

# ROUTEWARE LIMITED

## MASTER SALES AND LICENSE AGREEMENT

### 1. DEFINITIONS

The definitions of terms set forth in the Order are incorporated by reference herein. In addition, the following terms shall have the following meanings in the Order and in all Incorporated Agreements.

**"Affiliate"** means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity.

**"Company"** Routeware Limited.

**"Company Content"** means any Intellectual Property created, acquired, or licensed by Company and included in the Company Platform and/or the Services, other than Customer Content.

**"Company Materials"** means the Company Platform, the Company Content, the Company Systems and any and all other information, data, documents, materials, works and other content, devices, methods, processes, hardware, software and other technologies and inventions, including any deliverables, technical or functional descriptions, requirements, plans or reports, that are provided or used by Company in connection with the Services or otherwise comprise or relate to the Services, the Company Platform or the Company Systems. For the avoidance of doubt, Company Materials do not include Customer Content.

**"Company Platform"** means Company's mobile phone applications, web widgets, back-office administration dashboard, APIs and any third-party or other software that Company provides remote access to, or a license to use, as part of the Services, and all new versions, updates, revisions, improvements and modifications of the foregoing.

**"Control"** for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

**"Confidential Information"** has the meaning set forth in Section 10.

**"Data Sets"** mean digital data set(s) including, but not limited to, geographic, vector data coordinates, raster, or associated tabular attributes in Software compatible format(s) supplied by Company or as part of Third-Party Products.

**"Designated Computer System"** means a computer system and/or central processing units with associated network and licensed users, as set forth in the Order.

**"Dispute"** has the meaning set forth in Section 10.11.

**"Documentation"** means user guides, user manuals, specifications, and other documentation provided by Company as such documentation may from time to time be amended or modified by Company.

**"Effective Date"** means the date of Customer Signature or issuance of Purchase Order and Acceptance of the MSLA.

**"Fees"** means the amounts due for all Products and Services under the Order.

**"Hardware"** means all items designated in the Order as "Hardware."

**"License Period"** means the period listed on the Order, and any period of renewal (which shall be automatically renewing periods equivalent in length to the period listed on the Order), or, if no such period is stated on the Order, for automatically renewing periods of one (1) year started from the Effective Date.

**"MSLA"** means this Master Sales and License Agreement.

**"Order"** means the order to which this MSLA and any other Incorporated Agreements are incorporated by reference.

**"Products"** means Hardware and Software.

**"RMA"** means Return Merchandise Authorization, as described for the evaluation process for malfunctioning equipment in Section 7.3.

**"Services"** means all items designated in the Order as "Services" and "Support."

**"Software"** means all items designated in the Order as "Software" or "Company Platform" and includes all Updates.

**"Support"** means all items designated as "Support" in the Order.

**"Taxes"** has the meaning set forth in Section 2.3.

**"Third-Party Products"** means hardware and software sold by Company that is manufactured, developed or

made available by other companies and distributed by Company for use in conjunction with the Products, including but not limited to products from Microsoft, Google, and open source or “free” software.

“**Third-Party Terms**” has the meaning set forth in Section 4.

“**Updates**” are subsequent releases of Software which Company generally makes available to its customers who have purchased a Support Plan. Updates typically include bug fixes, patches, and feature enhancements. Updates typically do not include any new functionality that constitutes a new product (which is so designated at Company’s sole discretion) for which Company charges a separate fee. Updates are provided as and when available (as determined by Company) and may not include all previously available supported features. Company develops Updates in its discretion and has no obligation to develop any specific feature or functionality.

## **2. GENERAL ORDERING PROCESS AND PAYMENT**

**2.1 Delivery.** Company will use reasonable efforts to meet the delivery dates for Products and Services that are specified in the Order. All Product shipments are delivered F.O.B. to Company’s facility, with title and risk of loss passing at that time. All Products are deemed accepted upon delivery. Delivery delay or default of any installment shall not relieve the Customer of its obligation to pay for Products or Services provided by Company or accept remaining deliveries of Product.

**2.2 Payment Terms.** Payments are invoiced and paid in accordance with the payment terms described in the Order.

**2.3 Taxes and Duties.** Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, but not limited to, any sales, value added or goods and services tax, or other governmental charges or tariffs imposed or payable in connection with the rights granted to Customer under this Agreement, or in connection with the payment of Fees (collectively, “Taxes”). Customer is responsible for paying all Taxes associated with its purchases hereunder. If Company has the legal obligation to pay or collect Taxes for which Customer is responsible under this section, Company will invoice Customer and Customer will pay that amount, unless Customer provides Company with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, Company is solely responsible for taxes assessable against it based on its income, property and employees.

**2.4 Price Adjustment.** Beginning on the one-year anniversary of the Effective Date, Company may, upon thirty (30) calendar days’ prior notice to Customer, prospectively increase any Fees.

**2.5 Suspension of Services.** If any amount owed by Customer under this or any other agreement for Products or Services is thirty (30) days or more overdue, Company may, without limiting its other rights and remedies, suspend the Services until such amounts are paid in full.

## **3. SOFTWARE LICENSES; SUPPORT**

**3.1 License.** Subject to the provisions of the Agreement (including any geographical or location restrictions set forth in the Order), subject to the Customer’s payment of the Fees described in the Order, Company grants a limited, personal, non-transferrable, non-sublicensable, non-exclusive license during the License Period (which can be for a period certain or perpetual) to Customer:

- (a) To operate the Software, if any, Data Sets, if any, and Products, and use the Services for Customer’s internal purposes as set forth and subject to the limitations in the Order, in accordance with the Documentation.
- (b) To operate the Software, if any, on up to the number of trucks authorized on the Order, in accordance with the Documentation. Under no circumstances may Customer load Software on hardware (including computers and peripherals) that is not sold or certified and approved by Company.
- (c) To use the Documentation in connection with the licenses described in this Section 3 subsections (a) and (b).
- (d) The Products and/or Services may contain functionality that uses anonymized customer data. Customer agrees that their anonymized data will be used in the Company’s Products and/or Services.

**3.2 Period of License.** The license described in Section 3.1 will continue in force for the License Period, subject to, in the case of a subscription, either party electing against renewal or requesting reduction of any product by notifying the other party in writing at least ninety (90) days prior to the end of the then-current License Period. Such notice must be provided on Customer's company letterhead, include the date of the notice, applicable products and quantity, signed by an authorized party, and may be submitted electronically.

**3.3 Restrictions; Reservation of Rights.** Customer agrees not to (and to not enable any third party to):

- (a) reverse engineer or otherwise attempt to discover the source code of or trade secrets embodied in the Software (except to the extent required by law or as necessary for interoperability purposes as required under terms and conditions required by the providers of Third-Party Products);
- (b) distribute, transfer, grant sublicenses to, or otherwise make available the Software or Documentation to third parties, including making the Software or Documentation available
  - (i) through resellers or other distributors, or
  - (ii) as an application service provider, service bureau, or rental source;
- (c) embed or incorporate in any manner all or part of the Software into other applications of Customer or third parties other than as authorized in applicable Documentation;
- (d) create modifications to or derivative works of the Software;
- (e) reproduce the Software;
- (f) attempt to modify, alter, or circumvent any license control and protection mechanisms within the Software;
- (g) use or transmit the Software in violation of any applicable law, rule or regulation, including any export/import laws;
- (h) if the Order sets forth a Designated Computer System, use the Software on a computer system other than a Designated Computer System; remove, obscure or alter any copyright notices or any name, trademark, service mark, tagline, hyperlink or other designation included on any display screen within the Software;
- (i) create any software that competes with the Software or provides substantially the same functions as the Software; or
- (j) use the Software in a country other than the same country as indicated on the order.

