing or use restrictions that are built into the Software; (vi) build a product or service that is competitive with the Software; (vii) modify or create any derivatives of the Software and/or Documentation or merge all or any part of the Software and/or Documentation with another program; (viii) make the Software and/or Documentation available on a server that can be accessed via a public network, such as, for example and without limitation, the Internet, in a manner that allows the Software and/or Documentation to be copied by any third party; or (ix) except as expressly permitted in the Documentation, remove any trade-marks, copyright notices, restricted rights legends, proprietary markings and the like exactly as they appear on the copy of the Software originally provided to Customer.

(b) *VKS Service Subscriptions.* Customer shall not (and shall not allow Users or any third party to): (i) possess, download or copy the VKS Service or any part of the VKS Service, including but not limited any component which comprises the VKS Service, but not including any output from the VKS Service; (ii) knowingly interfere with service to any of VKS' users, host or network, including by means of intentionally submitting a virus, overloading, flooding, spamming, mail bombing or crashing; (iii) modify, translate, reverse engineer, decompile, disassemble, or create derivative works based on the VKS Service and/or Documentation, except to the extent that enforcement is prohibited by applicable law; (iv) circumvent any User or Business Location limits or other timing or use restrictions that are built into the VKS Service; (v) sell, rent, lend, transfer, distribute, license, or grant any rights in the VKS Service or Documentation in any form to any person without the written consent of VKS; (vi) remove any proprietary notices, labels, or marks from the VKS Service or Documentation; (vii) use all or any portion of the VKS Service in the design, construction, operation or maintenance of any nuclear facility; (viii) create any "links" to or "frame" or "mirror" of the VKS Service or any portion thereof; (ix) build a product or service that is competitive with the VKS Service; (x) copy any ideas, features, functions or graphics of the VKS Service; or (xi) use the VKS Service in violation of applicable laws.

2.6 Publicly Available Software. Portions of the Software include software programs that are distributed by VKS pursuant to the terms and conditions of a license granted by the copyright owner of such software programs and which governs Customer's use of such software programs ("**Publicly Available Software**"). The Customer's use of Publicly Available Software in conjunction with the Software in a manner consistent with the terms of this Agreement is permitted, however, the Customer may have broader rights under the applicable license for Publicly Available Software and nothing contained herein is intended to impose restrictions or limitations on the Customer's use of the Publicly Available Software. The warranty, indemnity and limitation of liability provisions in this Agreement will apply to all of the Software, including Publicly Available Software included in the Software. Copies of such Publicly Available Software license agreements are available by contacting VKS at support@vksapp.com. The source code for certain portions of the Publicly Available Software included in the Software (as specified in the copyright notices) is available by contacting VKS at support@vksapp.com within a three (3) year period from the original date of receipt of the applicable Software and for a fee that shall not exceed VKS' costs associated with the shipping of such software source code.

2.7 **Feedback.** Customer may provide reasonable feedback to VKS including, but not limited to, suitability, problem reports, suggestions and other information with respect to the Software or VKS Service ("**Feedback**"). Customer hereby grants to VKS a fully paid-up, royalty-free, worldwide, assignable, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into the Software, VKS Service, Documentation and any other VKS products or services, or for any other purposes, any Feedback provided by Customer or its Users.

2.8 **Derivative Data.** Customer hereby acknowledges and agrees that the VKS Service compiles, stores and generates system usage data and statistics, analytics and diagnostic information to monitor and support the VKS Service ("**Usage Data**"). VKS may (a) anonymize and aggregate any Usage Data, including Personal Information contained therein, and create anonymized and aggregate data records ("**Derivative Data**") by removing Personal Information from the Usage Data; (b) use such Derivative Data to improve the VKS Products, develop new products and services, monitor and audit usage, understand demand trends and general industry trends, and generally for any purpose related to VKS' business; and (c) share Derivative Data with third parties and publish any reports, white papers, and other summaries based on Derivative Data; provided that, Derivative Data may not include any Personal Information, and may not be associated with or identify Customer or a User or any third parties utilizing the VKS Service.

3. **Online Trial and Pilot Program**

3.1 If Customer registers for an online trial or pilot program, VKS will make one or more Products available to Customer on a trial basis until the earlier of (a) the end of the trial period for which Customer registered to use the applicable Product(s), or (b) the start date of any Licenses or Subscriptions ordered by Customer for such Product(s). Additional trial terms and conditions may appear on a trial registration web page. Any such additional terms and conditions are incorporated into this Agreement by reference and are legally binding.

3.2 CUSTOMER ACKNOWLEDGES THAT ANY CUSTOMER DATA ENTERED INTO A PRODUCT AND ANY CUSTOMIZATIONS MADE TO A PRODUCT BY OR FOR CUSTOMER, DURING CUSTOMER'S ONLINE TRIAL OR PILOT PROGRAM WILL BE PERMANENTLY LOST UNLESS CUSTOMER PURCHASES A LICENSE OR SUBSCRIPTION TO THE SAME PRODUCT AS THOSE COVERED BY THE TRIAL, PURCHASES UPGRADED SERVICES, OR EXPORTS SUCH DATA BEFORE THE END OF THE TRIAL PERIOD. CUSTOMER CANNOT TRANSFER DATA ENTERED OR CUSTOMIZATIONS MADE DURING THE ONLINE TRIAL OR PILOT PROGRAM TO PRODUCTS THAT WOULD BE A DOWNGRADE FROM THAT COVERED BY THE TRIAL; THEREFORE, IF CUSTOMER PURCHASES SERVICES THAT WOULD BE A DOWNGRADE FROM THAT COVERED BY THE TRIAL, CUSTOMER MUST EXPORT ALL CUSTOMER DATA BEFORE THE END OF THE TRIAL PERIOD OR SUCH CUSTOMER DATA WILL BE PERMANENTLY LOST.

