



General Conditions of Use for ifm Cloud Software

These General Conditions of Use for Cloud Software (the “Terms”), including the applicable ifm Acknowledgement (as defined below) which by reference is incorporated herein and made a part hereof, apply to the use of the ifm Cloud Software (as herein defined).

IFM PROVIDES THE CLOUD SOFTWARE SOLELY ON THE TERMS SET FORTH IN THESE TERMS AND ON THE CONDITION THAT THE CUSTOMER ACCEPTS AND COMPLIES WITH THEM. BY USING THE CLOUD SOFTWARE, THE CUSTOMER (A) ACCEPTS THESE TERMS AND AGREES THAT IT IS LEGALLY BOUND BY SUCH TERMS; AND (B) REPRESENTS AND WARRANTS THAT: (I) THE CUSTOMER HAS THE RIGHT, POWER, AND AUTHORITY TO ENTER INTO THESE TERMS ON BEHALF OF CUSTOMER AND BIND THE CUSTOMER TO ITS TERMS. IF THE CUSTOMER DOES NOT AGREE TO THESE TERMS, IFM WILL NOT AND DOES NOT LICENSE THE CLOUD SOFTWARE TO THE CUSTOMER AND THE CUSTOMER MUST NOT DOWNLOAD OR ACCESS THE CLOUD SOFTWARE OR DOCUMENTATION (AS HEREINAFTER DEFINED). AND IFM SHALL HAVE NO LIABILITY TO CUSTOMER HEREUNDER OR AT LAW.

These Terms are subject to change by ifm, the latest version of which will be posted on the ifm.com country-specific webpage. The Customer’s continued use of the Cloud Software constitutes acceptance of and agreement to such changes.

1. Definitions

“**Affiliate**” means any entity that, directly or indirectly, controls, is controlled by or is under common control with such entity (but only for so long as such control exists), where “control” means the ownership of more than 50% of the outstanding shares or securities representing the right to vote in the election of directors or other managing authority of such entity.

“**Authorized User**” means individuals who are employees or contractors of the Customer or its Affiliates and who will use the Cloud Software in order to perform their obligations to the Customer or its Affiliates.

“**Cloud Software**” means the ifm Cloud Software identified on the applicable ifm Acknowledgement.

“**Confidential Information**” means non-public business information, know-how, and trade secrets in any form, including information regarding a party’s product plans and any other information a reasonable person should understand to be confidential, which is disclosed by or on behalf of either party to the other party. Confidential Information does not include information that (i) was publicly known and in the public domain prior to the time of disclosure by the disclosing party; (ii) becomes publicly known and made generally available after disclosure by the disclosing party through no action or inaction of the receiving party; (iii) is already in possession of the receiving party at the time of disclosure, as shown by the receiving party’s files and records; (iv) is obtained by the receiving party from a third party without breach of the third party’s obligations of confidentiality; or (v) is independently developed by the receiving party without use or reference to the disclosing party’s Confidential Information.

“**Customer**” means the entity identified on the applicable ifm Acknowledgement.

“**Customer Data**” means all data, information, and other content uploaded, stored, recorded, retrieved, or transmitted by the Customer through its use of the Cloud Software.

“**Documentation**” means the product description, version or release notes, operation manuals and other user manuals relating to the Cloud Software, as applicable, and made available to the Customer.

“**Effective Date**” or “**Activation Date**” means the earlier of the Customer’s activation of the Cloud Software key, or ninety (90) days from the Customer’s purchase of the Cloud Software.

“**Fee**” means the price for the Cloud Software as defined on the ifm Acknowledgement.

“**ifm**” means the ifm entity identified on the applicable ifm Acknowledgement.

“**ifm Acknowledgment**” means ifm’s Order Acknowledgment and/or Contract Acknowledgement governing the Customer’s purchase of the applicable Cloud Software.

“**Intellectual Property Rights**” means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

“**Subscription**” means the annual subscription purchased by the Customer for its use of the Cloud Software but does not include any hardware and/or applicable communications services, devices, or equipment.

“**Term**” means the duration of the license as defined under Section 13 of these Terms.

“**Third Party Licenses**” means license terms to software, content, data, data storage, or other materials, including the related documentation, that may be contained in the Cloud Software, but are owned by third parties.

“**Update**” means any updates, bug fixes, patches, or other corrections to the Cloud Software that ifm generally makes available free of charge to all customers of the Cloud Software.