Other than as stated in this Agreement, Company grants Customer no other right, title or interest in any Software.

**4. THIRD PARTY PRODUCTS.** Third-Party Products may be subject to additional license terms and restrictions ("Third-Party Terms"), which Company will make available to Customer as required by the suppliers of such Third-Party Products. In the event of a conflict between the terms of this Agreement and any Third-Party Terms, the Third-Party Terms shall control to the extent of the conflict. Company hereby assigns to Customer (to the extent assignable) all warranties given by the supplier(s) of Third-Party Products; provided, however, that Customer agrees to look to the supplier(s) for any Third-Party Products warranty, service and other post-purchase issues. Customer is solely responsible for obtaining any and all components, updates, new versions, and releases for any Third-Party Products necessary for use in connection with the Products.

**5. AUDITS.** During the term of the Agreement and for a period of one (1) year thereafter, Company will have the right to perform an audit not more than once each year to verify that Customer is using the Products in compliance with the Agreement. The audit will include at a minimum Company having access to all Software, Hardware, Documentation and related Customer equipment (including all servers and personal computers that contain Software, and any hardware that contains Software). The audit will be performed from Monday through Friday, between 8:00 a.m. and 5:00 p.m. local time, and upon not less than 15 days' prior written notice to Customer. The audit will be conducted virtually or onsite at the Customer's premises, at Company's sole cost and expense, subject to reasonable security and access restrictions. Customer will be permitted to have Customer personnel present during the audit. If an audit conducted under this section discloses that Customer has underpaid by more than 3% any amounts payable under this Agreement during the period covered by the audit, Customer will pay Company the amount of that underpayment and, in addition, will

- (1) reimburse Company's reasonable and actual costs for that audit and
- (2) be subject to legal remedies available to Company for Customer's breach of the Agreement.

**6. INTELLECTUAL PROPERTY RIGHTS.** Title to the Company Materials (excluding any Customer Content incorporated therein) shall at all times remain with Company or its third-party licensors as applicable. Customer acknowledges that the Services and the Company Materials are proprietary to Company and that all rights thereto are owned by Company or its third-party licensors as applicable. The Customer further acknowledges that the Company Materials contain trade secrets of Company and that the Company Materials are protected by U.S., Canadian and international copyright and other Intellectual Property Laws and treaties. Under no circumstances will a copy of any software comprising the Company Platform be provided to the Customer. The Customer shall not reverse engineer or directly or indirectly allow or cause a third party to reverse engineer the whole or any part of the Company Platform.

## **7. REPRESENTATIONS AND WARRANTIES; DISCLAIMER**

**7.1 Mutual.** Each party represents and warrants to the other party that:

- (a) it has the full corporate right, power and authority to enter into this Agreement and to perform the acts this Agreement requires of it;
- (b) the execution of this Agreement and performance of its obligations under this Agreement do not and shall not violate any other agreement to which it is a party;
- (c) when executed and delivered this Agreement constitutes the legal, valid and binding obligation of such party; and
- (d) any and all activities it undertakes in connection with this Agreement shall be performed in compliance with all applicable laws, rules and regulations.

### **7.2 Hardware and Software Warranties.**

- (a) Subject to the exceptions listed below in part (b), Company warrants:
  - (i) that the Hardware, if applicable, will be free from material defects in materials and workmanship and will operate in all material respects in accordance with its applicable Documentation (the "Hardware Warranty") for one year from the date of initial shipment (the "Hardware Warranty Period"). Customer may purchase renewals of the Hardware Warranty Period, if applicable, through extended service plans made available by Company in its discretion. Following the end of the Hardware Warranty Period, if applicable, Company will have no further obligation to repair or support the applicable Hardware; and
  - (ii) that the Software will be free from material defects and workmanship and will operate in all material respects in substantial conformance with the Documentation (the "Software Warranty") for a period of ninety (90) days from the date of implementation of the Software (the "Software Warranty Period"). Following the ninety (90) day Software Warranty Period, all software performance issues are governed by the Service Level Agreement.
- (b) Company's entire liability and Customer's exclusive remedy for any reported breach of the Hardware Warranty, if applicable, or Software Warranty will be repair or replacement of the defective Product within thirty (30) days of the written notice of the defective Product by the Customer, including, for Hardware, within 30 days after the receipt of the Hardware by Company from Customer and verification of the defect. If Company cannot repair or replace the defective Software during the Software Warranty Period, Company will refund all amounts paid by Customer for the defective Software and Company can terminate the Agreement. All claims must be received by Company promptly upon discovery of any defect, and in no event after expiration of the applicable Warranty Period. The foregoing Hardware, if applicable, and Software Warranties do not apply to any defect or failure to operate that is attributable to:
  - (i) Customer's misuse or abuse of or failure to maintain the Product;
  - (ii) Customer's failure to operate the Product in accordance with the Documentation;
  - (iii) input errors, data conversion errors or other such errors, such as Customer's failure to sequence route stops independently or through a Company professional services agreement;
  - (iv) any change made to the Product by Customer without Company's written approval;
  - (v) any defect, limitation or incompatibility in any equipment or other component installed by Customer;
  - (vi) any accident, catastrophe, act of God, or interruption or fluctuation in electrical power supplies;

- (vii) any material change in Customer's business or in the operating conditions under which the Product is used;
- (viii) translations; or
- (ix) Third-Party Products.

**7.3 Return Merchandise Authorization.** If Customer experiences the failure of any Customer-owned Hardware no longer covered under the Hardware Warranty, Customer may notify Technical Support to attempt to diagnose and resolve any issues via online and/or phone communication with the Customer. If the issue is not resolved, Customer will be forwarded an RMA Request Form with full instructions to complete and return the hardware to the Company's RMA Department for evaluation and verification of any malfunction. If hardware is not received by the RMA Department, or if Customer fails to respond to any subsequent questions or communications regarding the RMA within thirty (30) days, the RMA will be closed. A new RMA Request Form will be required should the Customer wish to pursue RMA evaluation in the future.

Once the hardware covered by the RMA is received by the RMA Department, the hardware will be evaluated, and Customer will be provided one or more of the following options:

- (a) No malfunction or issue detected. Device performed correctly and will be returned to Customer.
- (b) Issue confirmed. Cost estimate to repair will be provided to Customer. Upon Customer approval, device will be repaired, tested and returned to Customer.
- (c) Issue confirmed. Beyond repair, recommendation to replace at Customer cost will be provided. Device will be recycled by Company or returned unrepared to Customer upon Customer decision.

**7.4 Disclaimer.** THE WARRANTIES OF SECTION 7.2 ARE THE EXCLUSIVE WARRANTIES OFFERED BY COMPANY AND COMPANY MAKES NO ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER. ALL OTHER CONDITIONS AND WARRANTIES, INCLUDING ANY CONDITIONS OR WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, MERCHANTABILITY, SUITABILITY AND THOSE THAT ARISE FROM ANY COURSE OF DEALING OR COURSE OF PERFORMANCE, ARE HEREBY DISCLAIMED.

