softserve

MASTER SERVICE AGREEMENT

MASTER SERVICES AGREEMENT

This MASTER SERVICES AGREEMENT ("Agreement") is made effective as of the last date of signature below (the "Effective Date"), by and between [＿＿＿＿＿＿＿＿＿] a company incorporated under the laws of [＿＿＿＿＿＿] with registered number [＿＿＿＿＿] whose registered office is situated at [＿＿＿＿＿＿＿＿＿＿＿＿＿] ("Client"), and **SoftServe Systems limited**, a company incorporated under the laws of England, with registered number 07858139, whose registered office is situated at Part Lower Ground Floor, 30 Cannon Street, London, England, EC4M 6XH and its affiliates ("SoftServe") (each a "Party" and together the "Parties").

Preliminary Statement

Client desires to obtain from SoftServe software development and maintenance services, as well as other technical and service support, and SoftServe agrees to provide these services for Client, subject to the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, Client and SoftServe agree as follows:

1. Agreement to Provide Services

(a) Client hereby retains SoftServe to perform during the term of this Agreement, services to design, develop, test (QA) and maintain software in accordance with the specifications described in one or more Statements of Work (each a "SOW") as exchanged and endorsed in writing between the Parties during the Term of this Agreement. SoftServe agrees to perform said services in accordance with the SOW, subject to the terms and conditions contained herein. The term of a SOW shall cover the period of time described in the SOW for the performance of all of the work to be performed thereunder.

(b) In addition and not by way of limitation to the services described above, SoftServe shall:

(i) develop Client's products and maintain them in accordance with specifications and approved coding conventions from time to time provided by Client to SoftServe;

(ii) keep Client informed about on-going activities and deliveries;

(iii) provide Client with status reports containing a description of all activities completed in a manner as to be agreed by the Parties; and (iv) provide delivery of source code on terms agreed by Parties, together with a script that can be run to prove that all code can actually be compiled and properly executed.

(c) To the extent that a SOW requires SoftServe to provide any Deliverables (as defined herein below) to Client, SoftServe shall deliver to Client the Deliverables in accordance with the SOW and any acceptance process described in such SOW. If the SOW does not contain an acceptance procedure, then the following acceptance procedure in this Section will apply: Upon delivery of a Deliverable to Client in accordance with a SOW, Client shall have ten (10) business days (unless both Parties mutually agree to an extension of this time to facilitate longer acceptance testing, approval of such extension of time not to be unreasonably withheld) to either accept or reject a Deliverable. If Client does not notify SoftServe about any deficiencies of the Deliverable within above stated period of time, then Deliverable is regarded to be

accepted by Client. If Client rejects the Deliverable, Client shall provide, at the time of rejection, a written statement to SoftServe that identifies in reasonable detail the deficiencies of such Deliverable. If Client provides SoftServe a notice of rejection for any Deliverable, SoftServe shall modify such rejected Deliverable to correct any non-conformity of the Deliverable to the SOW and shall redeliver such Deliverable to Client within ten (10) business days after SoftServe's receipt of such notice of rejection, unless otherwise agreed in writing by the Parties. The foregoing procedure for rejection and cure of nonconforming goods shall constitute Client's sole legal remedy for nonconformity of a Deliverable to the SOW. For the purposes of this Agreement "Deliverables" shall mean any materials, information, work product developed by SoftServe or modified by SoftServe in the course of performing a SOW, to include, but not limited to software, enhancements, revisions and source code.