3.3 NOTWITHSTANDING SECTION 11 (REPRESENTATIONS, WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS), DURING AN ONLINE TRIAL OR PILOT PROGRAM THE PRODUCTS ARE PROVIDED "AS-IS" WITHOUT ANY WARRANTY.

4. **Beta Products**

From time to time, VKS may invite Customer to try Beta Products. Customer may accept or decline any such trial in its sole discretion. Beta Products will be clearly designated as beta, pilot, limited release, developer preview, non-production, evaluation or by a description of similar import. Beta Products are for evaluation purposes and not for production use, are not considered "Products" under this Agreement, are not supported, and may be subject to additional terms. Unless otherwise stated, any Beta Products trial period will expire upon the earlier of one year from the trial start date or the date that a version of the Beta Products becomes generally available. VKS may discontinue Beta Products at any time in its sole discretion and may never make them generally available. VKS will have no liability for any harm or damage arising out of or in connection with any Beta Products.

5. Customer Data

5.1 Ownership. As between VKS and Customer, Customer exclusively owns all rights, title and interest in and to all Customer Data.

5.2 No Access to Customer Data. VKS shall not access Customer's Accounts, including Customer Data, except to prevent or respond to service or technical problems or otherwise at Customer's request. VKS shall not disclose any Customer Data except as compelled by law or as expressly permitted in writing by Customer.

5.3 Technical and Organizational Safeguards. VKS will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data, as described in the Documentation. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of Customer Data by VKS personnel except (a) to provide the VKS Service and prevent or address service or technical problems, (b) as compelled by law in accordance with Section 10 below, or (c) as expressly permitted in writing by Customer. VKS shall fulfill in respect of Customer Data all of VKS's obligations under applicable Data Protection Laws.

5.4 Customer Shared Folders. Customer acknowledges and understands that by setting any project folder to be shared with another organization, Customer agrees to allow users of the other organizations to view and copy Customer Data.

5.5 Personal Information. Each of VKS and Customer agrees to be bound by and to comply with the DPA.

6. Customer Responsibilities and License

6.1 Account Activation. Customer is required to open an account with VKS (an "**Account**") in order to use the VKS Service. During registration, a User will be asked to provide Business Contact Information in order to create an Account on behalf of Customer. VKS uses Business Contact Information as described in its Privacy Policy. Customer shall ensure that such Account activation information is accurate and complete and that such information remains current throughout the Subscription Term. Customer is fully responsible for all activity that occurs in Customer's Account, including for any actions taken by its Users. Customer is responsible for keeping all Account Access Credentials secure. VKS will not be liable for any loss or damage caused by or arising from a failure by Customer or its Users to maintain the security of the Customer's Account and Access Credentials.

6.2 Users. Customer is responsible for all activities that occur in User accounts and for its and its Users' compliance with this Agreement and with any and all operating instructions or procedures that may be issued by VKS from time to time. Customer shall: (a) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data and the means by which Customer acquired Customer Data; (b) use commercially reasonable efforts to prevent unauthorized access to, or use of, the Software or the VKS Service, and notify VKS promptly of any such unauthorized access or use; (c) use Products only in accordance with the Documentation and applicable laws and government regulations, and (d) comply with any applicable agreements or terms of service of Non-VKS Applications with which Customer uses the VKS Service.

6.3 Customer Equipment. Customer is solely responsible for acquiring, servicing, maintaining and updating all equipment, computers, software and communications services (such as Internet access) that are required to allow Customer to access and use the VKS Service, and for all expenses relating thereto.

6.4 License by Customer to Host Customer Data and Applications. Customer grants VKS and its Affiliates a worldwide, limited-term license to host, copy, transmit and display Customer Data, and any Non-VKS Applications and program code created by or for Customer using the VKS Services, as necessary for VKS to provide the VKS Service in accordance with this Agreement. Subject to the limited licenses granted herein, VKS acquires no right, title or interest from Customer or its licensors under this Agreement in or to any Customer Data, Non-VKS Application or program code.

7. Non-VKS Providers

7.1 Acquisition of Non-VKS Products and Services. VKS or third parties may make available third-party products or services, including, for example, Non-VKS Applications and implementation and other consulting services. Any acquisition by Customer of such Non-VKS Applications, and any exchange of data between Customer and any non-VKS provider, is solely between Customer and the applicable non-VKS provider. VKS does not warrant or support Non-VKS Applications or other non-VKS products or services, whether or not they are designated by VKS as “certified” or otherwise, except as specified in an Order Form.