## **8. INDEMNIFICATION AND LIMITATION OF LIABILITY**

**8.1** Company, at its sole expense, agrees to defend and indemnify Customer against any third party claim that Customer's use of the Products, as delivered by Company to Customer and used in accordance with this Agreement and the Documentation, directly infringes a third party copyright, patent issued by the U.S. Patent and Trademark Office, or misappropriates a trade secret, provided that: (i) Customer notifies Company in writing within thirty (30) days of the claim; (ii) Company has sole control of the defense and all related settlement negotiations, as long as such settlement shall not include a financial obligation on Customer; and (iii) Customer provides Company with the information, assistance and authority to enable Company to perform Company's obligations under this Section. In any action based on claim of infringement, Company may, at its option and own expense and as its entire obligation to Customer with respect to such claims, either: (1) procure the right for Customer to continue using the Products in accordance with the provisions of this Agreement; (2) make such alterations, modifications or adjustments to the Products so that the infringing Product becomes non-infringing without incurring a material diminution in performance or function; (3) replace the Product with a non-infringing substantially similar substitute; or (4) if neither (1), (2), nor (3) can be achieved after the exercise of commercially reasonable efforts, either Party may terminate the Agreement for the affected Product and Company shall issue a refund to Customer for any prepaid but unused fees. Company shall have no liability or obligations for an infringement claim pursuant to this Section to the extent that it results from: (a) modifications to the Products made by a party other than Company, if the claim would not have occurred but for such modifications; (b) the combination, operation or use of the Products with non-Company equipment, devices, products or data, unless the claim would not have occurred but for the use of the Product in the combination, operation or use; (c) the use of an unsupported version of the Product; (d) use of the Product outside the scope of this Agreement or the documentation; (e) Company's use of any designs, plans, instructions, specifications, diagrams or the like, provided by Customer; or (f) Customer's failure to use all applicable enhancements and upgrades to the Products made available to Customer by Company, if the

claim would not have occurred but for such failure. Nothing in this provision shall be construed as a limitation on Customer's ability to retain legal counsel at its own expense to monitor the proceedings.

**8.2** Customer, at its sole expense, agrees to defend and indemnify Company against any third-party claim that the data provided by Customer to Company, directly infringes a third-party copyright, patent issued by the U.S. Patent and Trademark Office, or misappropriates a trade secret.

**8.3** **INDIRECT DAMAGES.** TO THE MAXIMUM EXTENT PERMITTED BY LAW AND EXCEPT WITH RESPECT TO THE FAILURE TO PAY AMOUNTS PROPERLY OWED, BREACHES OF CONFIDENTIALITY, INDEMNITY OBLIGATIONS OR VIOLATIONS OF COMPANY'S INTELLECTUAL PROPERTY RIGHTS, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY, WHETHER UNDER THEORY OF CONTRACT, TORT OR OTHERWISE, FOR ANY INDIRECT DAMAGES THAT ARISE FROM OR RELATE TO THIS AGREEMENT (INCLUDING LOST PROFITS, LOST DATA AND ANY OTHER INCIDENTAL, PUNITIVE, CONSEQUENTIAL, OR SPECIAL DAMAGES), WHETHER FORESEEABLE OR NOT AND WHETHER ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**8.4** **TOTAL LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY LAW AND EXCEPT WITH RESPECT TO THE FAILURE TO PAY AMOUNTS PROPERLY OWED, BREACHES OF CONFIDENTIALITY, INDEMNITY OBLIGATIONS OR VIOLATIONS OF COMPANY'S INTELLECTUAL PROPERTY RIGHTS, EACH PARTY'S AGGREGATE CUMULATIVE LIABILITY TO THE OTHER IN CONNECTION WITH THIS AGREEMENT (INCLUDING ANY WARRANTY CLAIMS) WILL NOT EXCEED, IN THE AGGREGATE AND REGARDLESS OF WHETHER UNDER THEORY OF CONTRACT, TORT OR OTHERWISE, THE TOTAL AMOUNT PAID OR PAYABLE BY CUSTOMER TO COMPANY IN THE 12 MONTHS PRIOR TO THE EVENT THAT GAVE RISE TO LIABILITY. EXCEPT WITH RESPECT TO THE FAILURE TO PAY AMOUNTS PROPERLY OWED, BREACHES OF CONFIDENTIALITY, INDEMNITY OBLIGATIONS OR VIOLATIONS OF COMPANY'S INTELLECTUAL PROPERTY RIGHTS, NO ACTION, REGARDLESS OF FORM, ARISING OUT OF THE TRANSACTIONS UNDER THIS AGREEMENT MAY BE BROUGHT BY EITHER PARTY HERETO MORE THAN TWO YEARS AFTER THE CAUSE OF ACTION HAS OCCURRED.

**8.5** **ALLOCATION OF RISK.** EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE RISK BETWEEN THE PARTIES. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS AGREEMENT, AND EACH OF THESE PROVISIONS WILL APPLY EVEN IF THE REMEDIES IN THIS AGREEMENT HAVE FAILED OF THEIR ESSENTIAL PURPOSE.

## **9. TERM AND TERMINATION**

**9.1** **Term of Agreement.** The Agreement begins on the Effective Date and continues until terminated pursuant to this Section 9.

**9.2** **Termination Rights.** The Agreement (including any of the Incorporated Agreements) may only be terminated as follows:

- (a) by mutual, written agreement of the parties;
- (b) by either party if the other party materially breaches the Agreement, and does not cure the breach within 30 days after receiving written notice from the non-breaching party;
- (c) at the end of the License Period; or
- (d) by either party if the other party makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, or avails itself of or becomes subject to any proceeding under the U.S. Federal Bankruptcy Act or any other foreign or domestic statute, law, rule or regulation relating to insolvency or the protection of rights of creditors, which proceeding is not dismissed within 60 days.

**9.3** **Effect of Termination.** Upon any termination of this Agreement, without prejudice to any other rights or remedies which the parties may have, the following applies:

- (a) Customer shall immediately cease all use of all Hardware and all Software and delete or return to Company all copies of Software in Customer's possession;
- (b) all other rights and obligations immediately cease, except that Sections 2.2, 3.3, 5, 7.3, 8, 9.3,

and 10 of the MSLA, and Sections 5.1, 6, 7, 8, 9, and 10 of the Professional Services Agreement (if the PSA is an Incorporated Agreement) shall survive termination;

(c) upon written demand, each party as a receiving party will return or destroy all of the other party's Confidential Information; and

(d) Customer will immediately pay Company any undisputed amounts still outstanding. For clarity, undisputed amounts include all payments owed by Customer during the entire term of the Agreement.

## **10. CONFIDENTIAL INFORMATION; PUBLICITY**

**10.1 Confidential Information.** Both parties recognize that they may each receive (as a "Recipient") from the other (as a "Discloser") certain confidential and valuable proprietary information that is identified pursuant to the terms of this Section 10 as confidential (collectively, the "Confidential Information"). Both parties agree to identify any Confidential Information as follows: if written, with a written legend that says "confidential" or a similar term; or if verbal, by identifying the information as confidential when disclosed, and then sending the Recipient a written confirmation of that confidential status within 30 days after disclosure. Notwithstanding the foregoing, all pricing, Documentation and Software are Company Confidential Information. A Recipient will not, without the Discloser's prior written consent, disclose Confidential Information to any person other than those of its employees, independent contractors or consultants who need to know it for the purposes of this Agreement and who are bound by confidentiality agreements with the Recipient that are at least as protective as this section. A Recipient may only use Confidential Information for the purpose of this Agreement. A Recipient will handle any Confidential Information with the same care as it does its own confidential information, but in any event no less than reasonable care. None of the provisions of this section, however, apply to any Confidential Information that meets any one of the following criteria:

- (a) information possessed by the Recipient without restriction prior to receiving it from the Discloser, provided that the Recipient can demonstrate such possession was obtained lawfully;
- (b) information that the Recipient developed independently and without use of or reference to the Confidential Information, as documented by its written records;
- (c) information that the Recipient receives from another party who is not in breach of any of that party's obligations as a result of that disclosure; or
- (d) information that the Discloser intentionally discloses to any other party without any restriction on confidentiality.

Additionally, a Recipient may disclose Discloser's Confidential Information to the extent that a court or other governmental body orders such Confidential Information disclosed by the Recipient, provided that the Recipient promptly notifies the Discloser of such order and provides the Discloser with notice and opportunity to contest it, if possible. These obligations shall survive the termination of this Agreement for a period of five (5) years, except with respect to any source code, which will remain protected until it is no longer Confidential Information. This section does not intend to grant a Recipient any ownership interest or license or right to any intellectual property rights of the Discloser.