2. Usage Rights for the Cloud Software

Subject to and conditioned upon the Customer’s payment of the Fees and compliance with these Terms, ifm hereby grants the Customer a non-transferable, non-sublicensable, non-exclusive, worldwide license, during the Term and solely by and through its Authorized Users. The Customer does not receive any further rights, in particular to the Cloud Software, or if applicable, to the infrastructure services provided in the respective computer centre. Any additional use rights require the prior written approval of ifm.



The Cloud Software may contain Third Party Licenses, including open-source licenses, that are in addition to and/or different from those contained in these Terms. If required by the Third Party Licenses, the applicable Third Party Licenses are listed in the respective Documentation. The Customer is bound by and shall comply with all Third Party Licenses. Any breach by Customer or any of its Authorized Users of any Third Party Licenses is also a breach of these Terms.

The Authorized Users may access the Cloud Software simultaneously from any number of workstations. Each Authorized User will receive a user account consisting of a user ID and password after completing the registration process. The Customer agrees to handle user access data and passwords confidentially and to inform ifm immediately in writing if third parties have obtained knowledge of the Customer's user access data and/or passwords.

Any ifm hardware (such as ifm IOKey, ifm Edge Devices, and other applicable devices) that are required to transfer data to the Software Cloud must be registered under the Customer's account in the Cloud Software.

For product descriptions of the Cloud Software and the services offered (scope of services, nature, functionality, and conditions of use) please refer to the respective Documentation. To be able to use the Cloud Software as outlined in the Documentation, certain technical system requirements (especially for Internet access) must be met by the Customer. The required browsers and the web addresses to be shared for use of the Cloud Software are described in the Documentation. ifm is not responsible or liable for any resulting issues, damage, loss, etc. due to the Customer's failure to meet these technical system requirements.

ifm may from time-to-time update and/or modify the Cloud Software (i.e., infrastructure, security, technical configurations, application functions, etc.) and will update the applicable Documentation accordingly. Such modification will not substantially alter the functions and functionalities or the performance, security or availability of the respective Cloud Software. All such changes will be documented in the applicable release notes for the Cloud Software and available at status.ifm, or the ifm business solutions customer portal as specified in the SLA (as defined below).

The Customer is responsible and liable for all uses of the Cloud Software through access thereto provided by Customer, directly or indirectly. Specifically, and without limiting the generality of the foregoing, the Customer is responsible and liable for all actions and failures to take required actions with respect to the Cloud Software by its Authorized Users or by any other person to whom the Customer or an Authorized User may provide access to or use the Cloud Software, whether such access or use is permitted by or in violation of these Terms.

The Customer shall not, and shall require its Authorized Users not to, directly or indirectly: (i) use the Cloud Software in violation of any law regulation or rule; (ii) use the Cloud Software outside the permitted usage described in Cloud Software Documentation, (iii) use the Cloud Software in a way that endangers the security or performance of the Cloud Software ; (iv) use (including making copies of) the Cloud Software or Documentation beyond the scope of the license granted under this Section; (v) provide any other, including any subcontractor, independent contractor, Affiliate, or service provider of the Customer, with access to or use of the Cloud Software or Documentation; (vi) modify, translate, adapt, or otherwise create derivative works or improvements, whether or not patentable, of the Cloud Software or Documentation or any part thereof; (vii) combine the Cloud Software or any part thereof with, or incorporate the Cloud Software or any part thereof in, any other programs; (viii) reverse engineer, disassemble, decompile, decode, or otherwise attempt to derive or gain access to the source code of the Cloud Software or any part thereof; (ix) remove, delete, alter, or obscure any trademarks or any copyright trademark, patent, or other intellectual property, or proprietary rights notices provided on or with the Cloud Software or Documentation, including any copy thereof; (x) use the Cloud Software or Documentation for competitive analysis of the Cloud Software, the development of competing software product or service, or any other purpose that is to ifm's commercial disadvantage.

These Terms do not govern any more extensive services, such as the development of Customer-specific solutions or adaptations, and such services require a separate written contract with ifm.

