

## ACL Master Subscription Agreement

THIS ACL MASTER SUBSCRIPTION AGREEMENT (THE "**AGREEMENT**") GOVERNS THE USE OF ACL PRODUCTS.

THIS AGREEMENT IS BETWEEN EACH CUSTOMER WHO ACQUIRES AND USES ACL PRODUCTS ("**CUSTOMER**") AND

ACL SERVICES LTD.  
1500, 980 HOWE STREET  
VANCOUVER, BRITISH COLUMBIA  
CANADA, V6Z 0C8  
("**ACL**").

**ACCEPTANCE.** BY ACCESSING OR USING THE ACL PRODUCTS, BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, OR BY RENEWING AN EXISTING PRODUCT SUBSCRIPTION, YOU (FOR YOURSELF AND ON BEHALF OF THE CUSTOMER) ACCEPT THIS AGREEMENT AND AGREE TO BE BOUND BY IT. YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO ACCEPT AND ENTER INTO THIS AGREEMENT ON BEHALF OF THE CUSTOMER. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF EITHER YOU OR THE CUSTOMER DOES NOT AGREE WITH THE TERMS OF THIS AGREEMENT, YOU MAY NOT USE THE PRODUCTS.

**EFFECTIVE DATE.** THIS AGREEMENT IS EFFECTIVE BETWEEN CUSTOMER AND ACL AS OF THE DATE IT IS ACCEPTED AS NOTED ABOVE. ACL RESERVES THE RIGHT TO UPDATE AND CHANGE THIS AGREEMENT FROM TIME TO TIME. ANY SUCH UPDATES AND CHANGES WILL NOT APPLY UNTIL CUSTOMER RENEWS ITS SUBSCRIPTION.

THIS AGREEMENT WAS LAST UPDATED ON NOVEMBER 1, 2017.

If there is any conflict or ambiguity between the English language version and any other language version of this Agreement, the English language version will prevail and it will be the authentic text for the purposes of interpretation.

### 1. Definitions

- 1.1 "Customer Data" means any data, information or other material (proprietary, copyrighted or otherwise) which is uploaded, entered, created or otherwise provided by Customer in the course of using the Products, including, but not limited to, any third party data obtained by Customer and any personal data (i.e., data collected from or regarding an individual or any personally identifiable information about an individual).
- 1.2 "GRC Service" means the Products (as defined below) that are provided as a cloud-based Software-as-a-Service (SaaS) offering, excluding Third Party Content.
- 1.3 "Named User" means a specific individual authorized by Customer to access and use the Products on behalf of and for the benefit of the Customer, and for whom Customer has paid subscription fees.
- 1.4 "Order Form" means the ordering document or invoice issued to Customer by ACL, its affiliates or one of their authorized resellers for purchase of the Products.
- 1.5 "Products" means the ACL subscription-based products and solutions ordered by Customer under an Order Form and made available by ACL online as the GRC Service or for download as on-premise Software. "Products" exclude Third Party Content.
- 1.6 "Software" means the Products that are provided as on-premise software.
- 1.7 "Third Party Content" means third party standards, regulations and good practices for governance, risk management and compliance, such as COSO, COBIT, PCI-DSS, OMB A-133, NIST SP 800-53 and other similar frameworks, guidelines, standards, regulations or principles, which have been obtained by ACL from publicly available sources or from third party content providers.
- 1.8 "User Documentation" means the user and technical help documentation for the Products which is provided by ACL with the Products and made available electronically through the ACL website.

### 2. Products

- 2.1 Products. Subject to the terms and conditions of this Agreement, ACL will make the Products available to Customer's Named Users for the subscription type(s) and subscription term purchased by Customer as set out in an Order Form.

- 2.2 Software. For Software Products, ACL grants to Customer, during the Product subscription term set out in the Order Form, a worldwide, non-exclusive, non-transferable and non-assignable (except as otherwise expressly provided in this Agreement) right and license to install, access and use the Software for Customer's internal business operations for the number of Named Users and/or SAP systems (as applicable) set out in the Order Form. Software may be installed within a virtual (or otherwise emulated) hardware system as long as the use of the Software is restricted to the number of Named Users for which Customer has purchased licenses. Virtualization technology may not be used to circumvent the licensing terms and restrictions in this Agreement.
- 2.3 GRC Service. ACL will make the GRC Service available in accordance with the service levels set out in the ACL GRC Service Level Agreement attached as Schedule "A" to this Agreement; however, ACL is not responsible for any unavailability of the GRC Service caused by circumstances beyond ACL's reasonable control, including, but not limited to, external forces affecting the reliability of the internet, computer systems or other devices or mediums through which Customer accesses the GRC Service.
- 2.4 Third Party Content. To the extent Third Party Content is made available to Customer in connection with the GRC Service, Customer is permitted to access and use such Third Party Content solely as part of the GRC Service. Customer may not copy, publish or distribute any Third Party Content separate from Customer's use of the GRC Service or transfer it to any third party. Customer will not license or sell Third Party Content and will not remove or alter any copyright, trademark or other proprietary notice appearing on or within the Third Party Content. PCI-DSS materials may only be used in accordance with the current PCI Security Standards Council, LLC License Agreement made available on or through the PSI SSC website at [www.pcisecuritystandards.org](http://www.pcisecuritystandards.org) and also through the GRC Service prior to download. ACL warrants that it has the rights necessary to provide Third Party Content in accordance with the terms of this Agreement. Customer acknowledges and agrees that: (a) Third Party Content may be added, amended or removed from time to time; (b) ACL is not responsible for and has no control over Third Party Content, other than making it available in connection with the GRC Service; (c) ACL does not sponsor or endorse any Third Party Content; (d) ACL makes no representations or warranties with respect to the accuracy, relevance or results of use of any Third Party Content; and (e) the owners of Third Party Content are third party beneficiaries of this Agreement and are entitled to enforce the terms of this Agreement as it pertains to their proprietary rights.