**10.2** Notwithstanding anything contained herein to the contrary, the parties acknowledge that if the Customer is a government entity and subject to the Freedom of Information Act, the Customer shall not be responsible to the Vendor for any disclosure of Confidential Information pursuant to the Act or pursuant to official public records act laws, rules, regulations, instructions or other legal requirement.

**10.3 Terms; Publicity.** The parties will keep the terms and conditions of this Agreement confidential and will not divulge any of this information to any third party except as follows:

- (a) with the prior written consent of the other party;
- (b) as otherwise may be required by law or legal process;
- (c) during the course of litigation, so long as the disclosure is restricted in the same manner as is the confidential information of other litigating parties; and
- (d) in confidence to its legal counsel, accountants, banks, and financing sources and their advisors solely in connection with complying with or administering its obligations with respect to this Agreement; provided that, in (b) and (c) above, to the extent permitted by law, the disclosing party will use all legitimate and legal means available to minimize the disclosure to third parties, including

seeking a confidential treatment request or protective order whenever appropriate or available, and the disclosing party will provide the other party with at least 10 days' prior written notice of such disclosure.

Neither party may use the other party's trade names, trademarks or service marks, or engage in any publicity regarding this Agreement or its subject matter, without the other party's express written consent, which will not be unreasonably withheld or delayed.

**10.4 Independent Contractors.** The parties are independent contractors with respect to each other, and nothing in this Agreement shall be construed as creating an employer-employee relationship, a partnership, agency relationship or a joint venture between the parties.

**10.5 Insurance.** Each party will maintain, at its own expense during the term of this Agreement, insurance appropriate to its obligations under this Agreement, including as applicable general commercial liability, errors and omissions, employer liability, automobile insurance, and worker's compensation insurance as required by applicable law.

**10.6 Customer Responsibility.** Customer is solely responsible under the Agreement for all actions of its officers, directors, employees and contractors. Customer is solely responsible for the use of the Software, including but not limited to: assuring proper installation and configuration (if not installed and configured by Company); audit controls and methods; establishing adequate backup plans; converting data to and from the data structures used by the Software; assuring adequate data input and retrieval; and using the Software as set forth in the Documentation. Company is not responsible for any loss of data by Customer resulting from improper conversion Customer's data to or from the data formats and data structures used by the Software. Customer has sole responsibility for the accuracy, quality, integrity, reliability and appropriateness of all Customer data. Customer is solely responsible to prevent unauthorized access to, or use of, Products or Services hereunder, and will notify Company promptly of any such unauthorized access or use. Customer will comply with all applicable laws in its use of Products and Services hereunder.

**10.7 Force Majeure.** Each party will be excused from any delay or failure in performance hereunder, other than the payment of money, caused by reason of any occurrence or contingency beyond its reasonable control, including but not limited to acts of God, earthquake, flood, labor disputes and strikes, riots, war, pandemics, telecommunications failures (including any systemic Internet failures and any interruptions in services of internet service providers), and governmental requirements. The obligations and rights of the party so excused will be extended on a day-to-day basis for the period of time equal to that of the underlying cause of the delay.

**10.8 Assignment.** Neither party may assign its rights or obligations under this Agreement to any other person or entity, except for assignment and transfer of all of a party's rights and obligations under the following circumstances:

- (a) with the express written consent of the other party, which may not be unreasonably delayed or withheld;
- (b) as part of a re-organization or restructuring;
- (c) to the surviving entity of a merger transaction; or
- (d) to the purchaser of a Controlling Interest in, or more than 50% of, the assets of the assigning party. A "Controlling Interest" means more than 50% of the total outstanding voting stock of the assigning party. Any attempted assignment or delegation in violation of this section is void. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties and their respective successors and assigns.

A license transfer fee may be assessed by Company in the event of Customer acquisition/change in control.

**10.9 Changes & Waivers.** Company reserves the right to change the terms and conditions of this Agreement at any time. It is Customer's responsibility to check these terms and conditions periodically for changes. No waiver of any breach of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach, and no waiver is effective unless made in writing and signed by an authorized representative of the

waiving party.

**10.10 Governing Law.** The laws of England, without regard to conflict of laws rules, govern the interpretation and enforcement of this Agreement.

**10.11 Dispute Resolution.**

(a) The parties desire to resolve certain disputes, controversies and claims arising out of this Agreement without litigation. Accordingly, the parties agree to use the following alternative dispute procedure as their initial recourse with respect to any dispute, controversy or claim arising out of or relating to this Agreement or its breach. The term "Dispute" means any dispute, controversy or claim to be resolved in accordance with this dispute resolution procedure.

(b) At the written request of a party, each party shall appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any Dispute. These negotiations shall be conducted by non-lawyer, business representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures, such as mediation, to assist in the negotiations.

(c) If the negotiations do not resolve the Dispute within ten (10) business days of their commencement or such negotiations do not commence within seven (7) days of request by the other party in writing, then either party shall be free to pursue all rights and remedies as set forth in this Section 10.11.

(d) Any and all controversies, claims, or disputes arising out of this Agreement, including any breach of this Agreement, shall be subject to binding arbitration and pursuant to English law. Disputes that Customer agrees to arbitrate, and thereby agrees to waive any right to a trial by jury. The place of arbitration shall be England and English law shall apply. The arbitrator shall have no authority to award any punitive, exemplary, special or consequential damages of any kind. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The number of arbitrators shall be one (1). The arbitrator shall have the power to decide any motions brought by any party to the arbitration, including motions for summary judgment and/or adjudication and motions to dismiss and demurrers, prior to any arbitration hearing. The arbitrator shall issue a written decision including findings of fact and conclusions of law on the merits of its award. The arbitrator shall have the power to award any remedies, including attorneys' fees and costs, available under applicable law.

**10.12 Attorney Fees.** The prevailing party in any arbitration or litigation between the parties regarding this Agreement shall be entitled to recover reasonable attorney's fees and other costs from the other party. These fees and other costs are in addition to any other relief to which the prevailing party may be entitled.

**10.13 Conflicts.** In the event that any term of this Agreement conflicts with governing law or is held to be ineffective or invalid by a court of competent jurisdiction, such term will be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law, and the remaining terms of this Agreement shall remain in full force and effect.

**10.14 Notices.** Unless stated otherwise, all notices, consents and approvals under this Agreement must be delivered in writing by courier, by facsimile, by email or by certified or registered mail (postage prepaid and return receipt requested) to the other party at the address set forth on at the beginning of this Agreement, and are deemed delivered when received. Either party may change its address for notices by notice to the other party given in accordance with this Section 11.11. Customer is responsible for providing Company with its complete and accurate billing and contact information and notifying Company of any changes to such information.

**10.15 Counterparts.** The Agreement may be executed in counterparts, each of which will be deemed to be an original and together will constitute one and the same agreement. This Agreement may also be executed and delivered by electronic signature or facsimile and such execution and delivery will have the same force and effect of an original document with original signatures.

**10.16 Headings; Interpretation.** Headings are used in the Agreement for reference only and will not be considered when interpreting this Agreement. As used in this Agreement, "includes" (or "including")

means without limitation.

**10.17 Export Compliance.** The Products may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any U.S. government denied- party list. Neither party will access or use any Products or Confidential Information provided to it hereunder in a U.S.- embargoed country or region (currently the Crimea region, Cuba, Iran, North Korea, Sudan or Syria) or in violation of any U.S. export law or governmental regulation.

**10.18 Anti-Corruption.** Neither party has received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from an employee or agent of the other party in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction.