3. Right to Audit

During the Term, ifm may, at its sole discretion, use technical measures to monitor and/or audit the Customer's use of the Cloud Software to ensure compliance with these Terms (e.g., licence keys, dongles, licence servers or logging of the Customer's technical usage data). The Customer agrees not to deactivate, modify and/or bypass these measures, not to attempt to undertake any of these actions, and to cooperate with ifm and provide reasonable access requested to perform such audit. In particular the Customer shall (i) create a licence report at the written request of ifm, and (ii) facilitate visits and/or audits on site by the auditor to monitor, evaluate and verify the use of the Cloud Software during regular business hours and with reasonable advance notice.

ifm may audit the Customer exclusively for the purpose of verifying the use of the Cloud Software by the Customer, provided ifm does not have any other more appropriate but equally as effective measures that make it possible to verify the use of the Cloud Software by the Customer. ifm will be responsible for the costs of such audits unless the audit shows that the Customer's use exceeds or exceeded the use permitted under these Terms; in this case the Customer shall be responsible for the costs of the audit. In addition, the Customer shall pay to ifm the retroactive (to date of first unauthorized use) Fees for such excess use and, unless ifm terminates the Customer's Subscription license, obtain and pay for a valid license to bring Customer's use into compliance with these Terms. Ifm's remedies set forth under this Section are cumulative and are in addition to, and not in lieu of, all other remedies ifm may have at law or in equity, whether under these Terms or otherwise.

4. Service Availability and Support

ifm, as part of the license granted hereunder, will provide software maintenance and support services to the Customer in accordance this Section and as described in the Service Level Agreement for ifm Cloud Software available on the applicable country-specific ifm.com webpage ("SLA") which is incorporated herein by reference and made a part hereof: (i) for one (1) year following the Activation Date; and (ii) thereafter, solely if the Customer purchases additional support services.

Maintenance and support services will include the provision of Updates. Ifm may develop and provide Updates in its sole discretion, and the Customer agrees that ifm has no obligation to develop any Updates at all or for particular issues. The Customer further agrees that all Updates will be deemed Cloud Software, and related documentation will be deemed Documentation, all subject to all terms and conditions of these Terms. Maintenance and support services do not include any new version or new release of the Cloud Software that ifm may issue as a separate or new product, and ifm may determine whether any issuance qualifies as a new version, new release, or Update in its sole discretion.

{0311724}ifm has no obligation to provide maintenance and support services, including Updates: (i) for any but the most current version or release of the



Cloud Software; (ii) for any copy of Cloud Software for which all previously issued Updates have not been installed; (iii) if the Customer is in breach under these Terms; or (iv) for any Cloud Software that has been modified other than by or with the authorization of ifm, or that is being used with any hardware, software, configuration, or operating system not specified in the Documentation.

For any software maintenance and support services outside of the scope of these Terms and the SLA, ifm's then-current rate will apply to such services.

In no event will ifm be responsible or liable for the availability or functionality of Third Party Licenses.

5. Collection and Use of Information

The Customer acknowledges that ifm may, directly or indirectly through the services of third parties, collect, process, transmit, and/or store information regarding the use of the Cloud Software and about equipment on which the Cloud Software is installed or through which it otherwise is accessed and used, through (i) the performance of its obligations under these Terms; (ii) provision of maintenance and support services, and (iii) security measures included in the Cloud Software. The Customer agrees that ifm may use such information for any purpose related to any use of the Cloud Software by the Customer or on the Customer's equipment, including but not limited to: (i) ifm's performance of its obligations under these Terms, (ii) improving the performance of the Cloud Software or developing updates; and (iii) verifying the Customer's compliance with these Terms and enforcing ifm's rights, including all Intellectual Property Rights in and to the Cloud Software.

Additionally, the Customer acknowledges that ifm may have access to personal data (as defined by applicable privacy law) as a result of its performance of these Terms. In such event, ifm will (i) comply with applicable laws and regulations, including specifically any applicable data privacy laws, (ii) only use such data as necessary for it to perform its obligations under these Terms and (iii) work with the Customer to follow specific instructions from the Customer for handling this data. The Customer is responsible to obtain any required consents or approvals for such use under applicable data privacy laws.

The Customer further understands and acknowledges that its information, including Customer Data, may be stored, at the Customer's option, outside of its country or region of origin. In such event, the Customer understands, acknowledges, and agrees that such information is subject to the laws of the jurisdiction where the information is stored, including such jurisdiction's privacy laws, data transfer laws and jurisdictional discovery laws. The Customer assumes full responsibility and liability for violation of such laws resulting from its chosen storage location.

ifm will implement and maintain appropriate technical and organizational measures to safeguard the security and confidentiality of the Customer Data in accordance with its ISO/IEC 27001 certification.