### **3. Trial, Evaluation, Beta Testing, Training and Academic Use**

- 3.1 Trial, Evaluation and Beta Testing Use. Products provided for trial, evaluation or beta testing purposes are limited to a thirty (30) day subscription term, or as otherwise specified in ACL's trial, evaluation or beta testing correspondence to Customer. Such access to and use of the Products is provided "as is" without warranty and is at Customer's own risk. The provisions of Section 6.1 (Technical Support) and Section 14 (Limited Warranty) do not apply.
- 3.2 Training and ACL Academic Network Use. Products provided for training courses or under the ACL Academic Network Program (i.e. through an educational institution, textbook publisher or otherwise) are for educational (i.e. non-commercial) purposes only. If Customer acquired access to the Products from a textbook publisher bundled with a textbook, use is limited to a six (6) month subscription term. If Customer is a professor or an educational institution, use is limited to the greater of three (3) years or the term specified in ACL's Academic Network correspondence to Customer. Access to and use of the Products for training courses or under the ACL Academic Network Program is provided "as is" without warranty and is at Customer's own risk. The provisions of Section 6.1 (Technical Support) and Section 14 (Limited Warranty) do not apply.

### **4. Use of the Products**

- 4.1 Named Users. The Products may be accessed and used by up to the maximum number of Named Users for whom Customer has purchased subscriptions. Each Named User will be assigned a unique identifier for access to the applicable Product. A Named User's ID and password may not be shared with any other individual. Sharing or pooling a Named User's access between multiple individuals to allow for temporary use by multiple users in a department or organization is strictly prohibited. Customer may, however, permanently replace a Named User with another individual provided the number of Named Users does not exceed the number of Named Users for which Customer has paid the applicable fees. If Customer exceeds, or wishes to increase, the number of Named Users using a Product, additional fees will apply.
- 4.2 Access and Use. Customer will provide accurate, current and complete information when activating its subscription account for a Product. Customer will keep all Named User ID's, passwords and other account information confidential and will cause its Named Users to change passwords periodically. Customer is

responsible for all activities that occur under its Named User accounts and for any claims, issues or disputes arising out of the acts or omissions of its Named Users. Customer will notify ACL immediately if Customer becomes aware of any unauthorized use of any Product or Customer's subscription or account information.

- 4.3 Use by Third Parties. ACL acknowledges and agrees that Customer's Named Users may, subject to the terms of this Agreement, include Customer's third-party service providers, independent contractors and consultants, provided that such third parties agree to comply with the terms of this Agreement and such third parties use the Products only for Customer's benefit and internal business operations. If requested by ACL, Customer will provide a list of any third parties that are using a Product pursuant to this Section to assist ACL in managing the licensing and administration of the Products. Customer will remain responsible and liable for the proper use of the Products by such third parties in accordance with this Agreement.
- 4.4 Non-Production Use of Software. Customer may install additional copies of the Software on one or more non-production servers designated for staging and/or testing purposes, or for disaster recovery or failover purposes, provided that Customer has paid any applicable fees for such purposes. Such additional copies may only be run on non-production server(s) and may only be used to carry out the designated purpose associated with the non-production server(s). Customer may also make a reasonable number of copies of the Software for back-up and archival purposes, provided that Customer reproduces all copyright and other proprietary notices that are on the original copy of the Software.

## 5. Documentation and Electronic Delivery

- 5.1 All Products and User Documentation are accessed and delivered electronically through the ACL website. A Product is deemed delivered when it is made available for access or download by Customer, as applicable. Customer is permitted to print and make a reasonable number of copies of the User Documentation for its internal use in accordance with this Agreement, provided that Customer reproduces all copyright and other proprietary notices that are on the original copy of such User Documentation. Customer acknowledges and agrees that its purchase is not contingent on the delivery of any future functionality or features, and is not dependent on any oral or written public comments made by ACL or its employees, agents or representatives regarding future functionality or features of any of its Products.

## 6. Technical Support and Enablement

- 6.1 Technical Support. During the term of Customer's subscription to the Products, Customer will have access to technical support services at no additional charge ("**Technical Support**"). Technical Support consists of the services set out at <https://www.acl.com/products/training-and-enablement/#te-sc> or such URL as may be used by ACL for this purpose, which services may be amended or updated by ACL from time to time. Technical Support also includes access to new releases and upgrades of the Products when they become commercially available. Technical Support does not include the development or support of any customized applications for the Products. The provision of Technical Support and this Agreement do not impose any obligation on ACL to release new or updated versions of the Products or prevent ACL from retiring the Products in accordance with ACL's standard end-of-life protocol. Technical Support will not be provided if Customer is using a Product in a manner which breaches this Agreement.
- 6.2 Resources. During the term of Customer's subscription to the Products, Customer will have access, at no additional charge, to user resources for Product education and self-learning, such as online training, tools & templates and a peer community forum (the "**Resources**"). ACL grants Customer and its Named Users a non-exclusive and non-transferable right and license to access, download and use the Resources for their personal, non-commercial use, provided that Customer and its Named Users retain and keep intact all copyright, trademark and other proprietary notices contained in or on the Resources. The Resources are provided "as is" without warranty and are used at Customer's own risk. ACL does not promise that any Resources will operate or function properly with the Products. Resources may be varied or discontinued at any time.
- 6.3 Resource Restrictions. In addition to the restrictions in Section 7.1 (GRC Service Use Restrictions), Customer and its Named Users will not: (a) disseminate or distribute Resources to anyone outside their organization or the ACL user community, as applicable; (b) license, sell or otherwise commercially exploit the Resources; (c) create internet "links" to the Resources or "frame" or "mirror" any Resource content on any other server or wireless or internet-based device; (d) post or transmit any material that is unlawful, defamatory, profane, discriminating, harassing, threatening, infringing of intellectual property, invasive of privacy, or otherwise objectionable; or (e) harvest or otherwise collect information about others, including names and email addresses. Named Users who participate in the peer community forums will behave professionally and will abide by any posted guidelines or

policies related to acceptable use and conduct while using such forums. ACL reserves the right to modify, reject or remove any material posted in the community forums and to suspend use of the Resources, or take other appropriate remedial action, to address any violation or suspected violation of this Section.