**10.19 No Third-Party Beneficiaries.** There are no third-party beneficiaries under this Agreement.

**10.20 Integration.** This Agreement and the Orders together constitute the entire agreement between the parties with respect to the Products and Services and supersede all prior and contemporaneous discussions, negotiations, communications or agreements regarding the same subject matter. The terms on any purchase order, invoice, or other ordering document that conflict with the terms of the Agreement or the Order will have no effect and are hereby rejected.

IN WITNESS WHEREOF, the parties hereto have executed and affirm they are authorized to bind their respective party to this Agreement.

ACCEPTED BY: Company	ACCEPTED BY: Routeware Limited
SIGNATURE:	SIGNATURE:
PRINTED NAME:	PRINTED NAME:
TITLE:	TITLE:
DATE:	DATE:

## SCHEDULE A

### DATA PROTECTION

- Data Processing**
  - The following definitions apply in this Agreement:

- 1.1.1 Appropriate Safeguards, Appropriate Technical and Organisational Measures, Customer, Data Portability, Data Subject, Personal Data Breach, Restriction of Processing and Supervisory Authority all have the meanings given to them in the Data Protection Legislation.
  - 1.1.2 Data Protection Legislation means the Data Protection Act 2018 as amended, updated and re-enacted from time to time, the EC Directive on the protection of individuals with regard to the Processing of personal data and on the free movement of such data (95/46/EC), the General Data Protection Regulation (Regulation (EU) 2016/679) and all local laws or regulations giving effect to the Directive and Regulation (as any such legislation, directive or regulation may be amended, extended or re-enacted).
  - 1.1.3 Personal Data means personal data, as defined in the Data Protection Legislation, which is being processed under this Agreement.
- 1.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 0 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 1.3 The parties acknowledge that the Customer is the Data Controller and the Company is the Data Processor. 0 sets out the scope, nature, and purpose of processing by the Company.
- 1.4 The Company will only process Personal Data in accordance with the written instructions of the Customer unless required to do so by law.
- 1.5 Without prejudice to clause 1.2, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of Personal Data to the Company for the duration and purposes of this Agreement.
- 1.6 The Customer warrants and represents that all Data Subjects have given their consent to the transfer of their Personal Data and Sensitive Personal Data by the Customer to the Company in order for the Company to provide the services, which shall include the transfer of Personal Data and Sensitive Personal Data to third party providers of services.
- 1.7 The Company's aggregate liability to the Customer under this Agreement for all losses, damages, costs, claims and expenses howsoever arising shall not exceed the limit of the amount due by the Customer to the Company (paid or payable) for the Services provided under this Agreement.
- 1.8 The Company will not use a Sub-Processor without prior specific or general written authorisation from the Customer.
- 1.9 If the Customer gives prior specific or general written authorisation for the Company to use a Sub-Processor, the following will apply:

- 1.9.1 the Company must notify the Customer of any changes to Sub-Processors made under prior general written authorisation and must allow the Customer a reasonable time to object to those changes;
  - 1.9.2 the Company must impose such contract terms on the Sub-Processor as are required by the Data Protection Legislation, especially but not exclusively, those contract terms required under Article 28.3 of the GDPR; and
  - 1.9.3 the Company will remain liable to the Customer for any acts or omissions of the sub-Processor.
- 1.10 The Company will not transfer the Personal Data outside of the European Economic Area (**EEA**) unless the Company has obtained the prior written consent of the Customer and:
  - 1.10.1 the Customer has provided Appropriate Safeguards (as defined in Article 46(2) of the GDPR) in relation to the transfer;
  - 1.10.2 the Data Subjects whose Personal Data will be transferred have enforceable rights and effective legal remedies; and
  - 1.10.3 the Company can provide an adequate level of protection to any Personal Data that is transferred.
- 1.11 The Company will put in place Appropriate Technical and Organisational Measures to:
  - 1.11.1 protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, the Personal Data; and
  - 1.11.2 allow the Customer to meet its obligations to Data Subjects, including but not limited to:
    - 1.11.2.1 rectification or erasure of Personal Data;
    - 1.11.2.2 Restriction Of Processing of Personal Data;
    - 1.11.2.3 Data Portability; and
    - 1.11.2.4 prompt response to Subject Access Requests.
- 1.12 The Company will obtain a commitment of confidentiality from anyone it allows to process the Personal Data, including but not limited to:
  - 1.12.1 the Company's employees, agents, officers and affiliates;
  - 1.12.2 Agency or temporary workers; or
  - 1.12.3 Sub-contractors or Sub-Processors.
- 1.13 The Company must assist the Customer, so far as possible and taking into account the nature of the processing under this Agreement and the information available to the Company, in meeting the Customer's obligations under the Data Protection Legislation, including but not limited to:

- 1.13.1 the obligation to keep Personal Data secure;
- 1.13.2 the obligation to notify Personal Data Breaches to the Supervisory Authority;
- 1.13.3 the obligation to advise Data Subjects where there has been a Personal Data Breach;
- 1.13.4 the obligation to carry out data protection impact assessments; and
- 1.13.5 the obligation to consult with the Supervisory Authority where a data protection impact assessments indicates an unmitigated high risk to the processing activities under this Agreement.

1.14 The Company will:

- 1.14.1 retain all information required to demonstrate that the Company and the Customer have met their obligations under the Data Protection Legislation;
- 1.14.2 submit and contribute to audits and inspections carried out by the Customer or a third-party appointed by the Customer to carry out such audits or inspections. The Customer will provide reasonable written notice of the date of inspections or audits;
- 1.14.3 inform the Customer immediately if the Company believes or suspects that it has been given an instruction that does not comply with the Data Protection Legislation; and
- 1.14.4 notify the Customer immediately if the Company becomes aware of or reasonably suspects a Personal Data Breach.

1.15 On termination or expiry of this Agreement the Company shall, at the choice of the Customer, delete or return all Personal Data and copies thereof it has within its power, ownership or control (except where otherwise required by law to retain such copies).

- 1.15.1 the Company shall ensure that any return is carried out securely and in accordance with current best practice.
- 1.15.2 the Company shall ensure that any deletion is carried out securely and in accordance with current best practice.

# APPENDIX 1

## DATA PROCESSING SCHEDULE

### Part 1 – Processing by the Company

1. The **Scope** of the processing will encompass receiving the Personal Data from the Customer or otherwise being provided with access to the Personal Data by the Customer, storing temporarily, organising or otherwise filing the Personal Data, comparing the Personal Data to data obtained from other sources, collating the Personal Data in an organised and transportable form.
2. The **Nature** of the processing will be, collection, recording, structuring, storage, organised filing, access, retrieval, consultation, use, disclosure by transmission, alignment and combination of the Personal Data.
3. The Personal Data was collected and will be processed for the following **Purpose**:
  - 3.1 Providing the Services.
4. The **Duration** of the Processing under this Agreement will be from the commencement of this Agreement, until the termination of contract reference PRUKXXXX.

### Part 2 – Types of Personal Data

1. The **Types** of Personal Data processed under this Agreement will be identity and contact details, including name, title, gender, marital status, postal address, email address and phone numbers.

### Part 3 – Categories of Data Subject

1. The **Categories** of Data Subject whose Personal Data will be processed under this Agreement will be Customers of the Customer.

# SCHEDULE B

## PROFESSIONAL SERVICES AGREEMENT

The Professional Services described in this Professional Services Agreement (the “PSA”) cover installation, configuration, integration, training and project management to assist customers with the deployment of Routeware Products. This PSA incorporates by reference the Routeware Master Sales and License Agreement (hereinafter “Agreement”) executed by the parties.