2.   Changes to Specification

(a)   Material change requests by Client to Deliverable specifications in the SOW will be presented to SoftServe and discussed promptly by the Parties. SoftServe will determine and report whether the change request can be implemented without adversely impacting delivery schedules or increasing SoftServe's burden of performing the SOW. Changes to schedule and scope burden attributable to SOW changes by Client require fair additional compensation to SoftServe documented in a purchase order accepted by SoftServe. Additional compensation to SoftServe will be costed based on modifications to SoftServe's resource commitment as a result of a SOW change, including the following criteria:

- Cost to modify SoftServe team size and composition due to changed timing or content of objective.
- Impact on sequencing of objectives and Deliverables.
- Revision of previously performed work.
- Cost to achieve new or modified objectives.
- Costs incurred in reliance upon previously agreed schedule, scope and budget terms.
- Reasonable risk-return expectations.

The covenant of good-faith and fair dealing under the Laws of England will govern the Parties' implementation of this commitment.

(b)   An executed Change Authorization or other written agreement approved and signed by both Parties is the only means of modifying a SOW. The most recent Change Authorization will modify and take precedence over any inconsistent terms of either the SOW or any previous Change Authorizations.

3.   Pricing and Payment Terms

(a)   Subject to the terms and provisions contained herein, Client agrees to pay SoftServe under the terms of the specific SOWs.

(b)   The terms described in the immediately preceding paragraph does not include any expenses for special hardware and/or software. It is anticipated that there will be an extra charge for special hardware and/or software needed for a project, and any such additional costs will be discussed and negotiated in advance for every specific case and

will not be owed by Client unless approved in writing by Client prior to the expenditure being incurred.

(c) Unless different payment terms are set forth in the applicable SOW, SoftServe shall bill Client at the beginning of each month. Payment for all such non-disputed billings shall be due and payable within thirty (30) days after the invoice is received. The remittance advices to be sent to the email address invoice@softserveinc.com at the same time as payments are processed. All payments not made when due will incur a late fee of 1% monthly. If all or any part of an undisputed billing is not paid within thirty (30) days after the invoice is received, SoftServe will provide Client with written notice of such failure; then if the undisputed billing is not paid within fifteen (15) days of receipt of such notice the Agreement shall be deemed to be in default.

(d) Whenever Client disputes an invoice, Client will deliver a Dispute Notice pursuant to section 18 (a) of this Agreement. If only part of an invoice is in dispute, Client will pay the undisputed amount of the invoice without delay.

(e) Unless otherwise explicitly stated, all fees are exclusive of value added tax (VAT) which shall be charged as applicable and shown separately on the invoices. Client shall pay all value added and other indirect taxes on performance of this Agreement, excluding any taxes based on SoftServe's income, property, personnel, or procurement of goods or services. If Client asserts a tax exemption, Client will provide sufficient supporting documentation to SoftServe.

4. Proprietary Rights

(a) Provided that Client makes full and complete payment owed hereunder to SoftServe for its performance of a Deliverable, **(i)** the Deliverable code will be assigned to and owned by Client and **(ii)** ownership of all derivative works with respect to code Deliverables shall vest in Client. Each Party shall act as the other Party may reasonably require for the purpose of preserving or perfecting such intellectual property rights and title therein.

(b) SoftServe shall notify Client of any infringement or unauthorized use of any software and software derivative product owned by Client of which it becomes aware, and shall cooperate fully to take all actions necessary to terminate such infringing or unauthorized use.

(c) Independent of this Agreement, SoftServe has developed and during the term of this Agreement will continue to develop confidential computer coding methods, know-how, processes, data, compositions, applications, technology, inventions, and related embodiments which are owned by SoftServe as its trade secrets (collectively, "the SoftServe Method Intellectual Property"). SoftServe retains all right, title and interest in and to the SoftServe Method Intellectual Property. To the extent any SoftServe Method Intellectual Property is embodied in any Deliverable, SoftServe hereby grants a perpetual, irrevocable, worldwide, royalty-free, non-exclusive sublicenseable right and license to Client for the use of such SoftServe Method Intellectual Property in Deliverables.