- 6.4 Enablement Services. ACL will provide Customer with the subscription-based set-up and enablement services purchased by Customer under an Order Form. Such services will be provided in a professional and workmanlike manner by personnel with sufficient skill, knowledge and experience to perform the services. ACL will adhere to Customer's applicable safety and security guidelines, of which ACL has been informed, while performing any set-up or enablement services on Customer's premises. Set-up and enablement services are pre-packaged subscription-based services which may not be modified. Customer may purchase training or consulting services under separate agreement at ACL's standard rates for such services.

## **7. Restrictions**

- 7.1 GRC Service Use Restrictions. Customer will use the GRC Service solely as contemplated by this Agreement and will not: (a) use the GRC Service to send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (b) knowingly send or store infringing, threatening, libelous or otherwise unlawful or tortious material, including material which violates any individual's privacy rights; (c) interfere with or disrupt the integrity or performance of the GRC Service or the data contained therein; (d) attempt to gain unauthorized access to the GRC Service or related systems or networks, (e) use any robot, spider, scraper, deep link or other automated data gathering or extraction tools, program, algorithm or methodology to access, acquire, copy or monitor any portion of the GRC Service; (f) use or attempt to use any engine, software, tool, agent, or other device or mechanism (including without limitation browsers, spiders, robots, avatars or intelligent agents) to navigate or search the ACL web site other than the search engines and search agents available through the GRC Service, and other than generally available third-party web browsers (such as Microsoft Internet Explorer); or (g) attempt to post or transmit any file which contains viruses, worms, Trojan horses or any other contaminating or destructive features, or that otherwise interfere with the proper working of the GRC Service. ACL reserves the right to suspend Customer's use of the GRC Service or take other appropriate remedial action to address any violation or suspected violation of this Section.

- 7.2 Software License Restrictions. ACL reserves all rights not expressly granted to Customer in this Agreement. Subject to applicable laws, Customer agrees that it will not: (a) copy any Software, or reprint or reproduce all or any portion thereof, except as permitted under this Agreement and for Customer's own internal business purposes; (b) modify, adapt or translate any Software, except as permitted under this Agreement; (c) decompile, reverse engineer or disassemble any Software, or otherwise attempt to reduce such Software from object code to source code or reconstruct or discover any source code, underlying ideas, algorithms, file formats or programming interfaces of any Software by any means whatsoever (except and only to the extent that applicable law prohibits or restricts reverse engineering restrictions); (d) use any Software to develop any works which are functionally compatible or competitive to any Software, or create any works which are derived from Software (using the Software to produce reports or other tasks permitted by such Software are not deemed to be works derived from the Software); (e) lease, rent, loan, sell, sub-license or distribute the Software outside Customer's organization to a third party (including, using the Software on a time-sharing basis, for service bureau purposes, or for the provision of a fee generating service directly or indirectly to third parties); (f) utilize any equipment, device, software, or other means designed to circumvent or remove any security mechanisms, or any form of copy or usage protection used by ACL or its third party licensors in connection with the Software; (g) combine the Software with any other software (including open source software), where the combined program is subject to the GNU General Public License or any other license that requires the combined program or the Software and their source code to be made freely available; (h) publicly disseminate or disclose performance information or analysis on the Software, including any results of benchmark tests run on the Software; or (i) use the Software in any manner that violates applicable law or regulation.

## **8. Data Protection**

- 8.1 Security Safeguards. ACL has implemented and will maintain commercially reasonable, industry-standard technical and organizational safeguards (including, without limitation, with respect to personnel, facilities, hardware and software, storage and networks, access controls, monitoring and logging, vulnerability and breach detection, incident response, encryption of Customer Data while in transit and at rest and any other organizational and technical measures necessary to protect against unauthorized access, use or disclosure of Customer Data) to prevent the unauthorized access, use or disclosure of Customer Data stored in the GRC Service. ACL has and will maintain a current SOC 2 Type II report (or industry-accepted successor security audit) prepared by a third party auditor consisting of a comprehensive internal controls assessment covering the

internal controls and information security related to the GRC Service. Upon request, ACL will provide a copy of its then-current SOC 2 report to Customer. ACL will not: (a) modify Customer Data, (b) disclose Customer Data, except as expressly permitted in this Agreement or by Customer in writing, or (c) access Customer Data, except to address service or technical problems or at Customer's request. As ACL has no control over Customer Data, ACL is not responsible or liable for the deletion, damage, loss of or failure to store any Customer Data, except to the extent caused by ACL's breach of its obligations under this Agreement.

- 8.2 **Security Incident.** ACL will, in accordance with its Security Incident Response Plan, notify Customer without undue delay if ACL determines that the security of the GRC Service's systems has been breached and this results in Customer Data being accessed by or disclosed to an individual or entity who is not authorized to access or receive such information. ACL will report to Customer on the corrective action being taken in response to such security breach and will reasonably cooperate with Customer in mitigating the effects of any lost or compromised Customer Data. ACL is not responsible for the deletion, loss of, theft of, damage to or failure to store Customer Data stored on Customer's systems.
- 8.3 **Customer Obligations.** Customer will take reasonable security precautions in connection with its use of the GRC Service and its collection, use and submission of Customer Data to the GRC Service. Customer will notify ACL immediately if it becomes aware of any unauthorized use of its account or any user ID and password, or if Customer becomes aware of any other known or suspected breach of security. Customer represents and warrants that it is in compliance with, and will comply with, all applicable privacy and data protection laws and regulations with respect to any Customer Data uploaded, submitted or used in connection with the GRC Service. To the extent Customer processes or stores Customer Data in connection with the Software, which is an on-premise software product installed on Customer's own servers, Customer acknowledges and agrees that ACL has no access to such servers or Software, and that Customer remains solely responsible and liable for such use.