### DEFINITIONS

The definitions of terms set forth in the PSA and the Agreement and any Order are incorporated herein by reference. In addition, the following terms shall have the following meanings:

“**Change Order**” means any change to an SOW, as described in the “Change Orders” section below. Change Orders will be deemed incorporated by reference in the applicable SOW.

“**Contract Property**” has the meaning set forth in Section 5.3.

“**Defect**” means an error, bug, or deviation from a specification in the SOW that has an material adverse effect on the appearance, operation, or functionality of the Deliverable, but excluding any such error, bug, or deviation from a specification in the SOW caused by or arising as a result of: (a) an act or omission of Customer, or an act or omission of one of Customer’s employees, offices, agents, suppliers, or sub- contractors; or (b) an incompatibility between the Deliverable and any other system, application, program, or software that fails to transmit or receive data using protocols specified in the SOW. To avoid doubt, a minor or cosmetic difference to the specification in the SOW which does not have any substantive effect on the Deliverable will not be regarded as a Defect.

“**Deliverable**” means a deliverable under an SOW.

“**Final 30-Day Project Notice**” has the meaning set forth in Section 2.3.

“**Professional Services**” means work performed by Company, or its respective permitted subcontractors under an SOW.

“**SOW**” means a Statement of Work describing Professional Services to be provided hereunder, that is entered into between Customer and Company.

### 1. PROFESSIONAL SERVICES

**1.1. Scope of Professional Services.** Company will provide to Customer the Professional Services specified in each SOW, subject to Customer’s payment of all applicable Fees.

**1.2. Limitations of Scope:**

- (a) Unless specified in an SOW, no additional reports or dashboards other than those delivered as part of the solution will be delivered.
- (b) Unless specified in an SOW, no custom configuration which would require unique code to be developed will be delivered.
- (c) Unless specified in an SOW, the solution will be delivered as part of a single Go-Live event, covering a single location.
- (d) Remote targeted training will be delivered during the implementation to familiarize Customer’s staff with the solution. Customer will be responsible for ensuring that the right staff participates in these training sessions. Repeat sessions for additional staff will be billable events and require a Change Order.
- (e) Scenario-based training may be conducted remotely or on-site per the SOW, and is structured to as Train-the Trainer. Repeat sessions for additional staff will be billable events and require a Change Order.

- (f) Any customer required documentation outside of the standard deployment artifacts must be included in the Contract/SOW. Creating these will be a billable project.
- (g) Direct support for the Customer's end customer is excluded.

## **2. COOPERATION**

**2.1. Customer Cooperation.** Customer will cooperate reasonably and in good faith with Company in its performance of Professional Services, without limitation:

- (a) Allocating sufficient resources and timely performing any tasks reasonably necessary to enable Company to perform its obligations under each SOW
- (b) Timely delivering any Customer deliverables and other obligations required under each SOW
- (c) Timely responding to Company's inquiries related to the Professional Services
- (d) Assigning an internal project manager for each SOW to serve as a primary point of contact for Company;
- (e) Actively participating in scheduled project meetings;
- (f) Providing, in a timely manner and at no charge to Company, office workspace, telephone and other facilities, suitably configured computer equipment with Internet access, access to appropriate and knowledgeable employees and agents of Customer, and continuous administrative access to Customer's Products account, and coordination of onsite, online and telephonic meetings all as reasonably required by Company; and
- (g) Complete, accurate and timely information, data and feedback all as reasonably required.

**2.2. Delays.** Any delays in the performance of Professional Services, delivery of Deliverables caused by Customer may result in additional applicable charges for resource time, and is not deemed a term of non-performance in deliverable dates by Company.

**2.3. Meetings and Information Requests; Final 30-Day Project Notice.** Company and Customer shall each use commercially reasonable efforts to attend all scheduled joint meetings. The repeated cancellation of or absence from joint meetings may result in delay and additional costs. In the event that Company has made a request and Customer has not responded promptly with the requested information, Company may issue a "Final 30-Day Project Notice" ("Final Notice") to Customer. If Customer does not respond as requested to the Final Notice, Customer agrees that Company shall be relieved of any further obligations which have not been completed under the SOW and Customer shall remain liable for payment of all Fees as set forth herein. Any and all services requested by Customer following the expiration of the aforementioned thirty (30) day period will require Customer and Company to execute a new SOW and Customer shall be responsible for any additional Fees contemplated thereunder, even if listed in the original SOW.

## **3. DELIVERY, ACCEPTANCE AND CHANGE ORDERS**

**3.1. Acceptance.** Upon completion of each Deliverable under an SOW, if acceptance is required pursuant to the SOW, Company will provide a complete copy to Customer and upon request, demonstrate to Customer its functionality in conformance with the relevant specifications. Customer is responsible for reviewing and testing such Deliverables in accordance with such SOW pursuant to any acceptance criteria or test plans mutually agreed upon in writing by the parties for such Deliverable. If Customer, in its reasonable and good faith judgment, determines that any submitted deliverable does not meet the applicable functional requirements set forth for such Deliverable in the applicable SOW or contains one or more Defects, Customer must so notify Company in writing within 10 business days after Company's submission of the Deliverable, specifying the deficiencies or Defects in detail. Subject to Section 3.2 below, Company will use commercially reasonable efforts to correct such deficiencies and resubmit the Deliverable to Customer as soon as practicable. Customer will

again review and test the Deliverable against the agreed-upon acceptance criteria and detail any deficiencies to Company in writing within 10 business days after resubmission of the Deliverable. If a Deliverable fails to meet the functional requirements specified in the applicable SOW or contains Defects after its second resubmission to Customer, Customer may either, as its sole and exclusive remedy:

- (a) again reject the Deliverable and return it to Company for further correction and resubmission in accordance with the process described above or
- (b) terminate the relevant SOW immediately upon written notice and recover all Professional Services Fees paid under such SOW for such deficient Deliverable. Notwithstanding the foregoing, in the event the applicable functional requirements as stated in the SOW are subsequently determined by the parties to be inappropriate or to require modification due to changed circumstances, incorrect assumptions or other reasons at the time of actual delivery and testing of a Deliverable, the parties shall cooperate in good faith to appropriately modify such requirements. Failure to reject a Deliverable within the applicable acceptance period shall be deemed acceptance of such Deliverable.

**3.2. Dispute.** If Company, in its reasonable and good faith judgment, does not agree with Customer that a submitted Deliverable does not meet the applicable functional requirements set forth for such Deliverable in the applicable SOW or contains one or more Defects, Company will so notify Customer. The parties will use reasonable efforts to resolve the disagreement as soon as reasonably practicable, including by escalation to more senior management.

**3.3. No Effect on Warranty Remedies.** Acceptance of Professional Services, including a Deliverable, will not affect Customer's rights or remedies under the "Warranty" section below.

**3.4. Change Orders.** Changes to an SOW will require a written Change Order signed by the parties prior to implementation of the changes. Such changes may include, for example, changes to the scope of work and any corresponding changes to the estimated Fees and schedule for the performance of the applicable Services. Upon Company's receipt of a Change Order request from Customer, Company will promptly notify Customer if Company believes that the Change Order request requires an adjustment to the Fees or to the schedule for the performance of the applicable Services. In such an event, the parties will negotiate in good faith a reasonable and equitable adjustment to the Fees and/or schedule, as applicable. During such negotiations, Company may continue to perform Services pursuant to the existing SOW and will have no obligation to perform Services pursuant to the Change Order request unless and until the parties have executed an applicable Change Order. Any time and materials that are required to evaluate a Change Order request are billable at Company's then-current standard rates.

