CLOUD SERVICES AGREEMENT

This Cloud Service Agreement ("Agreement") is between **Winfo _____, having its registered office in _____** represented by (hereafter "Winfo/ the Company") and the _____ having its registered office at _____ represented by (hereafter "Client" or "You""), and contains the terms and conditions that govern Your access to, and use of, the Services (as defined below) to be provided by, or on behalf of, Winfo.

Winfo and You shall be individually referred to as the "Party" and collectively referred to as "the Parties".

This Agreement shall become effective on the date on which the Parties enter into this Agreement and commence the service by executing a Statement of Work ("SoW") that expressly references this Agreement and/or the Master Services Agreement as governing the services described therein (the "Effective Date"). From the Effective Date, this Agreement shall be binding upon and enforceable by the Parties in accordance with its terms.

If you are entering into this Agreement for an entity, such as the company you work for, you represent to Winfo that you have legal authority to bind that entity.

1. The Services

1.1 Scope of Services

Subject to Your compliance with this Agreement and payment of applicable Fees, Winfo shall:

1.1.1 provide you with access to and use of the Cloud Services for the duration of the Subscription Term, as defined in Section 14 below and in the SoW, which shall not be shared or transferred to any third party. Such access is licensed, not sold, and remains proprietary to Winfo. The Cloud Services, together with any related software, content, and technology, codes are intellectual property of Winfo . Winfo grants You a personal, non-transferable, and non-exclusive right to access and use the Cloud Services strictly in accordance with and in terms of this Agreement.

1.1.2 provide access to the Support and Maintenance Services as set out in the Support and Maintenance Schedule attached to the relevant SoW; and

1.1.3 provide Professional Services as described in the SoW (if applicable).

1.1.4 Provide you with an order form for subscription to the WinfoTest License ("Order Form") for the Subscription Term which shall form part and parcel of this Agreement and the SoW(s)

1.2 Service Terms and Limitations

1.2.You acknowledge that the Services may, from time to time, be inaccessible or inoperable for reasons including, without limitation:

i. equipment malfunctions;
ii. periodic maintenance procedures or repairs undertaken by Winfo; or
iii. causes beyond Winfo's reasonable control or not reasonably foreseeable by Winfo.

1.2.2 You shall be solely responsible for providing, maintaining, and ensuring compatibility with the Services all hardware, software, network infrastructure, telecommunications, internet access, web browsers, and any other equipment, programs, or services required for Your access to and use of the Services.

1.2 Users

Access to the Cloud Services described in clause 1.1.1 is subject to the limitations set out in this Agreement, and also the number of Named Users stated in the SoW, or such additional or replacement Users agreed with Winfo in a Change Order from time to time, in respect of whom You have paid a Subscription Fee as set out in the applicable Order Form. Use of the Services is strictly limited to Your internal business operations only.

Each User must be assigned a unique User Credential, and You are responsible for all activity under such credentials, including ensuring compliance with all terms, restrictions, and applicable laws as outlined in this Agreement

You shall ensure that Users do not: (a) share their login credentials or private keys with any unauthorized party; (b) use the Services for any prohibited purpose or use in violation of the terms and conditions of this Agreement.

You agree to maintain records of all Users, including access and usage history, IP addresses and provide such information to Winfo upon request to ensure compliance with this Agreement.

1.3 Your Responsibilities

1.3.1 You are responsible for ensuring that the use of the Services by, and all actions of, Users shall be fully in accordance with this Agreement, and any other documents referred to in this Agreement (including any SoW) or as notified to you by Winfo from time to time. You shall be solely responsible for the acts and omissions of all Users. Winfo shall not be liable for any loss of data or functionality caused directly or indirectly by You or the Users. You shall also ensure that all Users are well informed about appropriate security, confidentiality, and acceptable use of the Service and bound by the terms and conditions of this Agreement.

1.3.2 You are responsible for identifying and authenticating all Users, for approving access by such Users to the Services and for controlling against unauthorised access by Users. You shall not authorise any person to use or access the Services unless such individual is a Named User as defined in the SoW. You shall ensure the confidentiality of usernames, passwords and user account information ("User Credentials") and for any misuse and resulting harm caused by Users or by individuals misusing User Credentials. You shall ensure that each User is issued with individual User Credentials and that Users are not permitted to share User Credentials. You shall immediately notify Winfo of any known or suspected unauthorized use of User Credentials, security breach, or other security incident related to the Services, and cooperate in any investigation or mitigation efforts by Winfo.]

1.3.3 You shall provide commercially reasonable information and assistance to Winfo to enable Winfo to deliver the Services. You acknowledge that Winfo's ability to deliver the Services in the manner provided in this Agreement may depend upon the accuracy and timeliness of such information and assistance.