7.2 Non-VKS Applications and Customer Data. If Customer installs or enables a Non-VKS Application for use with a Product, Customer grants VKS permission to allow the provider of that Non-VKS Application to access Customer Data as required for the interoperation of that Non-VKS Application with the Product. VKS is not responsible for any disclosure, modification or deletion of Customer Data resulting from access by a Non-VKS Application.

7.3 Integration with Non-VKS Applications. The Software and the VKS Service may contain features designed to interoperate with Non-VKS Applications. To use such features, Customer may be required to obtain access to Non-VKS Applications from their providers, and may be required to grant VKS access to Customer’s account(s) on the Non-VKS Applications. If the provider of a Non-VKS Application ceases to make the Non-VKS Application available for interoperation with the corresponding Product features on reasonable terms, VKS may cease providing those Product features without entitling Customer to any refund, credit, or other compensation.

8. Fees and Payment

8.1 Fees. Customer shall pay all Fees specified in each Order Form. All Fees are quoted and payable in US dollars. Except as otherwise specified herein or in an Order Form, Fees are based on Licenses or Subscriptions purchased and not actual usage, payment obligations are non-cancellable, Fees paid are non-refundable, and the number of Licenses or Subscriptions purchased cannot be decreased during the relevant Subscription Term stated in an Order Form. Maintenance Fees are payable yearly, in advance of, and in any event no later than the anniversary date of the Order Form under which the Software was ordered by Customer.

8.2 Invoicing and Payment. Fees for Licenses and Subscriptions will be invoiced in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, charges are due net thirty (30) days from the invoice date. Customer is responsible for maintaining complete and accurate billing and contact information with VKS.

8.3 Overdue Charges. Any payment not received from Customer by the due date may accrue (except with respect to charges then subject to a reasonable and good faith dispute), at VKS’ discretion, late charges at the rate of 1.5% of the outstanding balance per month (19.57% per annum), or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid.

8.4 Suspension for Non-Payment. VKS may immediately suspend Customer’s Subscription or License, as the case may be, to use the applicable Product if Customer fails to make any payment due in respect of such Product and does not cure such non-payment within ten (10) business days after receiving notice of such failure. Any suspension of the rights hereunder by VKS under the preceding sentence shall not excuse Customer from its obligation to make all payment(s) under the Agreement.

8.5 Payment Disputes. VKS will not exercise its rights under Sections 8.3 or 8.4 hereof if Customer is disputing the applicable charges reasonably and in good faith and is cooperating to resolve the dispute.

8.6 Taxes. Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, HST, GST, sales, value-added, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, “Taxes”). Customer is responsible for paying all Taxes associated with its purchases hereunder. If VKS has the legal obligation to pay or collect Taxes for which Customer is responsible under this Section, VKS will invoice Customer and Customer will pay that amount unless Customer provides VKS with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, VKS is solely responsible for Taxes assessable against it based on its income, property and employees.

8.7 Price Modification. VKS reserves the right at any time to modify and or adjust pricing and or fees for its Products.

9. Audits

9.1 Right to Audit. VKS shall have the right, with reasonable notice and during normal business hours, at VKS' sole expense and in as non-disrupting a manner as reasonably possible, to verify Customer's compliance with Customer's obligations hereunder through a remote or an on-site audit of Customer's records, facilities and licensing processes by VKS or a third party representative of VKS. Customer shall permit up to one such audit per year, including once during the 12 month period following the termination of this Agreement for any reason. VKS may use such audit reports solely to enforce its rights hereunder and shall otherwise treat audit reports and any information received in connection with such audits as Customer's Confidential Information.

9.2 Costs of Audit. In the event that an audit establishes that Customer is in material breach of its obligations hereunder, Customer shall reimburse VKS for the cost of the audit and shall promptly pay to VKS all outstanding Fees.

10. Confidentiality Obligations

The VKS Service and the Software, whether provided in source code or object code form, including without limitation, the specific design, structure and logic of individual programs, their interactions both internal and external, and the programming techniques employed therein are considered confidential and trade secrets of VKS and/or its licensors (the "**Confidential Information**"), the unauthorized disclosure of which would cause irreparable harm to VKS. Customer shall not use such Confidential Information except to the extent necessary to exercise the rights granted to Customer under Section 2 of this Agreement. For greater certainty, Customer shall not disclose any performance, benchmarking, or feature-related information about the Software or the VKS Service. Customer further agree not to disclose, transfer or otherwise provide to any third party any portion of the Software, the VKS Service, Documentation or Confidential Information or know-how, except as explicitly permitted herein. Customer shall use the same degree of care and means that Customer use to protect Customer's own information of a similar nature, and in any event, shall use reasonable efforts to prevent the disclosure of Confidential Information to any third parties. This confidentiality obligation shall continue to apply to the Confidential Information following the termination hereof, provided that the confidentiality provisions contained herein shall not apply to Confidential Information which (i) was known by Customer prior to disclosure, as evidenced by its business records; (ii) was lawfully in the public domain prior to its disclosure, or becomes publicly available other than through a breach of the confidentiality provisions contained herein; (iii) was disclosed to Customer by a third party, provided such third party or any other party from whom such third party receives such information is not in breach of any confidentiality obligation in respect of such information; or (iv) is disclosed when such disclosure is compelled pursuant to legal, judicial, or administrative proceeding, or otherwise required by law, provided that Customer shall give all reasonable prior notice to VKS to allow it to seek protective or other court orders.