5. Term; Termination; Provisional Remedies

(a) Term. This Agreement will become effective as of the Effective Date and will remain in effect for an initial period of twelve (12) months or until terminated as provided herein ("Term"). At the end of each twelve-month period of this Agreement the Term shall

automatically be extended for additional term of twelve (12) months unless either Party gives the other written notice thirty (30) days prior to the end of that twelve-month period of its intention not to extend this Agreement. Notwithstanding the foregoing, this Agreement may be earlier terminated in accordance with section 5 (b) thereof.

(b) Termination; Provisional Remedies.

(i) Either Party may terminate this Agreement without a showing of cause by providing the other Party with at least ninety (90) days written notice.

(ii) If a Party breaches any material obligation under this Agreement, and such Party fails to cure the breach to the non-breaching Party's satisfaction within thirty (30) days after receipt of the non-breaching Party's written notice to cure, the non-breaching Party is permitted to mitigate its harm from the breach by any of the following, in the discretion of the non-breaching party: (a) suspend or terminate the non-breaching Party's performance under any SOW; (b) condition the non-breaching Party's continuing performance on payment of an unpaid invoice or other account arrearage and/or provision of a third-party guarantee of payment or advance payment prior to completion and release of remaining Deliverables.

(iii) Either Party may terminate this Agreement (including all SOWs) immediately by written notice to the other if the other Party becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, or becomes subject to any proceedings under any bankruptcy or insolvency law, whether domestic or foreign, or is liquidated, voluntarily or otherwise.

(c) Effect of Termination. Except as provided in Section 20, upon such termination all rights and duties of the Parties toward each other shall cease except that Client shall be obliged to pay, within thirty (30) days of the effective date of termination, all amounts owing to SoftServe for Services completed prior to the termination date in accordance with the provisions of Section 1 and 3 hereof.

6. Confidentiality

SoftServe will keep confidential Client's confidential information, activities and communications of SoftServe and Client in the course of performing a SOW, and Deliverables. All nonpublic data that is submitted by Client to SoftServe pursuant to this Agreement will be safeguarded. Client will supply to SoftServe a summary of Client's procedures and protocols for the preservation of confidentiality, including any agreements proposed for execution by SoftServe personnel for that purpose. Client and SoftServe will cooperate in good-faith in the implementation of reasonable and necessary confidentiality protections for Client's confidential information. SoftServe will acquire no rights in Client's confidential information. Following the end of the Term, SoftServe will not retain any of Client's confidential information except as embodied in Deliverable software code, which will be securely stored as evidence of SoftServe's performance under this Agreement.

SoftServe will not:

(a) disclose Client's confidential information to any third party except and unless upon the specific instruction or consent of Client;

(b) use Client's confidential information for any purpose other than Deliverables'

(c) assist any third party in making commercial use of Client's confidential information, except and unless upon the specific instruction or consent of Client.

SoftServe will ensure that SoftServe employees, agents and subcontractors access Client's confidential information only on a need-to-know basis for the purpose of this Agreement and are made aware of the requirements of confidentiality set forth in this Agreement.

If Client's confidential information is required to be disclosed by law, subpoena, court order or other governmental authority, SoftServe will **(i)** deliver prompt written notice of such requirement so that Client may seek a protective order or other appropriate relief; and **(ii)** will disclose only that information required to be disclosed by law, subpoena, court order or other governmental authority.

Notwithstanding the foregoing, Client grants a right to use its name, logo, trademarks and other marks in SoftServe promotional, advertising, instructional or reference materials.

In respect to SoftServe's confidential information, Client shall be bound and perform the same obligations hereto.

The Parties' obligations of confidentiality shall be effective as of the Effective Date and shall remain in effect until the Agreement is terminated or expires under its terms. The Parties' obligations will continue for a three-year period thereafter.

7.   Trade Secrets

Each Party agrees to hold in strictest confidence the other Party's trade secrets, including proprietary research and development, strategic plans, customer lists, employee information, and operations. In the event of breach of this section 7, the non-breaching Party shall be entitled to injunctive relief for the return and protection of its proprietary information.