#### **4. FEES AND INVOICING**

**4.1. Fees.** Customer will pay Company for the Professional Services at the rates specified in the applicable SOW or if no rate is specified in the SOW at Company's standard rates in effect at the time the SOW is executed. Professional Services are provided on either a time-and-materials or fixed fee basis, as provided in an SOW. Any amount set forth in a time-and-materials SOW is solely a good-faith estimate for Customer's budgeting and Company's resource scheduling purposes and is not a guarantee that the work will be completed for that amount; the actual amount may be higher or lower. If the estimated amount is expended, Company will continue to provide Professional Services under the same rates and terms. Company will periodically update Customer on the status of the Professional Services and the Fees accrued under SOWs.

**4.2. Incidental Expenses.** Customer will reimburse Company for reasonable travel and out-of-pocket expenses incurred in connection with Professional Services including airfare/mileage, lodging, meals, tolls.

**4.3. Suspension of Professional Services.** If any amount owed by Customer under this or any other agreement for Professional Services is 30 days or more overdue, Company may, without limiting its other rights and remedies, suspend its performance of Professional Services until such amounts are paid in full. No additional licenses nor SOWs will be presented to Customers who are delinquent on payments.

**4.4. Support Fees.** Any Development, Integration, Reporting, or Ongoing Data Synchronization work is subject to annual or monthly maintenance fees.

## **5. PROPRIETARY RIGHTS AND LICENSES**

**5.1. Customer Intellectual Property.** Customer does not grant to Company any rights in or to Customer's intellectual property except such licenses as may be required for Company to perform its obligations hereunder.

**5.2. Confidential Information.** As between the parties, each party retains all ownership rights in and to its Confidential Information.

**5.3. License for Contract Property.** Upon Customer's payment of Fees due under an applicable SOW, Company grants Customer a non-exclusive, non-transferable, license to maintain, use and run (as applicable) solely for its internal business purposes associated with its use of Products anything developed by Company for Customer, including Deliverables, under this Agreement ("Contract Property"). Company and Customer each retains all right, title and interest in its respective intellectual property and Company retains all ownership rights in the Contract Property.

## **6. WARRANTIES, EXCLUSIVE REMEDY AND DISCLAIMERS**

**6.1. Warranty.** Company warrants that the Professional Services will be performed in a professional and workmanlike manner in accordance with generally accepted industry standards. For any breach of the above warranty, Customer's exclusive remedy and Company's entire liability will be the re-performance of the applicable Professional Services. If Company is unable to re-perform the Professional Services as warranted, Customer will be entitled to recover the Professional Services Fees paid to Company for the deficient Professional Services. Customer must make any claim under the foregoing warranty to Company in writing within 90 days of performance of such Professional Services in order to receive warranty remedies.

**6.2. Disclaimer.** THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES AND NEITHER PARTY MAKES ANY OTHER WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON- INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

## **7. INDEMNIFICATION**

**7.1. Indemnification by Company.** Company will defend Customer against any claim, demand, suit or proceeding ("Claim") made or brought against Customer by a third party arising out of death, personal injury or damage to tangible property to the extent caused by Company personnel in their performance of the Professional Services, and will indemnify Customer for any damages, attorneys' fees and costs finally awarded against Customer as a result of, or for amounts paid by Customer under a settlement approved in writing by Company of, any such Claim, all of the foregoing to the extent caused by Company personnel, provided that Customer: (a) promptly gives Company written notice of the Claim; (b) gives Company sole control of the defense and settlement of the Claim (except that Company may not settle any Claim unless it unconditionally releases Customer of all liability); and (c) gives Company all reasonable assistance, at Company's cost. The above

defense and indemnification obligations do not apply to the extent a Claim arises from Customer's breach of the Agreement.

**7.2. Mutual Indemnity.** Each party (the "Provider") will defend the other party (the "Recipient") against any Claim made or brought against the Recipient by a third party alleging that any information, design, specification, instruction, software, data or material furnished by the Provider hereunder ("Material") infringes or misappropriates such third party's intellectual property rights, and will indemnify the Recipient from any damages, attorneys fees and costs finally awarded against the Recipient as a result of, or for amounts paid by Recipient under a settlement approved in writing by Provider of, any such Claim, provided that the Recipient: (a) promptly gives the Provider written notice of the Claim; (b) gives the Provider sole control of the defense and settlement of the Claim (except that the Provider may not settle any Claim unless it unconditionally releases the Recipient of all liability); and (c) gives the Provider all reasonable assistance, at the Provider's cost. The Provider will have no liability for any such Claim to the extent that (i) it arises from specifications or other Material provided by the other party, or (ii) such claim is based on the Recipient's use of a superseded or altered version of Material if infringement or misappropriation would have been avoided by the use of a subsequent or unaltered version of the Material that was provided to the Recipient, (iii). In the event that some or all of the Material is held or is reasonably believed by the Provider to infringe or misappropriate, the Provider may in its discretion and at no cost to the Recipient (A) modify or replace the Material so it is no longer claimed to infringe or misappropriate, (B) obtain a license for the Recipient's continued use of the Material in accordance with this Agreement, or (C) require return of the affected Material and all rights thereto from the Recipient. If the Provider exercises option (C), either party may terminate the relevant SOW upon 10 days' written notice given within 30 days after the Provider's exercise of such option, subject to the "Payment Upon Termination" section below.

**8. Exclusive Remedy.** This "Indemnification" section states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of Claim described in this section.

## **9. LIMITATION OF LIABILITY**

**9.1. Limitation of Liability.** EXCEPT FOR BREACHES OF CONFIDENTIALITY OR INDEMNITY OBLIGATIONS, IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EACH PARTY TOGETHER WITH ALL OF ITS AFFILIATES ARISING OUT OF OR RELATED TO AN SOW EXCEED THE TOTAL FEES PAID BY CUSTOMER AND ITS AFFILIATES HEREUNDER FOR THE SOW OUT OF WHICH THE LIABILITY AROSE. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY BUT WILL NOT LIMIT CUSTOMER'S AND ITS AFFILIATES' PAYMENT OBLIGATIONS UNDER THE "FEES AND PAYMENT" SECTION.

**9.2. Exclusion of Consequential and Related Damages.** IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY LOST PROFITS, REVENUES, GOODWILL, OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL COVER, BUSINESS INTERRUPTION, OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT, AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF A PARTY'S OR ITS AFFILIATES' REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

## **10. NON-SOLICITATION AND CONTRACTORS.**

**10.1. Non-Solicitation and Non-Hiring of Company's Employees.** During the term of this Agreement, and for a period of two years after the termination of this Agreement, Customer agrees not to hire or to solicit the employment of any person who (a) at the time of such solicitation or hiring is presently an employee of Company, or (b) at any time within one year prior to such solicitation or hiring has been an employee of

Company, and directly or indirectly associated with Company's work effort under this Agreement. The parties recognize and agree that the damages resulting to Company from a breach of this Section are difficult or impossible to calculate, and that irreparable injury to Company would result from any such breach. Company shall be entitled to injunctive relief in the event of any breach or threatened breach of this Section, in addition to any other remedy in law or equity arising therefrom. Additionally, if Customer hires such a person as Customer's employee or contracts with such a person as Customer's contractor, Customer shall pay to Company liquidated damages equal to two times such person's annual base salary immediately preceding such person's termination of employment with Company. The parties agree that such liquidated damages are a reasonable estimate of the damages which would be suffered by the Company in the event of such hiring.

**10.2. Subcontractors.** **Company** may, in its reasonable discretion, use subcontractors inside or outside the United States to perform any of its obligations hereunder. Company will be responsible for the performance of Professional Services by its personnel (including employees and contractors) and their compliance with Company's obligations under this Agreement, except as otherwise specified herein.

# SCHEDULE C

## SERVICE LEVEL AGREEMENT (SLA)

This SLA incorporates by reference the Routeware Master Sales and License Agreement (hereinafter “Agreement”) executed by the parties.