11. Warranties and Disclaimers

11.1 Limited Warranties Applicable to Software Licenses.

(a) Warranties. VKS represents and warrants that (i) the Software will perform materially in accordance with the Documentation for a period of thirty (30) days following the date of the receipt of the license key for the Software by the Customer; (ii) the Software, including any update thereto will not contain any Malicious Code at the time of delivery to Customer; (iii) it owns or otherwise has sufficient rights in the Software and Documentation to grant to Customer the rights to use the Software and Documentation granted herein; and (iv) to its knowledge, the Software and Documentation do not infringe any intellectual property rights of any third party. VKS does not warrant, however, that the Customer's use of the Software will be uninterrupted, that the operation of the Software will be error-free, that the Software will meet the Customer's requirements or that all errors will be corrected.

(b) Remedy. In the event of a breach during the applicable warranty period of one or more of the warranties set forth in Section 11.1(a) above, VKS shall use reasonable commercial efforts to correct

such breach of the warranty. If VKS is unable to remedy the breach of warranty within a reasonable time, VKS shall refund the purchase price of the Software.

(c) Exclusions. The foregoing warranty is only applicable if VKS receives written notice of a breach of warranty within thirty (30) days after the end of the applicable warranty period. Such notice must contain sufficient information regarding the circumstances under which the warranty breach can be observed. The warranty shall not apply to the extent that the breach is caused by misuse, negligence, accident, unauthorized modification, alteration, customization or repair, improper operation or maintenance.

11.2 Limited Warranties Applicable to the VKS Service.

(a) Warranties. VKS represents and warrants that (i) the VKS Service will perform materially in accordance with the Documentation during the Subscription Term; (ii) the VKS Service will not contain any Malicious Code; (iii) it owns or otherwise has sufficient rights in the VKS Service and Documentation to grant to Customer the rights to access and use the VKS Service and Documentation granted herein; (iv) VKS will not materially decrease the overall security of the VKS Service during the Subscription Term, and (v) to its knowledge, the VKS Service and Documentation do not infringe any intellectual property rights of any third party. VKS does not warrant, however, that the Customer's use of the VKS Service will be uninterrupted, that the operation of the VKS Service will be error-free, that the VKS Service will meet the Customer's requirements or that all errors will be corrected.

(b) Remedy. In the event of a breach of one or more of the warranties set forth in Section 11.2(a) above, VKS shall use reasonable commercial efforts to correct such breach of the warranty. If VKS is unable to remedy the breach of warranty within a reasonable time then either Customer or VKS may terminate the Order Form for the VKS Service and VKS shall refund to Customer any pre-paid, unused Subscription Fee for the terminated portion of the then-current Subscription Term.

(c) Exclusions. A notice of a breach of warranty must contain sufficient information regarding the circumstances under which the warranty breach can be observed. The warranty shall not apply to the extent that the breach is caused by misuse, negligence, accident, unauthorized modification, alteration, customization or repair, improper operation or maintenance.

11.3 Technical Services Warranty. VKS warrants to Customer that VKS will perform any Technical Services in a professional and workmanlike manner. In the event that the Customer makes a breach of warranty claim in relation to any Technical Services, then VKS will use reasonable efforts to correct the non-conformity. If VKS cannot do so within 60 days of Customer's warranty claim, either party may terminate the affected Order Form for such Technical Services as relates to the non-conforming Technical Services and VKS will then refund to Customer any fees paid for the non-conforming Technical Services.

11.4 Exclusive Remedies. THE WARRANTIES SET OUT IN SECTIONS 11.1, 11.2 AND 11.3 HEREOF ARE THE ONLY WARRANTIES PROVIDED BY VKS AND THE REMEDIES SET OUT IN SECTIONS 11.1(b) AND 11.2(b) HEREOF ARE THE SOLE AND EXCLUSIVE REMEDIES OF CUSTOMER FOR A BREACH OF WARRANTY.

11.5 Disclaimer. EXCEPT AS EXPRESSLY PROVIDED HEREIN, VKS MAKES NO REPRESENTATIONS AND PROVIDES NO WARRANTIES OR CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED REPRESENTATIONS, WARRANTIES AND/OR CONDITIONS, INCLUDING ANY REPRESENTATIONS, WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY, DURABILITY, SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. NON-VKS APPLICATIONS AND BETA PRODUCTS ARE PROVIDED "AS IS," EXCLUSIVE OF ANY WARRANTY WHATSOEVER. VKS DISCLAIMS ALL LIABILITY AND INDEMNIFICATION OBLIGATIONS FOR ANY HARM OR DAMAGES CAUSED BY ANY THIRD-PARTY HOSTING PROVIDERS.