6. Issuance of Data

Upon termination of the Customer's Cloud Software Subscription license, ifm will (i) deactivate all user accounts on or after thirty (30) days following such termination, and (ii) store the Customer Data for a period of sixty (60) days after such termination. At the expiration of this 60-day period, ifm will delete all Customer Data. If the Customer requires a copy of its Customer Data, it shall notify ifm of its request in writing within this 60-day period. The requested Customer Data will be issued taking into consideration the Customer's preferences for data storage medium or data transmission, in a data format agreed on between ifm and the Customer.

7. Customer Data and Usage Data, Intellectual Property Rights

The Customer acknowledges and agrees that the Cloud Software, Documentation, and related services are provided under license, and not sold, to the Customer. The Customer does not acquire any ownership interest in the Cloud Software, Documentation, or related services under these Terms, or any other rights thereto, other than to use the same in accordance with the license granted and subject to all terms, conditions and restrictions under these Terms. ifm and its licensors and service providers reserve and shall retain their entire right, title, and interest in and to the Cloud Software and all Intellectual Property Rights arising out of or relating to the Cloud Software, except as expressly granted to the Customer in these Terms. The Customer shall safeguard all Cloud Software (including copies thereof) from infringement, misappropriation, theft, misuse, or unauthorized access.

The Customer shall own all right, title, and interest in and to the Customer Data. The Customer grants ifm and its contractors and agents a non-exclusive right to use the Customer Data and the Customer's usage data to provide the Cloud Software and related services. ifm is furthermore entitled to prepare copies of the Customer Data and usage data in anonymized form and analyse such anonymized data together with the anonymized data of other customers, for example for statistical purposes and to improve and develop the Cloud Software. In relation to any Customer Data that is personal data, such data will be handled in accordance with Section 5 of these Terms.

The Customer shall not upload Customer Data to the Cloud Software that:

- infringes on the rights of third parties;
- violates applicable law;
- may lead to a violation by ifm of applicable law;
- may adversely affect the security of the Cloud Software; or
- may adversely affect the performance of the Cloud Software.

If the Customer violates this provision, ifm may provide written notice to the Customer to delete all such Customer Data from the Cloud Software within a timeframe defined by ifm, or ifm may, within its sole discretion, delete or block such Customer Data in the Cloud Software. In addition, if the Customer uploads or stores Customer Data in the Cloud Software in violation of this Section, the Customer shall indemnify, defend, and hold harmless ifm from all resulting claims and costs against ifm and the Customer shall bear sole responsibility for the resulting costs (including attorneys' fees).

The Customer (i) is solely responsible for the correctness, reliability, quality, integrity and legality of the Customer Data and the methods by which it obtains, retains, secures and destroys the Customer Data, (ii) shall undertake commercially reasonable efforts to prevent unauthorized



access to or unauthorized use of Cloud Software and will inform ifm immediately in writing of any such unauthorized access or any unauthorized use and (iii) shall use the Cloud Software exclusively in conformity with the Documentation. ifm is not required to verify the legality of the Customer Data and/or the Customer's use(s) hereunder.

The Customer explicitly recognizes that ifm will not monitor or check the Customer's communications, or Customer Data uploaded to, or transferred via, the Cloud Software and that ifm is not liable for such communication or transfers.

8. Customer Obligations

In addition to its obligations as described elsewhere in these Terms and the SLA, the Customer shall:

- a) protect the access authorizations assigned to it or its Authorized Users as well as identification and authentication information against access by third parties, and shall not disclose such information or grant access to unauthorized parties;
- b) indemnify ifm from all claims of third parties due to violations of rights that are based on an unlawful use of the Cloud Software or Third Party Licenses by the Customer or that occur with the Customer's consent. If the Customer becomes aware, or ought to be aware, that there is a threat of such a violation, the Customer is obligated to inform ifm immediately;
- c) use options provided by ifm to save its data;
- d) establish, secure, and maintain a data connection between the workstations applicable hardware (i.e., gateway and/or communication equipment, devices, or services), or, where applicable, software (i.e., ERP system) and the Cloud Software as well as the data transfer point defined by ifm. Unless otherwise stipulated, ifm is entitled to redefine the data transfer point at any time, provided this is necessary to facilitate increased availability and functionality of the Cloud Software. In the event the Customer fails to establish, secure, and maintain such connection, ifm shall not be liable for any resulting loss of functionality, availability or use of the Cloud Software;
- e) utilize hardware and software, including the workstation computers, routers, means of data communication, etc., in accordance with the minimum technical requirements in the Documentation for the use of the currently available Cloud Software version;
- f) ensure its Authorized Users with access to the Cloud Software are familiar with the operation of the Cloud Software; and
- g) install and use the Cloud Software on the standard and compatible web browsers described in the Documentation at every Customer workstation from which the Customer intends to access the Cloud Software. The Customer is responsible for the configuration of its IT system.