### 1. Uptime Service Levels for The Company’s Products

Every effort will be made by The Company to conduct periodic monitoring of its Products to assess availability in order to meet the following service availability targets.

Objective	Definition	Target
Software Uptime*	Software application availability time (EasyRoute, RCC, EnCore, etc.)	99%

\*Uptime SLA only applies to Software hosted by the Company. Scheduled service unavailability times are not included in our uptime calculations. Uptime is measured every 180 days over standard service across all customers.

If the Company does not meet the Uptime Percentage Target specified above, Customer will be entitled, upon written request, to a service level credit (“Service Level Credit”), with respect to the applicable Software, equal to the total number of minutes of downtime during the month divided by the total month’s minutes, minus 0.01, all multiplied by the monthly average Software Fee derived from one-twelfth (1/12th) of the then-current annual Software Fees paid to the Company. Such Service Level Credit will be applied to the customer’s invoice for the billing period following the date on which the Company approves the request for credit by the Customer.

### 2. Support Service Level Matrix – Notification from Customers of a defect or via internal audit reports

#### HARDWARE SUPPORT LEVEL MATRIX

- Tier 1 Level Support will investigate, and action next steps. Tier 2 Level Support will target to provide initial response to Customer within 1 Business Day when received via email. If an email, chat or call is made related to a Tier 1 Support case, Customer will receive the initial response immediately and/or within the first 12 hours.
- In the event that a Field Service Technician is required at the sole discretion of the Company, Technical Support will liaise with The Company’s Fulfillment team to assist with finding an approved installer.
- If the issue relates to a hardware malfunction and Customer is unable to utilize the hardware to operate, the Company will endeavor to resolve the issues, or replace the hardware device where applicable. In some cases, a workaround may be provided to Customer until a hardware replacement is received. While The Company may provide replacement hardware with expedited or overnight shipping, The Company is not responsible for delays by the shipping carrier.

**SOFTWARE SUPPORT LEVEL MATRIX:** The following table details the different priorities for incidents. All hours and days listed are business hours, or business days and valid from the date/time of notification to the Company. All target diagnosis and resolution times are approximate. The Company will use commercially reasonable efforts to address within stated timelines below.

Severity Level	Details	Target Acknowledgement*	Target Initial Diagnosis time**	Target Resolution time***
<b>P1 – Priority Level 1</b>	<b>A critical severity issue has significant to critical impact on business, production, etc., and to which there is no reasonable workaround</b>	<b>1 Hour</b>	<b>1 Day</b>	<b>Hotfix may be applied to affected Customers and general release in one of next two updates, if deemed appropriate for all customers</b>
<b>P2 – Priority Level 2</b>	<b>An issue that has some business impacts on the production system resulting in some loss of functionality. A workaround may be available and software is still usable but operating sub-optimally.</b>	<b>1 Day</b>	<b>5-10 Days</b>	<b>Within current or next release, where appropriate</b>
<b>P3 – Priority Level 3</b>	<b>A case that has no immediate impact on the performance, quality or functionality of the software system.</b>	<b>3 Days</b>	<b>10-15 Days</b>	<b>N/A</b>

\*Target Acknowledgement: The Company will use reasonable efforts to respond to Customer to acknowledge a fault notification within the corresponding time (measured from the earlier of the time of receipt of Customer notification or the time the Company becomes aware of the defect) for the Severity Level set out in the table above.

\*\*Target Initial Diagnosis: The Company will use reasonable efforts to respond to Customer within the corresponding time for the Severity Level set out in the table above with the results of its initial diagnosis of a defect and advise the Customer of the cause of the issue and how it intends to resolve the issue.

\*\*\*Target Resolution of Defects: The Company will aim to resolve the defect within the corresponding time (measured from the earlier of the time of receipt of the Customer notification or the time Routeware becomes aware of the defect) for the Severity Level set out in the table above.

### 3. LIMITATIONS

The resolution of defects does not include work addressing system limitations due to Customer system-related issues or issues caused by the Customer's on-premises placement of any hardware or server.

Further, this SLA and any applicable Service Levels do not apply to any performance or availability issues due to:

- Scheduled maintenance where Routeware has given at least 2 business days' notice in advance to the Customer, or
- Circumstances beyond the reasonable control of Routeware, including without limitation: acts of Government authority, war, sabotage, fire, flood, strike or other labor disturbance, failure of third-party software or equipment, or
- Any act or omission of the Customer, or their authorized agent, including without limitation, negligence, willful misconduct, or use of Routeware services in breach of Routeware's Terms and Conditions.

#### 4. Scheduled Maintenance

When an outage is required for scheduled maintenance, the Company will communicate all scheduled service outages by giving at least 24 hours' notice in advance to the Customer. The Company will make every effort to perform any scheduled maintenance events during non-business hours to minimize impact to Customer's business operations.

#### 5. Routeware Technical Support Availability

Standard Technical Support Hours are between 5:00 a.m. – 5:00 p.m. Pacific Standard Time (PST) (US); 8:00 a.m. – 5:00 p.m. Greenwich Mean Time (GMT) (UK); and 8:00 a.m. – 5:00 p.m. Eastern Standard Time (EST) (Canada), Monday-Friday, excluding Holidays listed below (holidays subject to change). For Holidays that occur on a Saturday or Sunday, the Holiday is observed either the Friday before, or following Monday.

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##### North America Holiday Schedule:

- New Year's Day
- MLK Day
- Good Friday
- Memorial Day
- Independence Day (United States)
- Labor Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Eve
- Christmas Day

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##### Canadian Holiday Schedule:

- New Year's Day
- Family Day
- Good Friday
- Victoria Day
- Canada Day (Newfoundland Memorial Day)
- Civic Holiday
- Labour Day
- Day for Truth & Reconciliation
- Thanksgiving Day
- Remembrance Day
- Christmas Day
- Boxing Day
- New Year's Day

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##### UK Holiday Schedule:

- New Year's Day
- Good Friday
- Easter Monday
- Early May Bank Holiday
- Spring Bank Holiday
- Platinum Jubilee Bank Holiday
- Summer Bank Holiday
- Christmas Day
- Boxing Day

## 6. DEFINED TERMS

- **Critical Functions** (P1) could include, where relevant, inability to process billing, generate invoices, accept and process payments, unable to run any system reports, Dispatch system is inoperable, frozen sessions, multiple devices with chronic crashes or failure of on-board computer tablets, etc.
- **Priority Level 2** (P2) functions still have a significant impact to the Customer's business and could include, where relevant, Smart Truck failures fleet wide, a subset of drivers are having similar issues with tablets, a primary report is not functioning, etc.
- **Priority Level 3** (P3) issues are less severe, and often include professional services requests such as training, configuration assistance, issues with a workaround provided by the Company, general questions, etc.
- **Defect** means any failure of a Product which: (i) does not result from any act or omission of the Customer, or their authorized agent, including without limitation, negligence, willful misconduct, or use of the Products in breach of the Agreement and; (ii) is not outside the reasonable control of the Company, including without limitation: acts of any government authority, war, sabotage, fire, flood, strike or other labor disturbance, failure of third party software or equipment.
- Resolution and Resolve are references to the implementation of a permanent solution to a Defect.

## 7. INCIDENT RESPONSE and ROOT CAUSE ANALYSIS

An incident is an unplanned interruption to the Products that is not a result of the Customer making configuration or other types of changes. Incidents may occur due to misconfiguration, corrupted data or service crashes, etc. In the unlikely event that an incident occurs to a Customer's hardware or software solutions, an Incident Management Response Process is initiated in order to log, record and resolve the incident(s) as quickly as possible to restore the business process or service back to normal. As part of the Company's Incident Management Response Process, an RCA (root cause analysis) is completed and will be provided to Customer upon request.