## **9. Fees and Payment**

- 9.1 **Fees.** Customer will pay the fees set out in each Order Form. Unless otherwise stated in the applicable Order Form, fees are due within thirty (30) days from date of invoice and are non-cancelable and non-refundable. Interest at a rate of 1.5% per month (18 percent per annum), or at an interest rate equal to the maximum rate permitted by the applicable law, whichever is less, may be charged on all amounts which remain outstanding for more than thirty (30) days.
- 9.2 **Taxes.** Applicable taxes (excluding ACL's income and franchise taxes), duties or other governmental fees are additional and payable by Customer, and are based on the shipping address specified in the Order Form. ACL will not charge tax from which Customer is exempt if Customer is a tax exempt institution or entity and Customer provides the applicable tax exemption certificate. Customer acknowledges that its invoicing and shipping addresses are set out in the Order Form.
- 9.3 **Overdue Fees.** If any fees are more than thirty (30) days overdue, ACL may, without limiting its other rights and remedies, suspend or terminate Customer's access to and use of the Products, or related services, in respect of which fees are overdue until such amounts are paid in full. ACL will provide at least seven (7) days prior notice that fees are overdue before any such suspension and will not exercise such right if Customer is disputing the applicable fees reasonably and in good faith and is cooperating diligently to resolve the dispute.

## **10. Term and Renewal**

- 10.1 **Term.** Customer's subscription for a Product is for the term set out in applicable Order Form. If no subscription term is set out in the Order Form, the subscription term is one (1) year from the date of the Order Form. The Products contain a disabling mechanism that prevents use of the Products beyond the applicable subscription term.
- 10.2 **Renewal.** Customer's subscription will renew at the end of each subscription term for a further one (1) year term (or such other term agreed by the parties in writing) for the same subscription type and number of Named Users unless: (a) ACL receives Customer's notice of non-renewal at least thirty (30) days before the end of the then-current subscription term; or (b) ACL provides Customer with notice of non-renewal at least sixty (60) days before the end of the then-current subscription term. ACL will provide Customer with at least two (2) separate renewal notices ninety (90) and sixty (60) days prior to the end of the then-current subscription term to permit Customer an opportunity to confirm renewal or notify ACL that Customer does not wish to renew its subscription.

## **11. Termination**

- 11.1 Termination for Convenience. Customer may terminate this Agreement, and its subscriptions to the Products, at any time for convenience by providing written notice to ACL, except during the thirty (30) day period before the end of the then-current subscription term; however, there are no refunds of fees paid in advance and Customer will remain liable for any unpaid subscription fees for the remaining unexpired subscription term.
- 11.2 Termination for Cause. Either party may terminate this Agreement immediately if the other party: (a) is in material breach of its obligations under this Agreement (such as, failure to pay the required subscription fees) and fails to either cure the breach, or make substantial progress to the terminating party's reasonable satisfaction to cure the breach, within thirty (30) days of receiving written notice from the terminating party; or (b) becomes insolvent or bankrupt, becomes the subject of any proceedings under bankruptcy, insolvency or debtors' relief law, has a receiver, manager or receiver-manager appointed, makes an assignment for the benefit of its creditors or takes the benefit of any applicable law or statute in force for the winding up or liquidation of corporations. In addition, ACL may terminate this Agreement immediately if Customer breaches Section 7 (Restrictions) or Section 12 (Ownership) of this Agreement. If ACL terminates this Agreement for cause, Customer remains liable for all unpaid subscription fees that are payable for the entire subscription period. If Customer terminates this Agreement for cause, ACL will refund any prepaid fees calculated from the effective date of termination to the end of the current subscription period, except that any refunds under Sections 14 (Limited Warranty) or Section 16.2 (Remedy for Infringement Claims) will be handled exclusively under those sections.
- 11.3 Effect of Expiration or Termination. Upon expiration or termination of a Product subscription or this Agreement, ACL will terminate Customer's access to and use of such Product. If the Product includes Software, Customer will destroy the original and all copies of such Software in its possession or control. Upon written request by ACL, an authorized signatory of Customer's organization will, within thirty (30) days of such request, certify in writing to ACL that the original and all copies of the Software have been destroyed or returned to ACL. Each party will immediately return to the other party all Confidential Information of the other party in its possession or control. Customer is responsible for removing all Customer Data from the GRC Service following expiration or termination of the subscription. ACL will allow Customer to access the GRC Service for a period of thirty (30) days after expiration or termination to facilitate such removal.
- 11.4 Survival. The termination of this Agreement will not constitute a waiver of any fees, amounts or charges due by Customer, nor will termination in any way reduce or compromise any other rights of either party pursuant to this Agreement. All terms that by their nature should survive termination of this Agreement will survive.

## **12. Ownership**

- 12.1 Customer Data. Customer has and will retain ownership and control of all Customer Data. Customer may not upload or process Customer Data in or with a Product, unless Customer has lawfully obtained such Customer Data and Customer complies with all applicable laws with respect to its use of such Customer Data.
- 12.2 ACL Ownership. Subject to Section 12.1 (Ownership of Customer Data), all title, ownership rights and intellectual property rights in and to the Products and Resources, including User Documentation and all technology used to provide the Products and Resources, belong to ACL and its licensors, who are third party beneficiaries of this Agreement as it pertains to their proprietary rights. The Products and Resources are protected by copyright laws and international copyright treaties and ACL may incorporate certain measures in a Product or Resource to prevent unauthorized use. Customer is responsible for any copyright infringement it causes. To the extent Customer, or any Named User, makes any suggestions regarding any features, functionality or performance that ACL adopts for any of its Products or Resources (expressly excluding Customer Confidential Information), Customer and such Named User hereby grant ACL a non-exclusive, royalty-free, worldwide, perpetual and irrevocable right and license to freely copy, use, make use of, publish, adapt, distribute, sell, license, create derivative works from and otherwise exploit such suggestions, including incorporating them into future versions of the Products or Resources. Customer and such Named User waive all moral rights and claims in respect of such suggestions.