9. Fees and Payment Terms

All Fees are quoted exclusive of statutory value-added taxes, customs duties or other taxes and fees. The Customer is responsible for paying these costs.

Unless otherwise agreed upon in writing between ifm and Customer as listed in the ifm Acknowledgment, the Fee shall be due and payable by the Customer within thirty (30) days after the date of invoice, net without deduction.

ifm may, with three (3) months written notice prior to the end of the current Term, increase the Fee. Such increase will take effect in the renewal Term.

If the Customer falls in arrears, the Customer hereby expressly agrees that ifm is entitled to charge interest on arrears in the amount of nine percent (9%) annually. Other rights of ifm, in particular the right to compensation for damages and/or collection of fees and costs, remain unaffected.

10. Confidentiality

The parties understand and acknowledge that each may receive Confidential Information of the other. The receiving party of Confidential Information shall take reasonable steps, at least substantially equivalent to the steps it takes to protect its own confidential and proprietary information, but not less than reasonable care, to prevent the unauthorized duplication or use of the disclosing party's Confidential Information, as well as the disclosure of the disclosing party's Confidential Information to third parties without the disclosing party's prior written consent. The receiving party may disclose the Confidential Information to its employees or agents who reasonably need to know and have access to the Confidential Information to perform the receiving party's obligations under these Terms, and who will treat the Confidential Information in accordance with these Terms.

11. Warranty

Solely with respect to Cloud Software for which ifm receives a Fee, ifm warrants that: (i) it has sufficient right, title and interest in the Cloud Software to license the Cloud Software to the Customer in accordance with these Terms; (ii) the Customer's use of the Cloud Software in accordance with these Terms will not infringe, misappropriate or otherwise violate any third party intellectual property or other proprietary rights; and (iii) for one (1) year from the Activation Date for such Cloud Software, the Cloud Software will materially conform to the applicable Documentation. This shall be the sole and exclusive remedy to the Customer in the event of a warranty claim.

If as a result of an infringement claim, the Customer's use of the Cloud Software is enjoined by a court of competent jurisdiction, ifm will, at its option and expense, either: (i) procure the right to continue its use; (ii) modify it to make it non-infringing; or (iii) replace it with a non-infringing functional equivalent. In the event none of the foregoing are reasonably feasible, ifm may terminate the Subscription license and refund the Customer for unused and prepaid Fees. This shall be the sole and exclusive remedy to the Customer in the event of an infringement claim.

THE FOREGOING WARRANTIES DO NOT APPLY, AND IFM STRICTLY DISCLAIMS ALL WARRANTIES, WITH RESPECT TO ANY THIRD-PARTY LICENSES, SERVICES, EQUIPMENT, AND/OR MATERIALS.

{03117243 The warranty set forth in this Section will not apply and will become null and void if the Customer breaches any provision of these Terms, or if



the Customer or any Authorized User, whether or not in violation of these Terms: (i) installs or uses the Cloud Software on or in connection with any hardware or software not specified in Documentation; (ii) modifies or damages the Cloud Software or the media on which it is provided; or (iii) misuses the Cloud Software, including any use of the Cloud Software other than specified in the applicable Documentation.

The Customer shall report in writing any warranty issues to ifm immediately.

EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN THIS SECTION, THE CLOUD SOFTWARE AND RELATED DOCUMENTATION ARE PROVIDED TO CUSTOMER "AS IS" AND WITH ALL FAULTS AND DEFECTS WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, IFM, ON ITS BEHALF AND ON BEHALF OF ITS AFFILIATES AND ITS AND THEIR RESPECTIVE LICENSORS AND SERVICE PROVIDERS, EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THE CLOUD SOFTWARE AND RELATED DOCUMENTATION, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND WARRANTIES THAT MAY ARISE OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE, OR TRADE PRACTICE. WITHOUT LIMITATION TO THE FOREGOING, IFM PROVIDES NO WARRANTY OR UNDERTAKING, AND MAKES NO REPRESENTATION OF ANY KIND THAT THE CLOUD SOFTWARE WILL MEET THE CUSTOMER'S REQUIREMENTS, ACHIEVE ANY INTENDED RESULTS, BE COMPATIBLE, OR WORK WITH ANY OTHER SOFTWARE, APPLICATIONS, SYSTEMS, OR SERVICES, OPERATE WITHOUT INTERRUPTION, MEET ANY PERFORMANCE OR RELIABILITY STANDARDS OR BE ERROR FREE, OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED.

12. Indemnification, Limitation of Liability

ifm will defend, indemnify, and hold harmless the Customer and its employees from and against any and all claims, proceedings, or suits brought by a third party against the Customer and all related settlements and court-awarded liabilities that arise out of or are based on such third party claim resulting from any negligent act or omission by ifm or its personnel.

The Customer will defend, indemnify, and hold harmless ifm and its employees, contractors and agents acting on its behalf, from and against any and all claims, proceedings, or suits brought by a third party against ifm and all related settlements and court-awarded liabilities that arise out of or are based on such third party claim resulting from (including the actual attorneys' fees and other costs incurred in responding to and/or defending such claims): (i) any negligent act or omission by the Customer or its personnel, or (ii) the Customer's default or breach of any of its obligations under these Terms.

If a party seeks indemnification under these Terms, such party will: (i) give prompt written notice to the other party concerning the existence of the indemnifiable event, (ii) grant authority to the indemnifying party to defend or settle any related action or claim; and (iii) provide such information, cooperations and assistance to the indemnifying party as may be reasonably necessary for that party to defend or settle the claim or action.

WHILE NOT APPLICABLE TO BREACH OF CONFIDENTIALITY, TO THE MAXIMUM EXTENT PERMITTED BY LAW, IFM WILL, UNDER NO CIRCUMSTANCES, BE LIABLE TO THE CUSTOMER OR ANY THIRD PARTY FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES OR LOST PROFITS, LOSS OF BUSINESS, LOSS OF GOODWILL OR DAMAGE TO REPUTATION ARISING OUT OF OR RELATED TO THE TRANSACTIONS CONTEMPLATED UNDER THESE TERMS, WHETHER CAUSED BY BREACH OF WARRANTY, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL OR EQUITABLE CAUSE OF ACTION, EVEN IF IFM IS APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING.

WHILE NOT APPLICABLE TO BREACH OF CONFIDENTIALITY AND IFM'S NEGLIGENT ACTS OR OMISSIONS, TO THE MAXIMUM EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES WILL IFM'S TOTAL LIABILITY OF ALL KINDS ARISING OUT OF OR RELATED TO THESE TERMS (INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID BY THE CUSTOMER TO IFM FOR THE CLOUD SOFTWARE UPON WHICH THE LIABILITY AROSE.

NOTWITHSTANDING THE FOREGOING AND WHERE PERMITTED BY LAW, AND WHERE REQUIRED BY THESE TERMS, IF CUSTOMER DATA NEEDS TO BE RESTORED, IFM'S LIABILITY SHALL NOT EXCEED THE EXPENSES THAT WOULD TYPICALLY BE REQUIRED FOR THE CUSTOMER TO RESTORE SUCH DATA WITH PROPER BACKUP AND PRECAUTIONS AGAINST FAILURE.

13. Term and Termination

These Terms and the Subscription license granted hereunder will commence on the Effective Date and continue for one (1) year and will automatically renew for successive one (1) year terms unless terminated in accordance with these Terms.

Either Party may terminate, for convenience, the Subscription license for the Cloud Software upon a written notice to the other Party at least ninety (90) days prior to the expiration of any renewal period.

ifm may terminate the Customer's Cloud Software Subscription license, effective upon written notice to the Customer, if the Customer breaches its obligations under these Terms and such breach is: (i) uncureable; or (ii) being capable of cure, remains uncured for ten (10) days for late payment, and thirty (30) days for all other breaches after ifm provides written notice to the Customer of the breach.

ifm may terminate the Customer's Cloud Software Subscription license, effective immediately, if the Customer files, or has filed against it, a petition for voluntary or involuntary bankruptcy or pursuant to any other insolvency law, makes or seeks to make a general assignment for the benefit of its creditors or applies for, or consents to, the appointment of a trustee, receiver, or custodian.