11.6 Internet Connectivity Disclaimer. VKS makes the VKS Service available for access via the Internet. Customer shall provide, at Customer's own expense, all necessary hardware, applications and Internet connectivity necessary to access the VKS Service over the Internet. Customer hereby acknowledges that the VKS Service may be interrupted due to (a) website downtime for scheduled maintenance at VKS' sole discretion, or (b) interruptions in Internet connectivity or other website downtime caused by circumstances beyond VKS' control, including, without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems, computer or telecommunications failures, or delays involving hardware or software not within VKS' control or network intrusions. Customer hereby acknowledges and agrees that VKS shall not, in any way, be liable for, or have responsibility with respect to, any such service interruptions and releases VKS from any claims relating thereto.

11.7 High-Risk Activities. The Software and the VKS Service are not fault-tolerant and neither is designed, manufactured or intended for use in or in conjunction with on-line control equipment in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation systems, air traffic control, or direct life support machines. VKS, and/or its Affiliates, licensors, suppliers, subcontractors and distributors specifically disclaim any express or implied representations, warranties or conditions for such uses.

12. Infringement Indemnification

12.1 Indemnification by VKS. Subject to this Agreement, VKS shall defend, indemnify and hold Customer harmless against any loss, damage or costs (including reasonable legal fees) incurred in connection with claims, demands, suits, or proceedings made or brought against Customer by a third party alleging that the use of the Software, the VKS Service and/or Documentation as contemplated hereunder infringes the intellectual property rights of a third party (each an "**Infringement Claim**"); provided, that Customer (a) promptly gives written notice of the Infringement Claim to VKS; (b) gives VKS sole control of the defense and settlement of the Infringement Claim (provided that VKS may not settle or defend any Infringement Claim unless it unconditionally releases Customer of all liability); and (c) provides to VKS, at VKS' cost, all reasonable assistance and information.

12.2 Other Remedies. If (a) VKS becomes aware of an actual or potential Infringement Claim, or (b) Customer provides VKS with notice of an actual or potential Infringement Claim, VKS may (or in the case of an injunction against Customer, shall), at VKS' sole option and determination: (i) procure for Customer the right to continue to use the Software or the VKS Service; or (ii) replace or modify the Software or the VKS Service with equivalent or better software so that Customer's use is no longer infringing; or (iii) if (i) and (ii) are not commercially reasonable, as determined by VKS in its sole discretion, terminate the Licenses and Subscriptions for such Software or the VKS Service and (A) in the case of Subscriptions, refund to Customer that portion of any prepaid Subscription Fee that is applicable to the period following the termination of the Subscription; and (B) in the case of Licenses, refund to Customer the License Fee, less an amount for depreciation based upon a straight-line depreciation over three (3) years.

12.3 Exclusions. The indemnity in Section 12.1 does not extend to (a) any Infringement Claim based upon infringement or alleged infringement of any patent, trademark, copyright or other intellectual property right by the combination of the Software furnished by VKS with other products, software or services not provided or approved by VKS, other than Software designed by VKS with certain commercial hardware or other commercially available software, if such infringement would have been avoided but for such combination; (b) any Infringement Claim related to or in connection with any modification of the Software by anyone other than VKS if such infringement would have been avoided but for such modification; (c) any Infringement Claim in respect of any version of the Software or the VKS Service other than the most current version; or (d) any use, distribution, sublicensing or exercise of any other right outside the scope of the licenses or rights granted in this Agreement.

12.4 Limitation. Notwithstanding any other provision of this Agreement, the liability of VKS to Customer under this Section 12 shall not exceed \$1,000,000. VKS agrees to obtain Customer's consent for any settlement in excess of \$1,000,000. In no event shall VKS be responsible for any cost, expense or compromise incurred or made by Customer without VKS' prior written consent.

12.5 Sole Remedies. THIS SECTION 12 CONTAINS VKS' ENTIRE LIABILITY, AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES, FOR INFRINGEMENT CLAIMS.

13. Indemnification by Customer.

Customer will defend VKS against any claim, demand, suit or proceeding made or brought against VKS by a third party alleging that Customer Data, or Customer's use of any Products in breach of this Agreement, infringes or misappropriates such third party's intellectual property rights or violates applicable law (a "**Claim Against VKS**"), and will indemnify VKS from any damages, legal fees and costs finally awarded against VKS as a result of, or for any amounts paid by VKS under a court-approved settlement of, a Claim Against VKS, provided VKS (a) promptly gives Customer written notice of the Claim Against VKS, (b) gives Customer sole control of the defense and settlement of the Claim Against VKS (except that Customer may not settle any Claim Against VKS unless it unconditionally releases VKS of all liability), and (c) gives Customer all reasonable assistance, at Customer's expense.

14. Limitation of Liability

14.1 Exclusion of Indirect and Consequential Damages. SUBJECT TO SECTION 14.3 HEREOF, IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA, LOST SAVINGS OR OTHER SIMILAR PECUNIARY LOSS).

14.2 Limitation of Liability. SUBJECT TO SECTION 14.3 HEREOF, IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR RELATING TO THE SUBJECT MATTER HEREOF FOR ALL CLAIMS, COSTS, LOSSES AND DAMAGES EXCEED THE AMOUNTS ACTUALLY PAID BY AND DUE FROM CUSTOMER HEREUNDER IN THE TWELVE MONTHS PRECEDING THE INCIDENT GIVING RISE TO LIABILITY.