8.   Independent Contractor

SoftServe's relationship with Client is that of an independent contractor, and nothing in this Agreement should be construed to create a partnership, agency, joint venture or employment relationship.

9.   Non-Solicitation

(a)   During the Term of this Agreement, as defined in Section 5(a), Client promises to refrain from recruitment of SoftServe personnel performing any SOW hereunder to separate from SoftServe and enter into an employment or contractor relationship with Client or any affiliate of Client ("In-Term Retention"). The objective of this restriction is to prevent disruption of service teams during SoftServe's performance hereunder. In the event of an In-Term Retention, Client will pay SoftServe the greater of GBP 150,000 or a twenty-five percent surcharge on each SOW that is open during or after the date of the In-Term Retention, as compensation for the resulting disruption and cost increase to SoftServe.

(b)   During the one-year period beginning at the end of the Term, in the event that Client recruits SoftServe personnel who have participated in a SOW hereunder to separate from SoftServe and enter into an employment or contractor relationship with Client or any affiliate of Client, Client will pay SoftServe the greater of GBP 150,000 or the recruit's annualized SoftServe salary for each recruit from SoftServe, in reimbursement for SoftServe's investment in the professional development of the recruit.

(c) Client acknowledges and agrees that SoftServe personnel possess confidential information and proprietary know-how belonging to SoftServe. In the event that a SoftServe employee or contractor separates from SoftServe and enters into an employment or contractual relationship with Client or any affiliate of Client, SoftServe will be entitled to injunctive relief, without necessity for bond or demonstration by SoftServe of probability of irreparable harm, to bar the employee or contractor from employing or making available any of SoftServe's confidential information and proprietary know-how to or for the benefit of Client or any affiliate and to bar Client and any affiliate from receipt or possession of same.

10. Representations and Warranties

(a) **By Client**. Client represents and warrants to SoftServe that:

(i) Client is a corporation duly incorporated, validly existing and in good standing under the Laws of [_____];

(ii) Client has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement;

(iii) The execution, delivery and performance of this Agreement by Client has been duly authorized by Client;

(iv) Client is in compliance with all laws applicable to the services and has obtained all applicable permits and licenses required of Client in connection with its obligations under this Agreement; and

(v) Client has the full right and power to supply, modify, and direct the modification of all software, source code, confidential information, and equipment made available by Client to SoftServe for the performance of the SOW (the "Client Materials").

(b) **By SoftServe**. SoftServe represents and warrants to Client that:

(i) SoftServe is a corporation duly incorporated, validly existing and in good standing under the Laws of England;

(ii) SoftServe has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement;

(iii) The execution, delivery and performance of this Agreement by SoftServe has been duly authorized by SoftServe;

(iv) SoftServe is in compliance with all Laws applicable to SoftServe's obligations under this Agreement and has obtained all applicable permits and licenses required of SoftServe in connection with its obligations under this Agreement;

(v) The software developed by SoftServe under this Agreement will not infringe upon the proprietary rights of any third party (except as may have been caused by a modification by Client).

(c) **Disclaimer.** Except as specified in this section 10 and section 11, neither Client nor SoftServe makes any other warranties with respect to the services or the systems and each explicitly disclaims all other warranties, express or implied, including the implied warranties of merchantability and fitness for a specific purpose.

11. Additional Covenants

(a) **By Client.** Client covenants and agrees with SoftServe that during the Term of this Agreement:

(i) Client will comply with all laws applicable to and impact Client's business and, will obtain all applicable permits and licenses required of Client in connection with its obligations under this Agreement; and

(ii) The Client Materials will not infringe upon the proprietary rights of any third party.