Upon termination of the Subscription license, ifm will provide a reasonable amount of information, cooperation, and assistance to the Customer if and as the Customer may reasonably request such assistance, provided the Customer pays for such services at ifm's then-current lists rates. Upon the Customer's written request, ifm will return the Customer Data (in its then-current format and condition). If not so requested by the Customer within sixty (60) days of the effective date of termination, ifm may destroy the Customer Data. Immediately upon the effective date of termination, the Customer shall cease using and destroy all copies of the Cloud Software and/or Documentation.



14. Export Regulation, Compliance with Laws

The Cloud Software may be subject to export control laws or regulations. The Customer shall not, directly or indirectly, export, re-export, or release the Cloud Software to, or make the Cloud Software accessible from, any jurisdiction or country to which export, re-export, or release is prohibited by law, rule, or regulation. The Customer shall comply with all applicable laws, regulations, and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing, or otherwise making the Cloud Software available outside of the country of purchase.

The Customer is responsible for compliance with all applicable laws and regulations regarding its use of the Cloud Software.

15. Dispute Resolution, Choice of Law

In the event that any dispute arises between the parties that cannot be amicably resolved by negotiation within a reasonable period of time (or if the parties agree in writing to resolve such dispute via other means, i.e. mediation, litigation, etc.), such dispute shall be finally settled by arbitration under the Rules of Arbitration of the International Chamber of Commerce, Paris ("ICC") pursuant to its then current Arbitration Rules (or some other alternate dispute resolution ("ADR") and/or rules as the parties shall agree upon in writing). The language to be used in the arbitral proceedings shall be English.

The law of ifm's place of business shall govern these Terms and the Subscription license granted herein.

16. Miscellaneous

- a) In the event of a conflict between the provisions of the ifm Acknowledgment, or other ordering documents for the Cloud Software (or any other agreement by and between the parties) and these Terms, the provisions of these Terms (or some other document expressly identified) shall be agreed to set forth the governing and controlling provisions.
- b) Any notice required or permitted under these Terms or required by law must be in writing and must be: (i) delivered in person or (ii) sent by overnight courier with some form of tracking mechanism, in each case properly posted and fully prepaid to the appropriate address. The initial address for notices for each party is set forth in the ifm Acknowledgment, but either party may change its address for notices by written notice to the other party in accordance with this provision. Notices will be deemed given at the time of actual delivery in person or one day after delivery to an overnight courier service.
- c) Neither party will be liable for, or be considered to be in breach of or default under these Terms, on a day for day basis, on account of, any delay or failure to perform as required by these Terms (other than Customer's payment of fees) as a result of any cause or condition beyond such party's reasonable control, including but not limited to events such as earthquakes; floods; severe storms; fire; explosion; civil or military authority; government shutdown arising from, by way of example only, pandemic; power blackout; strike; embargo; or labor disputes, so long as such party uses all commercially reasonable efforts to avoid or remove such causes of non-performance.
- d) If any term or provision of these Terms is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of these Terms or invalidate or render unenforceable such term or provision in any other jurisdiction.
- e) Except as otherwise provided herein, a party's rights and remedies provided in these Terms are cumulative and not exclusive, and the exercise of ifm of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the parties, or otherwise.
- f) The Customer shall not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under these Terms, in each case whether voluntarily, involuntarily, by operation of law, or otherwise, without ifm's prior written consent, which consent ifm may grant, limit, or withhold in its sole discretion. No delegation or other transfer will relieve the Customer of any of its obligations or performance under these Terms. Any purported assignment, delegation, or transfer in violation of this provision is void. ifm may freely assign or otherwise transfer all or any of its rights, or delegate or otherwise transfer all or any of its obligations or performance, under these Terms without the Customer's consent. These Terms are binding upon and inures to the benefit of the parties hereto and their respective permitted successors and assigns.
- g) These Terms, together with the ifm Acknowledgment, and all other documents and terms that are incorporated by reference herein, including any modifications or upgrades by ifm to same, constitutes the sole and entire agreement between the Customer and ifm with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter. These Terms may only be amended, modified, or supplemented by an agreement in writing signed by ifm. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in these Terms, no failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from these Terms shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.