## **13. Confidentiality**

- 13.1 Confidentiality. Each party may have access to information that is confidential to the other party, including, but not limited to, the Products, Customer Data, the terms and pricing of Customer's subscription type(s), the security report referenced in Section 8.1 (Security Safeguards) of this Agreement, all inventions, know-how,

business, technical and financial information a party obtains, all information clearly identified as confidential, and information which, given its nature or the circumstances surrounding its disclosure, should reasonably be considered to be confidential ("**Confidential Information**"). Confidential Information will not include information that: (a) is or becomes a part of the public domain through no act or omission of the other party; (b) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (c) is lawfully disclosed to the other party by a third party without restriction on disclosure; or (d) is independently developed by the other party without the use or benefit of the other party's Confidential Information. Each party agrees to hold the other party's Confidential Information in confidence during the term of this Agreement and for a period of two years after termination. Neither party will disclose the other party's Confidential Information to any third party or use the other party's Confidential Information for any purpose other than for the purposes of this Agreement, except as may be required by law or valid government or court order pursuant to Section 13.2 (Compelled Disclosure). Each party further agrees to adopt reasonable security measures (such as sending information in a secure encrypted manner or masking the data) when sending Confidential Information.

- 13.2 Compelled Disclosure. If the receiving party is requested or required by applicable law or legal process to disclose any of the disclosing party's Confidential Information, the receiving party will provide the disclosing party with prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the disclosing party's cost, if the disclosing party wishes to contest the disclosure. Any such disclosure will be limited to the extent required, and will be subject to confidentiality protections to the extent reasonably practicable. Disclosures of Confidential Information that are required by applicable law or legal process will not be breaches of this Agreement.

#### **14. Limited Warranty**

- 14.1 ACL warrants that the Products will perform during the subscription term substantially in compliance with the functional specifications set out in the applicable User Documentation for the Products; provided that Customer administers, accesses and uses the Products in accordance with such User Documentation. ACL does not warrant that use of the Products will be uninterrupted or error-free. If a Product fails to operate as warranted in this Section, and Customer notifies ACL in writing of the nature of the non-compliance, ACL will make commercially reasonable efforts to promptly remedy such non-compliance without charge. If, after a reasonable opportunity, ACL does not remedy the non-compliance, Customer may terminate its subscription to the non-conforming Product and receive a refund of any prepaid, unused fees for the remaining subscription term of such Product prorated from the date of notice to the end of the then current subscription term. The foregoing remedy provides the sole and exclusive remedy for breach of warranty.

#### **15. Disclaimer**

- 15.1 General. EXCEPT FOR THE EXPRESS WARRANTIES IN THIS AGREEMENT, THE PRODUCTS, USER DOCUMENTATION, RESOURCES, THIRD PARTY CONTENT AND ANY SERVICES PROVIDED HEREUNDER ARE PROVIDED "AS-IS" AND ARE NOT WARRANTED TO BE ERROR-FREE, AND CUSTOMER ACCEPTS THE ENTIRE RISK AS TO THE QUALITY, PERFORMANCE, RELIABILITY, ACCURACY AND THE RESULTS OF THEIR USE. EXCEPT AS OTHERWISE RESTRICTED BY LAW, ACL AND ITS LICENSORS DISCLAIM ALL OTHER REPRESENTATIONS, WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, BY STATUTE OR OTHERWISE, REGARDING THE PRODUCTS, USER DOCUMENTATION, RESOURCES, THIRD PARTY CONTENT AND ANY SERVICES PROVIDED HEREUNDER, INCLUDING, BUT NOT LIMITED TO, THEIR FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, DURABILITY AND NON-INFRINGEMENT. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY ACL, ITS LICENSORS, OR THEIR RESPECTIVE EMPLOYEES, OFFICERS, DIRECTORS, CONTRACTORS, DISTRIBUTORS OR AGENTS, WILL INCREASE THE SCOPE OF THE EXPRESS WARRANTIES IN THIS AGREEMENT, OR CREATE ANY NEW REPRESENTATIONS, WARRANTIES OR CONDITIONS. ACL WILL NOT BE LIABLE FOR DAMAGES ARISING FROM THIRD PARTY SOFTWARE THAT OPERATES SEPARATELY BUT IN CONJUNCTION WITH A PRODUCT, AS THESE ARE LICENSED TO CUSTOMER UNDER SEPARATE AGREEMENTS. Some jurisdictions do not allow the exclusion of implied warranties, so the foregoing exclusions may not apply to Customer. In that event, any implied warranties are limited in duration for a ninety (90) day period commencing from the date Customer activates its Product subscription.
- 15.2 Third Party Content. THIRD PARTY CONTENT IS FOR EDUCATIONAL AND INFORMATIONAL PURPOSES ONLY AND DOES NOT CONSTITUTE LEGAL, ACCOUNTING OR OTHER PROFESSIONAL ADVICE. THIRD PARTY CONTENT SHOULD NOT BE DEEMED TO SET FORTH ALL APPROPRIATE PROCEDURES, TESTS OR CONTROLS OR TO SUGGEST THAT OTHER PROCEDURES, TESTS OR CONTROLS THAT ARE NOT INCLUDED MAY NOT BE APPROPRIATE. ACL DOES NOT CLAIM THAT USE OF THIRD PARTY CONTENT WILL ASSURE A SUCCESSFUL

OUTCOME. CUSTOMER AND ITS NAMED USERS ARE RESPONSIBLE FOR APPLYING PROFESSIONAL JUDGEMENT TO THE SPECIFIC CIRCUMSTANCES PRESENTED TO DETERMINE THE APPROPRIATE PROCEDURES, TESTS OR CONTROLS. USE OF THIRD PARTY CONTENT AND RELATED MATERIALS ARE AT CUSTOMER'S OWN RISK AND, BY SO USING THEM, CUSTOMER RELEASES ACL AND ITS LICENSORS FROM ANY AND ALL LIABILITY THAT MAY ARISE IN CONNECTION WITH SUCH USE.