1.3.4 You shall comply with all applicable local, state, national laws, directives and regulations in connection with Your use of the Services, including those laws related to data privacy, international communications, and the transmission of technical or Personal Data (as applicable). You acknowledge that Winfo exercises no control over the content of the information transmitted by You through the Services and You shall comply with all applicable Data Protection Laws.

1.3.5 You are responsible for ensuring that you maintain an internet connection allowing You to connect over the internet, up to date internet browsers and anti-virus software. Winfo has no responsibility to provide support for (and You shall ensure that Users do not contact Winfo helpdesks in respect of) issues relating to the availability of Your internet connection or Your/the Users (internet browsers or anti-virus software). You are responsible for implementing reasonable technical and organizational measures to protect Your Content and User data within Your control, including secure storage, access controls, and backup procedures.

1.4 **Dependencies**

You shall ensure the performance or provision of any Dependencies in relation to the Service as identified in this Agreement and/or applicable SoW. You shall provide all information, access, and assistance reasonably requested by Winfo to enable Winfo to deliver the Services effectively and on time. To the extent any failure, delay, incompleteness or inaccuracy in the performance or provision of any Dependencies has an impact on Winfo's performance of any relevant Services, Winfo shall be deemed to not be in breach of any of its obligations in respect of such impact. Winfo may raise a Change Order to address the impact and if the impact includes Winfo incurring additional Man Days or other costs in relation to the Services then Winfo shall be entitled to make an appropriate adjustment to the Fees to cover such additional Man Days or other costs.

1.5 Third Party Software, Service and Content

1.5.1 You are solely responsible for obtaining and installing all Third-Party Resources in Your systems intended to interface with the Cloud Services, and for ensuring that they are compatible with the Services. You shall ensure that all Third-Party Resources are up to date, free of malware, and implemented in a manner that does not compromise the security or functionality of the Service.

1.5.2 You are solely responsible for the costs relating to Third-Party Resources, and for complying with all

licence terms and other obligations relating to such Third-Party Resources, including (without limitation) Winfo's use of such Third-Party Resources as necessary in order to perform Winfo's obligations under this Agreement. You shall indemnify and hold harmless Winfo from any claims arising out of Your failure to comply with Third-Party Resource.

1.5.3 Winfo is not responsible for the performance, security, support or any other aspect of any Third-Party Resources. Your access and use of the Third-Party Resources is solely governed by the terms and conditions agreed between You and the provider of the Third-Party Resources.

1.5.4 If You choose to use any Third-Party Resources in connection with Your use of the Cloud Services, You grant Winfo permission to enable the providers of such Third-Party Resources access to Your Content for the interoperation of such Third-Party Resources with the Cloud Services, and any exchange of data or other interaction between You and a provider of such Third-Party Recourse is solely between You and such provider and is pursuant to any terms and conditions governing those Third-Party Resources. Winfo is not responsible for any disclosure, modification or deletion of Your Content resulting from any such access by Third-Party Resources (or their providers). Winfo is not responsible for any loss, corruption, or misuse of Your Content resulting from any action by such Third-Party Resources (or their providers).

1.5.5 The Cloud Services may contain features designed to operate with certain Third-Party Resources. Winfo is not responsible if the provider of such Third-Party Resource takes any action that cuts off, impedes or impairs Winfo's ability to interoperate with the Third-Party Resources. Winfo may cease providing such features without You becoming entitled to any refund, credit or other compensation. Winfo has no obligation to support any interoperation with any Third-Party Resources.

1.6 Restrictions on Use

1.6.1 Except as expressly permitted in this Agreement or in an SoW, or under applicable laws that cannot be excluded, You agree not to, and shall ensure that the Users shall not, and shall not permit any third party or person to:

(a) use the Services in a production environment. Usage of the Services is only permitted in non-production instances only;
(b) exceed 100GB of historic Test Data within the Services. Test Data may be archived into SharePoint or other agreed documentation repository;
(c) use WinfoTest script assistance for the purpose of creating test scripts in the WATS application only;
(d) use, copy, modify, make derivative works based upon, link to, or distribute any portion of the Services and their components;
(e) disassemble, reverse engineer, analyse, decompile, modify, convert or otherwise translate any of the Services or their components;

(f) apply any procedure or process to the Services in order to build a competitive product or service;
(g) build a product using similar ideas, features, functions or graphics of the Services, or copy any ideas, features, functions or graphics of the Services;
(e) link to the Services via the Internet, displaying any content on any other server or wireless or Internet based device, without properly citing Winfo as the owner or expressed written consent from Winfo;
(f) use the Services in any manner that could damage, disable, overburden or impair the Services or interfere with any other party's use or enjoyment of them;
(g) use or launch any automated system, including without limitation, "robots", "spiders", "offline readers", that access the Services in a manner that sends more request messages to Winfo's servers in a given period of time than a human can reasonably produce in the same period by using a conventional on-line web browser; or
(h) collect or harvest any sensitive information, including, without limitation, personal information and account names, from Winfo;
(i) use components of the Services other than as part of the Services;
(j) exceed 100 steps in a single test script; and/or
(k) store or transmit any malicious code, viruses, or other harmful software through the Services;
(l) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party, direct access to any Services and/or their components without the express written consent of Winfo and any attempt to do so is void and shall be deemed a material breach of this Agreement.