(b) **By SoftServe.** SoftServe covenants and agrees with Client that during the Term of this Agreement:

(i) SoftServe will at all times use qualified individuals with suitable training, education, competence and skill to perform the services;

(ii) SoftServe will comply with all laws applicable to SoftServe and will obtain all applicable permits and licenses required of SoftServe in connection with its obligations under this Agreement;

(iii) SoftServe will be solely responsible for the acts and omissions of SoftServe and its employees and contractors, except those acts or omissions of Client;

(iv) SoftServe will use all reasonable endeavors to ensure that no viruses or similar items are knowingly coded or introduced into any Deliverable and, in the event a virus or similar item is found to have been introduced into a Deliverable, SoftServe will use reasonable efforts to assist Client in reducing the effects of the virus or similar item and, if the virus or similar item causes a loss of operational efficiency or loss of data, to assist Client to the same extent to mitigate and restore such losses; and

(v) Without the consent of Client, SoftServe will not knowingly insert into a code Deliverable any code that would have the effect of disabling or otherwise shutting down any computer function. SoftServe further covenants that, with respect to any disabling code that may be part of a code Deliverable, SoftServe will not invoke such disabling code at any time, including upon expiration or termination of this Agreement, without Client's consent.

12. Indemnities

(a) **Indemnity by Client**. Client will defend and indemnify SoftServe from liability or litigation expense due to a third-party suit, claim, or proceeding against SoftServe with respect to:

(i) Alleged infringement by Client Materials or specifications of the SOW;

(ii) Breach of a representation, warranty, or covenant made by Client under this Agreement;

(iii) Breach by Client of Section 6 (Confidentiality); and

(iv) Breach by Client of any of the covenants in Section 11.a (Additional Covenants).

(b) **Indemnity by SoftServe.** SoftServe will defend and indemnify Client from liability or litigation expense due to a third-party suit, claim, or proceeding against Client with respect to:

(i) Alleged infringement by a Deliverable (except as may have been caused by a specification or modification by Client);

    (ii) Relating to breach of any representation, warranty or covenant made by SoftServe under this Agreement;

    (iii) Relating to a breach by SoftServe of Section 6 (Confidentiality); and

    (iv) Relating to a breach by SoftServe of any of the covenants in Section 11.b (Additional Covenants).

(c) **Indemnification Procedures**. The indemnity obligations are subject to the following: **(i)** the Indemnified Party must promptly notify the Indemnifying Party, in writing, of the suit, claim or proceeding or a threat of a suit, claim or proceeding; **(ii)** at the Indemnifying Party's reasonable request and expense, the Indemnified Party must provide the Indemnifying Party with reasonable assistance for the defense or settlement of the suit, claim or proceeding; and **(iii)** the Indemnifying Party has sole control of the defense of any suit, claim or proceeding and all negotiations for settlement or compromise.

13. Client's Obligations

Client acknowledges that the completion of various parts of the Deliverables under this Agreement, SOW, Change Order, etc. may depend on and require Client's commitment of certain resources or giving the access to resources controlled by Client. Client agrees to provide or give access to such resources and to timely complete and fulfill its required actions in order for SoftServe to be able to fully comply with its obligations under this Agreement. Client is responsible for managing access of SoftServe's associates to such resources. Client's failure to provide or give access to such resources and to timely fulfill such obligations shall not constitute a basis for the retention of payments and/or allegations of breach of contract by SoftServe. Client acknowledges that SoftServe shall not be liable to Client or any third party for any claims arising out of or relating to loss of data, or interruption or loss of use of the resources provided by Client to SoftServe, or to which SoftServe has been given access by Client, or due to inconsistencies in access rights granted by Client, unless otherwise agreed in writing by the Parties.