## **16. Indemnity**

- 16.1 Infringement Indemnity. ACL will defend any claim made against Customer which asserts that a Product, when used in accordance with this Agreement, infringes a patent, copyright or registered trademark of a third party in the United States, Canada or the European Union, and will indemnify Customer from actual damages and costs (including reasonable legal fees) finally awarded against Customer in respect of such claim, or settlement amount agreed to be paid in settlement of such claim, provided that: (a) Customer gives ACL prompt notice of the claim; (b) ACL has sole control of the defense and all negotiations for its settlement or compromise (provided this does not require an admission of guilt or liability by Customer); and (c) Customer provides ACL with reasonable assistance, at ACL's expense. ACL will have no obligations to Customer if the infringement claim is based on or relates to: (a) Customer's continuing use of a version of the Product which is no longer commercially released by ACL, if ACL makes available a newer version of a Product that would avoid or reduce the infringement claim; (b) use or combination of any Product with other programs, components or products not provided or authorized by ACL if such use or combination results in the infringement claim; (c) Customer's misuse, misappropriation or improper disclosure of Customer Data; or (d) use of a Product which is in breach of this Agreement or which is not in accordance with the applicable User Documentation.
- 16.2 Remedy for Infringement Claims. Upon notice of an infringement claim, or if in ACL's opinion such a claim is likely, ACL has the right, at its option and expense, to either: (a) procure the right for Customer to continue using the affected Product; or (b) replace or modify such Product so that it provides substantially the same, or greater, functionality and performance as the affected Product, but is no longer subject to a claim of infringement. If, in ACL's opinion, neither of the above options is commercially reasonable in the circumstances, ACL may terminate Customer's subscription upon thirty (30) days written notice to Customer, and will provide a pro-rata refund of any prepaid, unused subscription fees for the remainder of the current subscription term. The pro-rata refund will be calculated from the date ACL is notified of the infringement claim to the remainder of the then-current subscription term. Sections 16.1 and 16.2 comprise ACL's entire obligation and liability with respect to the infringement of the intellectual property and proprietary rights of others.
- 16.3 Customer Indemnity. Customer will defend any claim made against ACL (including its employees, directors, agents and representatives) which arises from or relates to: (a) Customer's collection and use of Customer Data in connection with the Products, or (b) Customer's breach of Section 2.4 (Third Party Content), Section 6.3 (Resource Restrictions) or Section 7 (Restrictions). Customer will indemnify ACL from actual damages and costs (including reasonable legal fees) finally awarded against ACL in respect of any such claim, or settlement amount agreed to be paid in settlement of any such claims, provided that: (a) ACL gives Customer prompt notice of the claim; (b) Customer has sole control of the defense and all negotiations for its settlement or compromise (provided this does not require an admission of guilt or liability by ACL); and (c) ACL provides Customer with reasonable assistance, at Customer's expense. This indemnity will not apply to the extent such claim arises solely from a Product itself or is caused by ACL's breach of this Agreement.

## **17. Mutual Limitation of Liability**

- 17.1 No Consequential or Indirect Damages. THE PARTIES, AND THEIR LICENSORS AND AFFILIATES (INCLUDING THEIR RESPECTIVE EMPLOYEES, OFFICERS, DIRECTORS, CONTRACTORS, DISTRIBUTORS AND AGENTS), WILL NOT BE LIABLE TO EACH OTHER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR REVENUES, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION OR CORRUPTION OR LOSS OF DATA OR COSTS OF SUBSTITUTE GOODS OR SERVICES, ARISING OUT OF OR IN CONNECTION WITH CUSTOMER'S USE OF OR INABILITY TO USE THE PRODUCTS, USER DOCUMENTATION, RESOURCES, THIRD PARTY CONTENT, ANY SERVICES PROVIDED HEREUNDER, OR ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE) AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Some jurisdictions may not allow the exclusion or limitation of incidental or consequential damages, so portions of this limitation may not apply.
- 17.2 Limit on Direct Damages. EACH PARTY'S (AND THEIR RESPECTIVE LICENSORS', AFFILIATES', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', DISTRIBUTORS' AND AGENTS') AGGREGATE CUMULATIVE LIABILITY

FOR ANY CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL BE LIMITED TO DIRECT DAMAGES ONLY NOT EXCEEDING THE AMOUNT OF SUBSCRIPTION FEES PAID BY CUSTOMER DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM FOR THE APPLICABLE PRODUCT WHICH GAVE RISE TO THE CLAIM.

- 17.3 Exclusions. The limit on direct damages in Section 17.2 will not apply: (a) to a party's indemnification obligations under this Agreement; (b) if Customer breaches any of ACL's intellectual property rights with respect to the Products, including, but not limited to a breach of Section 7 (Restrictions); (c) to any fees owed on termination; (d) to any gross negligence or willful misconduct of a party; or (e) to liability for death or personal injury.

## **18. Verification**

- 18.1 ACL may, upon reasonable notice to Customer and no more than once per year, request information to verify that Customer's use of the Products complies with the terms of this Agreement. If ACL reasonably believes that such information does not correctly disclose Customer's Product usage, ACL may conduct an audit at Customer's business premises to verify that Customer's use of the Products complies with this Agreement. Such audit will be carried out during business hours and in accordance with Customer's reasonable site security requirements. If the audit shows that Customer is in violation of this Agreement, Customer will reimburse ACL for its reasonable expenses related to the audit and will pay any appropriate additional subscription fees.

## **19. Product Research and Development**

- 19.1 Customer acknowledges that ACL may use aggregated meta data regarding use of the Products for ACL's internal business purposes, such as research, development and Product improvement. Such information will not include Customer Data. The foregoing will not in any way limit ACL's obligations under Section 8 (Data Protection) or Section 13 (Confidentiality) of this Agreement.