2. Fees and Payment

2.1 Payments

2.1.1 You may not access or use the Services until the parties have signed an SoW and Winfo has received payment of the Subscription Fee as specified in the applicable SoW and the applicable Order Form.

2.1.2 Invoices are payable within 30 days from the date they are received or otherwise stated in the SoW.

2.1.3 The Subscription Fees shall be calculated based on the number of Users and the number of scripts that may be processed during the Term, as set out in the applicable Order Form. Additional Users and additional bundles of scripts may be purchased in advance in accordance with Winfo's rate card, or as specified in the applicable Order Form.

2.1.4 Unless otherwise set out in the respective SoW and in the applicable Order Form, the total non-refundable, non-cancellable set up costs and services fees for each Subscription Term shall be paid by You at the beginning of the respective Subscription Term.

2.1.5 You will pay all sales, use, GST, VAT, and other consumption taxes, personal property taxes and other taxes (other than those based on Winfo's net income) associated with Your purchases from Winfo. All fees quoted are exclusive of VAT and similar taxes, which shall be paid by You in addition.

2.1.6 The amounts of Fees, expenses and per diems (if any) payable by You to Winfo shall be stipulated in the applicable SoW and in the applicable Order Form. Unless otherwise stated in the SoW for Professional Services, Winfo may invoice monthly in arrears for any Fees that are expressed to be charged on a time and materials basis, along with applicable expenses and per diems (if any).

2.1.7 Professional Services

In relation to any fees that are stated in the SoW to be chargeable on a time and materials basis, such fees shall be regarded as estimates for the provision of the relevant Professional Services and shall be treated as non-binding, good faith estimates made at the time of quotation, based on the information available to Winfo at the time and may also be set out in the Master Service Agreement which will be entered into by Winfo and You. Unless agreed otherwise in an Agreement, Winfo shall be under no continuing obligation to communicate revisions to such estimates and the fees that will be chargeable will be based on the actual number of days of which Winfo has performed Professional Services.

2.1.8 Expenses

You are responsible for all reasonable out of pocket expenses associated with any Professional Services that are to be provided by Winfo at Your request. Any expenses and/or per diems (if any) incurred under this Agreement shall be charged in accordance with this section and the applicable SoW or in the relevant Agreement.

2.2 Pricing

Without limitation, Winfo reserves the right to pass through any price increases in respect of the instance of the third party applications and/or infrastructure where this has been procured on your behalf by Winfo to enable You to use the Services. Any price increases will take effect from the beginning of any new annual subscription period and be agreed with You prior to such annual renewal in a separate Order Form.

2.3 Overuse

In the event You approach the maximum number of test scripts purchased under the applicable Order Form, Winfo will assist You by reviewing your capacity needs and discussing whether You may require additional test script capacity in order to maintain continuity of your testing requirements.

Without prejudice to the above, Winfo grants you 5% grace to exceed the number of test scripts purchased during the current Subscription Term as per the Order Form. Any usage above the 5% grace limit will be billed at Winfo's standard rate for additional scripts, as set out in the Order Form and/or the SoW as applicable.

2.4 Currency of Payment

All payments must be made in the currency which is specified in the applicable SoW and the applicable Order Form.

3 Term, Termination and Suspension

3.1 Term

The term of this Agreement will commence on the Effective Date and will continue for the Term stipulated in the SoW and the Subscription Term stipulated in the applicable Order Form, subject to earlier termination as set out in this clause 3.

3.2 Termination

3.2.1 Termination for Convenience

You may terminate this Agreement for any reason by providing notice and closing Your account for all Services for which there is an account closing mechanism. However, standard license fee stated in the Order Form is not refundable.

3.2.2 Termination for Cause

(a) By Either Party

Either party may terminate this Agreement for cause immediately with written notice to the other party if (i) there is any material breach that cannot be cured; or (ii) there is a material breach which is capable off remedy, but the breaching party does not remedy the breach within 14 days of receiving notice to cure such breach.

(b) By Winfo

Without prejudice to clause 3.2.2 (a), Winfo may terminate this Agreement immediately upon notice to You:

(i) for cause, if any act or omission by You or any User results in a suspension described in clause 3.5;

(ii) if Winfo's relationship with a third party partner who provides software or other technology Winfo uses to provide the Services expires, terminates or requires Winfo to change the way Winfo provides the software or other technology as part of the Services, or

(iii) in order to comply with the law or requests of governmental entities.