14.3 Certain Damages Not Excluded or Limited. NOTWITHSTANDING THE FOREGOING, SECTIONS 14.1 AND 14.2 DO NOT APPLY TO (I) DAMAGES ARISING FROM A PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS HEREUNDER, (II) INDEMNIFICATION CLAIMS (PROVIDED, HOWEVER, THAT THE LIMITATION CONTAINED IN SECTION 12.4 SHALL APPLY TO INDEMNIFICATION CLAIMS MADE UNDER SECTION 12 HEREOF), (III) DAMAGES ARISING FROM INFRINGEMENT OF A PARTY'S INTELLECTUAL PROPERTY RIGHTS; (IV) ANY CLAIMS FOR NON-PAYMENT, (V) FRAUD OR WILLFUL MISCONDUCT, OR (VI) BODILY INJURY OR DEATH.

14.4 Application of Exclusions and Limitations. The foregoing limitations and exclusions of liability shall apply even if a party had been advised of the possibility of any such costs, losses or damages or knew or ought to have known of such costs, losses or damages and shall apply regardless of whether the action arose in contract, including, without limitation, from a fundamental breach, or breach of a condition, fundamental term or warranty, or in tort (including, without limitation negligence) or otherwise. The foregoing provisions limiting the liability of VKS shall also apply to its officers, directors, employees, and agents as trust provisions for the benefit of such officers, directors, employees, and agents and shall be enforceable by such persons as trust beneficiaries.

15. Term

15.1 Term, Renewal. Software Licenses and VKS Service Subscriptions commence on the start date specified in the relevant Order Form and continue for the initial Subscription Term or License Term specified therein (the "**Initial Term**") unless terminated earlier in accordance with this Agreement. Software Licenses, Maintenance and Support and VKS Service Subscriptions shall automatically renew for additional periods equal to the expiring Subscription Term, License Term or Maintenance and Support term, as applicable, or one year (whichever is shorter) (each a "**Renewal Term**"), at the then-current Fees, unless either party gives the other notice of non-renewal at least 30 days prior to the end of the current License Term, Maintenance and Support term or Subscription Term. VKS shall provide the Customer with written notice of the Fees for each upcoming Renewal Term at least 60 days prior to the end of the then-current Subscription Term, License Term or Maintenance and Support term. During the Initial Term, VKS may only increase the Fees annually, and any such pricing increase will not exceed 7% of the pricing for the applicable Product in the immediately prior year,

unless the pricing in the first year of the Initial Term was designated in the relevant Order Form as promotional or one-time.

15.2 Termination. A party may terminate this Agreement for cause (i) upon 30 days' written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

15.3 Refund or Payment upon Termination. If this Agreement is terminated by Customer in accordance with Section 15.2, VKS will refund Customer any prepaid Subscription Fees covering the remainder of the term of all Subscriptions after the effective date of termination. If this Agreement is terminated by VKS in accordance with Section 15.2, Customer will pay any unpaid Subscription Fees covering the remainder of the Subscription Term for any current Subscriptions. In no event will termination relieve Customer of its obligation to pay any Fees payable to VKS for the period prior to the effective date of termination.

15.4 Customer Data Portability and Deletion. Upon request by Customer made within 30 days after the effective date of termination or expiration of this Agreement, VKS will make certain Customer Data available to Customer for export or download as provided in the Documentation. After such 30-day period, VKS will have no obligation to maintain or provide any Customer Data, and will thereafter delete or destroy all copies of Customer Data in its systems or otherwise in its possession or control as provided in the Documentation, unless legally prohibited.

15.5 Customer Obligations on Termination. Customer shall, upon termination, return to VKS or destroy all copies of the Software. Customer may terminate this Agreement by destroying all copies of the Software under Customer's control and notifying VKS of such destruction.

15.6 Suspension of Access to VKS Service. In addition to any termination rights of VKS pursuant to this Agreement, extraordinary circumstances may require VKS to suspend or terminate (where appropriate), as determined in VKS' reasonable discretion, Customer's access to and/or use of, or otherwise modify, the VKS Service in order to: (a) prevent material damages to, or material degradation of the integrity of, VKS' or its provider's Internet network; or (b) comply with any law, regulation, court order, or other governmental order. VKS will notify Customer of such suspension or termination action as far in advance of such suspension or termination as reasonably possible, and if such advance notice is not possible, then as soon as possible after such suspension or termination. In the event of a suspension pursuant to this Section 15.6, VKS will limit such suspension to that which is minimally required and will promptly restore Customer's access to the VKS Service as soon as the event giving rise to the suspension has been addressed (including by Customer agreeing to accept the risks associated with such suspension) or resolved. Unless caused by a breach of this Agreement by Customer: (i) all Subscription Fees related to the Subscription, or other suspended services shall be waived for the duration of a suspension under this Section 15.6; and (ii) in the event of a termination in connection with this Section 15.6, Customer shall receive a refund of any and all prepaid Subscription Fees applicable to the remainder of the then-current Subscription Term.