## **20. Notices**

- 20.1 Any notice that either party is required or permitted to give to the other party under this Agreement will be in writing and be delivered to ACL at its address set out on page 1 of this Agreement (Attention: Legal Department) and to Customer at the address provided on the Order Form when Customer subscribed to, or renewed, its subscription. Either party may, from time to time, change their address for notice by providing written notice of the change to the other party, which notice may be sent by fax, regular mail or email (provided that no automated or other response is received indicating non-delivery or the absence of the recipient). The delivery of notice for any other purpose will be by personal delivery, courier, registered mail or confirmed e-mail (except that e-mail notice will not apply for notices required under Section 11.2 (Termination for Cause) or Section 22 (Dispute Resolution)). Delivery will be deemed effective upon receipt, if delivered personally, or by courier; or five (5) business days from sending, if delivered by registered mail; or upon confirmed receipt, if delivered by e-mail (provided that no automated or other response is received indicating non-delivery or the absence of the recipient).

## **21. Governing Law**

- 21.1 If Customer is located in the United States, this Agreement will be governed by and construed in accordance with the laws of the State of New York, USA. If Customer is located in Europe, the Middle East or Africa, this Agreement will be governed by and construed in accordance with the laws of England. If Customer is located in Asia (other than the Middle East), this Agreement will be governed by and construed in accordance with the laws of Singapore. If Customer is located in any other country or location, this Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein. The application of the United Nations Convention of Contracts for the International Sale of Goods is expressly excluded.

## **22. Dispute Resolution**

- 22.1 This section will apply to resolve all disputes arising out of or relating to this Agreement and Customer's use of the Products.
- (a) Negotiation. The parties will first attempt in good faith to resolve each controversy or claim within sixty (60) days by negotiations between senior executives of the parties who have settlement authority and who do not have direct responsibility for the administration of the matter. The disputing party will give the other party written notice of the controversy or claim in accordance with the notice provision of this

Agreement. The other party will submit a response within twenty (20) days after receiving said notice. The notice and response will include a summary of the party's position, a summary of the evidence and arguments supporting its position and the name of the executive who will represent the party. The executives will meet at a mutually acceptable time and place within thirty (30) days of the disputing party's notice and thereafter as often as they deem reasonably necessary to resolve the controversy or claim.

- (b) Arbitration. If the controversy or claim has not been resolved within sixty (60) days of the disputing party's notice, the controversy or claim will be resolved through binding arbitration. Subject to and without restricting the rights of a party to injunctive relief or other interim measures of relief, the parties agree to resolve disputes by binding arbitration before a single arbitrator who has substantial experience in resolving intellectual property and commercial technology contract disputes. If Customer is located in the United States, the arbitration will be held in New York, NY, USA and will be conducted in accordance with the commercial arbitration rules of the American Arbitration Association. If Customer is located in Europe, the Middle East or Africa, the arbitration will be held in London, England and the arbitration will be conducted in accordance with the LCIA (London Court of International Arbitration) Rules. If Customer is located in Asia (other than the Middle East), the arbitration will be held in Singapore and the arbitration will be conducted in accordance with SIAC (Singapore International Arbitration Centre) Rules. If Customer is located in any other country or location, the arbitration will be held in Vancouver, B.C., Canada and the arbitration will be conducted in accordance with the International Commercial Arbitration Rules of Procedures of the British Columbia International Commercial Arbitration Centre. The language of the arbitration will be English.

### **23. Compliance with Laws**

- 23.1 Anti-Corruption. Each party will comply with all laws applicable to it in respect of this Agreement, including, but not limited to, all applicable anti-corruption laws such as the UK Bribery Act, 2010, the Canadian Corruption of Foreign Public Officials Act, the United States Foreign Corrupt Practices Act, as each may be amended from time to time. Customer agrees that it has not received or been offered any illegal or improper bribe, kickback, payment, gift or item of value from any of ACL's employees or resellers in connection with this Agreement, excluding reasonable gifts and entertainment provided in the ordinary course of business. In no event will either party be obligated under this Agreement to take any action that it believes, in good faith, would cause it to be in violation of any laws, rules, ordinances or regulations applicable to it.
- 23.2 Export. Software provided under this Agreement may be subject to export or import laws in the United States and other countries outside of Canada. Customer will comply with all relevant export and import laws and regulations, and acknowledges that Customer is responsible for obtaining any licenses to export, re-export, or import as may be required after delivery of the Software to Customer.

### **24. US Federal Government End User**

- 24.1 The Products are provided for end use by the United States Government solely as follows: the Products, including related software and technology, are "Commercial Items" as that term is defined in FAR 2.101. As such, government technical data and software rights related to the Products include only those rights customarily provided to the commercial marketplace as specified in this Agreement. This customary commercial license is provided in accordance with FAR § 12.211 (Technical Data) and FAR § 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227- 7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not granted under this Agreement, it must negotiate with ACL to determine if there are acceptable terms for granting those rights, and a mutually acceptable written addendum specifically granting those rights must be included in any applicable agreement.

### **25. General**

- 25.1 Complete Agreement. This Agreement, together with each Order Form, is the complete and exclusive statement of the agreement between the parties with respect to Customer's subscription to the Products, and supersedes any prior discussions or agreements, oral or written, between the parties. The terms of any Customer purchase order or other general terms of Customer will not be binding on the parties and will not be construed to modify this Agreement. Any changes to this Agreement must clearly state that it is an addendum to the Agreement and must be signed by both parties before it is considered executed and binding on the parties. If the parties have

entered into a written agreement or addendum with respect to the Products, which is signed by both Customer and ACL, such written agreement or addendum will take precedence over this Agreement to the extent expressly stated in such written agreement or addendum.