14. Force Majeure

No liability shall result from the non-performance of any obligation under this Agreement caused by circumstances beyond the control of the non-performing Party including, without limitation, natural catastrophes, extreme weather conditions, fire, war, strikes, hostilities, acts of terrorism, civil unrest, governmental interference, and embargoes (collectively, "Force Majeure") for that period commencing from the time at which notice of the existence of the Force Majeure is given by the non-performing Party and terminating when the Force Majeure has ended or would have ended had the non-performing Party taken those steps which it could reasonably have been expected to take to overcome the Force Majeure provided it could be overcome. The Force Majeure shall automatically extend the period for performing the obligation under this Agreement of the non-performing Party. If a Force Majeure continues for more than 3 (three) months, either Party may terminate this Agreement as to the SOW relating to services not yet delivered.

15. Limitation of Liability

Under no circumstances shall SoftServe have any liability to Client for any claim arising under this Agreement (including any claim under Section 12 (b) in excess of the amount paid to SoftServe by Client under the specific SOW from which liability is claimed to have arisen. Client's sole damage remedy for an allegation of breach by SoftServe of a Deliverable will be, upon rightful rejection of the Deliverable, a claim for refund of amounts paid by Client to SoftServe for the rejected Deliverable. Neither Party hereto shall have any liability for consequential, incidental, special, or indirect damages (including, without limitation, loss of profit and business opportunities) regardless of whether the Party has been advised, or is aware, of the possibility of such damages. Each Party acknowledges that the foregoing limitations are an essential element of the Agreement between the Parties and that in the absence of such limitations the pricing and other terms set forth in this Agreement would be substantially different.

16. Loss Mitigation

As a material provision of this Agreement, the Parties hereto agree to act in a manner that will serve to mitigate any and all losses that may be incurred by the other Party through the timely communication of any and all issues that may arise during the performance of services under this Agreement.

17. Non-Exclusive Engagement

SoftServe reserves the right to offer services of any kind or nature whatsoever to any person or entity as SoftServe in its sole discretion, deems appropriate. Client acknowledges that this is a non-exclusive agreement, and Client is aware that SoftServe markets its services to other Clients. No provision of this Agreement shall be construed as limiting or prohibiting SoftServe's performing similar services for any other Client.

18. Dispute Resolution

(a) **Mediation.** Either Party may, by written notice to the other Party detailing the points of dispute ("Dispute Notice"), request that the Dispute Notice be addressed by good faith negotiations between qualified senior representatives of the Parties within twenty (20) days from the date of the Dispute Notice. If the designated officers are not able to resolve the dispute within that twenty (20) day period, or any agreed extension, they will confer with respect to the possibility of resolving the matter through non-binding mediation with a certified mediator in London, England or such other location as the parties may agree, said mediation to be completed within sixty days of the date of the Dispute Notice. The Parties will participate in any mediation sessions in good faith in an effort to resolve the dispute in an informal and inexpensive manner. All expenses of the mediator will be shared equally by the Parties. Pending the foregoing dispute resolution steps, each Party will be entitled in its sole discretion to suspend its performance under this Agreement in order to mitigate its risk of harm.

(b) **Account Collection.** In the event that the nonpayment dispute is not resolved by the earlier of the eightieth day after the Request Date, or thirty days prior to the expiration of any applicable statute of limitations, SoftServe may in its sole discretion elect

to commence collection steps (whether by litigation, assignment of the account for collection, or otherwise) in any jurisdiction in which Client is a registered business. In any collection litigation between the Parties (including any asserted counterclaim or defense to payment), the prevailing party will be reimbursed by the non-prevailing party for the prevailing party's attorney fees and litigation costs.