16. Support

16.1 VKS Service. During the Subscription Term, VKS will provide Maintenance and Support for the VKS Service to Customer, at no additional charge, in accordance with the Support Term. VKS may amend the Support Terms by giving Customer at least thirty (30) days' written notice of any amendments thereto. VKS shall not be required to provide Maintenance and Support if Customer is in default of any of Customer's obligations under this Agreement.

16.2 Software. Maintenance and Support is not included in the License Fee for a Software License after the first year of the License Term. If Customer requires Maintenance and Support for the Software after the initial year of the License, Customer shall pay VKS an annual Maintenance Fee for the provision, by or on behalf of VKS, of Maintenance and Support to the Customer in accordance with the Support Terms. In the event VKS discontinues the Software, VKS will provide Customer with one hundred and eighty (180) days' notice of the termination of the Maintenance and Support and will return a pro-rata amount of the Maintenance Fee paid by Customer for the period of time that Maintenance and Support will not be provided.

17. Escrow

17.1 Escrow Agreement. VKS has entered into an escrow agreement ("**Escrow Agreement**") with Iron Mountain Canada d/b/a DSI Technology Escrow Services, Inc. (the "**Escrow Agent**"). Pursuant to the Escrow Agreement, VKS has delivered to the Escrow Agent the source code for the Software, together with all supporting information, tools, notes and other information necessary and sufficient to allow a reasonably qualified person to support and maintain the Software (collectively the "**Deposit Materials**"). VKS shall update the Deposit Materials with each successive major release of the Software.

17.2 Customer Enrollment as a Beneficiary. Upon receipt of a written request from Customer, VKS shall provide Customer with a Beneficiary Enrollment Form pursuant to which Customer may become a party to, and a beneficiary under, the Escrow Agreement. Customer may enroll as a beneficiary under the Escrow Agreement by completing the Escrow Agent's Beneficiary Enrollment Form and paying the applicable fees (the "**Escrow Fees**").

17.3 Limited License to Use Deposit Materials. Upon the occurrence of the Release Condition (as defined in the Escrow Agreement) and the release of the Deposit Materials to Customer, VKS hereby grants to Customer (provided that Customer is at such time a beneficiary under the Escrow Agreement and is current in the payment of the Escrow Fees) a perpetual, irrevocable, non-exclusive, non-transferable, royalty-free, worldwide license to use (for internal purposes only) and modify the source code for the Software for the sole purpose of continuing Customer's licensed use of the Software or the VKS Service during the License Term or the Subscription Term. Customer shall maintain the confidentiality of the released Deposit Materials in accordance with Section 10 hereof.

18. Technical Services

18.1 Services and Statements of Work. If agreed to in an Order Form, VKS will provide Technical Services on a time and materials basis according to the terms and conditions in the Order Form, a Statement of Work and in this Section 18. Technical Services generally include: instruction and training on the use of VKS Products and services; installation of hardware, and other services as agreed between Customer and VKS. All Technical Services to be performed shall be delivered directly to Customer or Customer's designates as a Technical Services engagement. Customer shall have the right to request that the Technical Services engagement be described in a written Statement of Work. If a deliverable under a Statement of Work becomes a part of the Software or the VKS Service then it shall be governed by the terms of this Agreement. Any deliverable under a Statement of Work that does not become a part of the Software or VKS Service shall be governed by the terms of the applicable Statement of Work. If no Statement of Work has been requested, VKS will deliver Technical Services as a series of mutually agreed-upon tasks.

18.2 Price and Payment. Customer shall pay fees on a time and materials basis at VKS' then-current rates for Technical Services. Customer shall reimburse VKS for all reasonable out of pocket expenses (including travel, lodging and related expenses) incurred by VKS in the performance of any Technical Services, provided that such expenses are approved in advance in writing by Customer. The fees for Technical Services shall exclude all applicable federal, state, provincial, value-added, goods and services, harmonized and local taxes (other than taxes on VKS' net income). VKS shall invoice Customer for fees for Technical Services and development of deliverables provided pursuant to the applicable Statement of Work. All such fees shall be paid within thirty (30) days of the date of the invoice.

18.3 Term and Termination. The term of the Technical Services engagement shall be specified in the Order Form or in a Statement of Work. If Customer terminates a Technical Services engagement for any reason, Customer shall pay VKS the full fee for any Technical Services performed (including all other costs for which VKS has the right to reimbursement) up to the effective date of termination of such Technical Services engagement. Either party shall be entitled to immediately terminate a Technical Services engagement for cause in the event of the material breach by the other party of its obligations under this Agreement or a Statement of Work, provided that such material breach is notified to such party and is not cured within thirty (30) days of the date of such notice.

18.4 Intellectual Property Rights. VKS shall own all right, title and interest and all intellectual property rights to any deliverables created by VKS pursuant to a Technical Services engagement. VKS shall retain all right, title and interest and all intellectual property rights to any and all VKS proprietary information and software.