- 25.2 Waiver and Severability. No waiver of any right under this Agreement is effective unless in writing and signed by a duly authorized representative of the party to be bound. No waiver of any past or present right arising from any breach or failure to perform will be deemed to be a waiver of any future right arising under this Agreement. If any section of this Agreement is unenforceable, that section will be construed, limited, modified or, if necessary, severed to the extent necessary to eliminate its unenforceability and the other sections of this Agreement will remain in full force.
- 25.3 Assignment. ACL may assign this Agreement upon prior written notice to Customer. Customer may not assign this Agreement without ACL's prior written consent, except to a corporate successor by merger, purchase of assets and assumption of liabilities, acquisition, reorganization, or otherwise; provided that, Customer notifies ACL in advance and such corporate successor agrees to be bound by this Agreement. In addition to the foregoing, Customer may only assign this Agreement if the assignee is not a competitor of ACL, Customer ceases use of the Products, and the usage of the Products does not exceed the number of Named Users for which Customer has purchased subscriptions. Neither party will be considered in breach of the confidentiality provisions of this Agreement by reason of such assignment. This Agreement will enure to the benefit of and be binding upon the parties and their respective legal representatives, successors, executors, heirs and permitted assigns.
- 25.4 Force Majeure. Neither party will be liable to the other for any delays in performing or failing to perform any obligation under this Agreement in the event of and for so long as the performance of any such obligation is prevented or delayed by any cause beyond the reasonable control of such party (which expressly excludes a lack of sufficient funds), provided that the party prevented or delayed from performance immediately notifies the other party of such disability and resumes performance as soon as possible following removal of the disability.
- 25.5 No Third Party Beneficiaries. Except as expressly provided in this Agreement, no person, other than a party to this Agreement, will be entitled to enforce any term of this Agreement.

**Schedule "A"**  
**ACL GRC Service Level Agreement**

This Service Level Agreement ("**SLA**") applies to Customers who have purchased the ACL GRC Service. Capitalized terms used but not defined herein have the meanings given to them in the ACL Master Subscription Agreement (the "**Agreement**").

1. **Service Level.** ACL will use commercially reasonable efforts to make the GRC Service operational and available to Customer at least 99.9% of the time in any calendar month, excluding periods of Scheduled Maintenance (the "**Performance Commitment**"). If ACL does not meet the Performance Commitment, and if Customer meets its obligations under the Agreement and this SLA, Customer will be eligible to receive the Service Credits described below. This Performance Commitment states Customer's sole and exclusive remedy for any failure by ACL in providing the GRC Service. If ACL fails to meet its Performance Commitment for three consecutive months during Customer's subscription term, Customer may terminate its subscription to the GRC Service for cause.

2. **Definitions.**

- a. "**Downtime**" means a period of at least ten (10) consecutive minutes during which the GRC Service is unavailable and cannot be accessed or used. Intermittent interruption, downtime for a period of less than ten (10) minutes or unavailability of the GRC Service caused by circumstances beyond ACL's reasonable control, including, but not limited to, external forces affecting the reliability of the internet, computer systems or other devices or mediums through which Customer accesses the GRC Service will not be counted as Downtime. Downtime will be measured exclusively through an independent third party monitoring service or application selected by ACL. The current monitoring service can be accessed at <http://status.aclgrc.com>.
- b. "**Monthly Uptime Percentage**" means the Scheduled Service Uptime (defined below) minus the total number of minutes of Downtime in a calendar month, divided by the Scheduled Service Uptime.

Example: In a 30-day month, if there were 200 minutes of Scheduled Maintenance and 100 minutes of Downtime, the Monthly Uptime Percentage for that calendar month would be:

$$\frac{(43,200 - 200 - 100)}{(43,200 - 200)} = 99.77\%$$

- c. "**Scheduled Maintenance**" means occasional maintenance to add resources, upgrade software, install security patches, etc., to the GRC Service. Scheduled Maintenance typically occurs during the period of lowest anticipated system usage. System notification is generally provided in advance of Scheduled Maintenance. During Scheduled Maintenance, certain components of the GRC Service may be offline, or may be operating in less redundant modes, or may be operating at reduced capacity levels, while maintenance is performed.
- d. "**Scheduled Service Uptime**" means the total number of minutes in a calendar month (e.g., 43,200 minutes in a 30-day month) less the number of minutes of Scheduled Maintenance in such month.

3. **Service Credits.** If the Monthly Uptime Percentage for any calendar month is less than 99.9% and Customer is impacted by any Downtime (for example, if the Downtime occurs during 1am-2am EST and Customer is not accessing the Service during this time, Customer is not impacted by any Downtime), ACL will extend Customer's GRC Service subscription term, at no charge, by the applicable number of days noted in the table below. By way of illustration, in the Example provided above, the customer would be entitled to three (3) days additional GRC Service at no charge.

Monthly Uptime Percentage	#Days Service subscription is extended
< 99.9% - ≥ 99.0%	3
< 99.0% - ≥ 95.0%	7
< 95.0%	15

4. **Customer Must Request Service Credit.** In order to receive a Service Credit as described above, Customer must notify ACL within thirty (30) days from the last day of the calendar month for which Customer wishes to receive a Service Credit. No Service Credits will be issued after this thirty (30) day period.

5. **Maximum Service Credits.** The aggregate maximum number of Service Credits to be issued by ACL to Customer for any and all Downtime in a single calendar month will not exceed fifteen (15) days of GRC Service added to the end of Customer's subscription term for the GRC Service. Service Credits may not be exchanged for, or converted to, monetary amounts.

6. **Service Credit Exclusions.** The Performance Commitment does not apply to (and no Service Credits are available to Customer as a result of) any unavailability, suspension or termination of a GRC Service (a) caused by factors outside ACL's reasonable control, including any force majeure event, (b) that results from Customer's actions or inactions or those of any employee, contractor, agent or third party acting on Customer's behalf, (c) that results from Customer's systems or software or from any non-ACL equipment, software or technology (other than third party equipment within ACL's direct control), (d) Scheduled Maintenance, or (e) that results from a suspension or termination of Customer's right to use the GRC Service in accordance with the terms of the Agreement.