(c) **Arbitration.** Excluding claims determined pursuant to an action for Account Collection under section 18 (b), any action for damages pursuant to this Agreement will be adjudicated exclusively by arbitration conducted by the London Court of International Arbitration ("LCIA") before one arbitrator engaged in the practice of law under its then existing Rules, such arbitration to be final, conclusive, and binding. No person may be appointed as an arbitrator unless he or she is independent of the applicant and respondent, is skilled in the subject matter of the dispute and is not directly or indirectly carrying on or involved in a business being carried on in competition with the business of the Parties. Judgment on the award rendered by the arbitrator may be entered by any court having proper jurisdiction. The arbitrator shall base his/her award on the terms of this Agreement, and he/she will follow relevant and applicable law and judicial precedents. The arbitrator shall render the award in writing and, unless both parties agree otherwise, shall include an explanation of the reasons for his/her award, the findings of fact and conclusions of law upon which his/her award is based. Notwithstanding the foregoing, **either** party may seek or assert entitlement to injunctive relief or specific performance in court as an initial matter and shall have no prior obligation to establish in arbitration the entitlement to injunctive relief or specific performance. The arbitration shall take place in London, England.

19. Affiliates

Affiliates of the Parties may enter into SOW with each other. The execution of such SOW shall create a separate contract between the Affiliates for the supply of the relevant services on the terms of the SOW and this Agreement, with the Affiliates having agreed to the terms of this Agreement.

An "Affiliate" with respect to either Party shall mean any entity, including without limitation, any individual, corporation, company, partnership, limited liability company or group, that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with such Party.

20. Survival

The obligations of Sections 3, 4, 5c, 6, 9, 11, 12, 15, and 17 through 30 will survive termination of this Agreement.

21. Notices

All notices or other communications required or permitted hereunder shall be in writing and shall be sufficiently given if delivered personally or by overnight courier, addressed as follows:

(a) If to Client:

[_____]

[_____]

[_____]

(b) If to SoftServe:

SoftServe Systems Limited

Part Lower Ground Floor,

30 Cannon Street,
London, England, EC4M 6XH
Attn: Taras Vervega

Any Party hereto may specify in writing a different address for such purposes by notice to the other Party. Notices shall be deemed to have been delivered upon the earlier of actual receipt or the second business day following the day notice is given by overnight courier.

22.   Binding Effect

This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

23.   Choice of Law

This Agreement shall be governed by and construed in accordance with the Laws of England, without regard to any laws of conflicts.

24.   Severability

If any term or condition of this Agreement should be held invalid in any respect by a court, arbitrator or tribunal of competent jurisdiction, such invalidity shall not affect the validity of any other term or condition hereof. The Parties hereto acknowledge that they would have executed this Agreement with any such invalid term or condition excluded. If any term or condition shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope and breadth permitted by law.

25.   Counterparts

This Agreement may be originally executed and amended or modified by facsimile, by signatures attached to electronic communications, and in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same Agreement.

26.   Entire Agreement

This Agreement supersedes any and all prior agreements between the Parties regarding the subject matter hereof. This Agreement may be amended or modified from time to time, including the amendment or modification of one or more work schedules or change orders to the SOW; provided, however, no amendment, modification or waiver of any provision of this Agreement, including, without limitation, any work schedule or change order to the SOW, shall be effective unless it is in writing and signed by Client and SoftServe.

27.   Headings

The headings set forth in this Agreement are for convenience only and do not qualify or affect the terms or conditions hereof.

28.   Preliminary Statement

The Preliminary Statement is incorporated herein by this reference and made a part hereof.

29.   Attorneys' Fees

In the event of any litigated dispute hereunder, the prevailing Party shall be entitled to recover, in addition to any and all other remedies, which shall be cumulative, the reasonable attorneys' fees, expenses, and costs which it incurs as a result thereof.

30.   Construction

This Agreement shall not be construed more strictly against any Party hereto by virtue of the fact that the Agreement may have been drafted or prepared by such Party or its counsel, it being recognized that all of the Parties hereto have contributed substantially and materially to its preparation and that this Agreement has been the subject of and is the product of negotiations between the Parties.

IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound hereby, have executed this Agreement, as the day and year last below written.

[Client]   **SoftServe Systems Limited**

By: _____   By: _____

Name: [Name]   Name: Vasyl Malchyk

Title: [Title]   Title: Authorised Signatory

Date: [Date]   Date:

softserve

FOR THE FUTURE

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