19. Export Restrictions; US Government Licenses

Customer acknowledges and agrees that the Software and related information are subject to export and import restrictions under the regulations of Canada, the United States and other countries, and Customer shall comply with all export and import control regulations of such countries. By downloading, installing, or using the Software, Customer hereby represents and warrants that Customer is not located in, under the control of, and is not a national or resident of, any country to which the export of the Software or related information would be prohibited by the laws and/or regulations of Canada and/or the United States. Customer also represents and warrants that Customer is not an individual to whom the export of the Software or related information would be prohibited by the laws and/or regulations of Canada and/or the United States. Customer shall comply with the export laws and regulations of Canada and the United States that are applicable to the Software and related information and Customer shall comply with any local laws and/or regulations in Customer's jurisdiction that may impact Customer's right to export, import, or use the Software or related information, and Customer represents and warrants that Customer has complied with any such applicable laws and/or regulations. The Software shall not be used for any purposes prohibited by export laws and/or regulations, including, without limitation, nuclear, chemical, or biological weapons proliferation. Customer shall be responsible for procuring all required permissions for any subsequent export, import, or use of the Software or related information. Notwithstanding any agreement with a third-party or any provision of law, regulation or policy, if Customer is an agency of the government of the United States of America, then Customer's rights in respect of the Software and Documentation shall not exceed the rights provided under this Agreement, unless expressly agreed upon by VKS in a written agreement between Customer and VKS and signed by a Chief Operating Officer or Chief Executive Officer of VKS.

20. Assignment

Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety (including all Order Forms), without consent of the other party, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the other party. Any attempt by a party to assign its rights or obligations under this Agreement in breach of this Section shall be void and of no effect. If a party is acquired by, sells substantially all of its assets to, or undergoes a change of control in favor of, a direct competitor of the other party, then such other party may terminate this Agreement upon written notice. In the event of such a termination, VKS will refund to Customer any prepaid Subscription Fees or Maintenance Fees covering the remainder of the term of all Subscriptions or Maintenance and Support contracts. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

21. Force Majeure.

In the event that either party is prevented from performing, or is unable to perform, any of its obligations under this Agreement due to any cause beyond the reasonable control of the party invoking this provision (including, without limitation, for causes due to war, fire, earthquake, flood, hurricane, riots, epidemic or pandemic, acts of God, telecommunications outage not caused by the obligated party, or other similar causes) ("**Force Majeure Event**"), the affected party's performance will be excused and the time for performance will be extended for the period of delay or inability to perform due to such occurrence; provided that the affected party: (a) provides the other party with prompt notice of the nature and expected duration of the Force Majeure Event; (b) uses commercially reasonable efforts to address and mitigate the cause and effect of such Force Majeure Event; (c) provides periodic notice of relevant developments; and (d) provides prompt notice of the end of such Force Majeure Event. Obligations to pay are excused only to the extent that payments are entirely prevented by the Force Majeure Event.

22. General

The failure of a party to claim a breach of any term of this Agreement shall not constitute a waiver of such breach or the right of such party to enforce any subsequent breach of such term. No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. If any provision of this Agreement is held to be unenforceable or illegal, such decision shall not affect the validity or enforceability of such provisions under other circumstances or the remaining provisions of this Agreement and this Agreement shall be reformed only to the extent necessary to make it enforceable under such circumstances. This Agreement shall be governed by the laws of the Province of Quebec, without regard to its conflict of law principles. The courts located in the Province of Quebec shall have exclusive jurisdiction to adjudicate any dispute arising out of or relating to this Agreement and each party hereby consents to the exclusive jurisdiction of such courts. The application of the *United Nations Convention on Contracts for the International Sale of Goods* to this Agreement is expressly excluded and the Uniform Computer Information Act does not apply to this Agreement. This Agreement is the entire agreement between Customer and VKS in respect to the subject matter hereof, superseding any other agreements or discussions, oral or written, and may not be changed except by a written agreement with VKS. Customer agrees that Customer's purchase of Licenses or Subscriptions is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written public comments made by VKS with respect to future functionality or features. Except for Order Forms accepted by VKS, the terms and conditions of this Agreement shall prevail over any pre-printed terms on any quotes, orders, purchase orders, or purchase order acknowledgements, and shall prevail over any other communications between the parties in relation to the VKS Service, Software and Documentation and the VKS Service, Software and Documentation shall be deemed to be licensed pursuant to the terms and conditions of this Agreement, unless Customer has executed a written agreement with VKS, in which case the VKS Service, Software and Documentation shall be deemed to have been licensed pursuant to the terms and conditions of such written agreement. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity. The parties hereto confirm that they have requested that this agreement and all related documents be drafted in English. Any French translation hereof has been provided for information purposes only and does not have any legal value nor create any contractual relationship between the parties. *Les parties aux présentes ont exigé que la présente entente et tous les documents connexes soient rédigés en anglais. Toute traduction de celle-ci est non-officielle, est fournie à des fins d'information seulement et ne crée aucun lien contractuel entre les parties.*

23. Counterparts and Facsimile Execution and Delivery.

Order Forms may be signed electronically, including through *DocuSign* and similar applications. Each Order Form may be signed in any number of counterparts (including counterparts by scanned or electronic signature) and each counterpart will be deemed an original; taken together, all counterparts will be deemed to constitute one and the same instrument. Delivery of a printed counterpart (whether or not the counterpart was signed electronically) or electronic delivery (including by email transmission or transmission over an electronic signature platform) of an executed counterpart of this Agreement are each as valid, enforceable and binding as if the signatures were upon the same instrument and delivered in person.