3.3 Effect of Termination

3.3.1 Upon any termination of this Agreement:

(a) All Your rights under this Agreement immediately terminate;

(b) You shall be responsible for all Fees and charges incurred up to and including the date of termination, including, without limitation, Fees for Third Party Resources (as set forth in a SoW(s) and the Order Form(s)) and any work in progress. Further it is agreed herein that all standard license fees and one-time setup costs shall be non-refundable under any circumstances. the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after termination shall remain in full force and effect.

(c) If Winfo terminates this Agreement as described in clause 3.2.2 b (ii) Winfo will refund Fees paid in advance for the remaining committed term of the SoW without any administrative or other cost deductions.

3.4 Post-Termination Assistance

3.4.1 Unless Winfo terminates Your use of the Services pursuant to clause 3.2.2, during the 30 days following termination:

(a) Winfo will not erase any of Your Content as a result of the termination;

(b) You may retrieve Your Content from the Services only if You have paid any charges for any post-termination use of the Services and all other amounts due; and

(c) Winfo will provide You with the same post-termination data retrieval assistance that Winfo generally makes available to all its customers.

3.4.2 In the event that Winfo terminates your use of Services pursuant to clause 3.2.2, Winfo may erase Your Content without any liability.

3.4.3 You must retrieve Your Content from the Services by the end date of the expiring Subscription Term. Winfo will provide You with the assistance described in clause 3.4.1(c) to facilitate such retrieval, and thereafter may erase Your Content from its systems without liability.

3.5 Suspension

3.5.1 Right of Suspension

Winfo may suspend its provision of and/or Your or any User's right to access, or use, any portion or all of the Services immediately upon notice to You if Winfo determines:

(a) Your or a User's use of or subscription to the Services:

(i) poses a security risk to the Services or any third party,

(ii) may adversely impact the Services or the systems or content of any other Winfo customer,

(iii) may subject Winfo, or any third party to liability;

(iv) may be fraudulent;

(v) may be in breach of this Agreement, including without limitation, the Restrictions of Use defined in clause 1.6;

(vi) any payment due from You is outstanding for more than 30 days; or

(vii) You have ceased to operate in the ordinary course, made an assignment for the benefit of creditors or similar disposition of Your assets, or become the subject of any bankruptcy, liquidation, dissolution or similar proceeding.

3.5.2 Effect of Suspension

If Winfo exercises its rights of suspension under clause 3.5.1 You shall remain responsible for:

(a) all Fees You have incurred during the period of suspension;

(b) any applicable fees and charges for any Services to which You continue to have access, as well as applicable data storage fees and charges, and fees and charges for in-process tasks completed after the date of suspension.

Winfo's right to suspend Your or any User's right to access or use the Services is in addition to its right to terminate this Agreement pursuant to this clause 3.

4. Data

4.1.1 You acknowledge and agree, that neither You or Your Users will pass any Personal Data to Winfo in connection with the Services, and that all Test Data that is supplied by You, or otherwise on your behalf, for the performance of the Services shall be 'dummy data' or anonymous data (specifically excluding all Personal Data), and thus fall outside of the scope of Data Protection Laws.

4.1.2 You agree to indemnify and hold Winfo harmless in respect of any third party claims that it may receive in connection with Your breach of clause 4.1.1

5. Confidentiality of Information and Data

5.1 You acknowledge that since the Services use a public Internet environment, Winfo cannot commit to particular confidentiality obligations regarding any Content You add to or use in the Services. Except as set out herein, Winfo assumes no additional confidentiality obligations regarding Content, regardless of the terms in the Agreement or any separate confidentiality agreement between You and Winfo.

5.2 For Services where Winfo specifically has sole access to Services, or where Winfo or subcontractor personnel have direct access to Content and such Content is clearly identified as confidential to You, Winfo will:

a. use the same care and discretion to avoid disclosure of Your Confidential Information as it uses to avoid disclosure of its own similar information;

b. disclose Your Confidential Information only to its employees who have a need to know to provide the Services; and

c. disclose Your Confidential Information to subcontractors who have a need to know to provide the Services and Winfo will have appropriate agreements in place with its subcontractors to meet the confidentiality obligations as set out in this clause. Winfo shall ensure subcontractors are bound by confidentiality obligations exactly as set out in this Agreement

5.3 Winfo may disclose Your Confidential Information to the extent required by law. However, Winfo will, to the extent that it is lawful to do so, give You prompt notice to allow You a reasonable opportunity to obtain a protective order.

5.4 Winfo is free to use in its business activities the ideas, concepts and know-how contained in any Content which are retained in the unaided memories of Winfo's employees who have had access to Your confidential information during the performance of the Services.

5.5 You may only use Winfo's Confidential Information solely for the purpose of performing your obligations or exercising Your rights under this Agreement and You agree to keep Winfo's Confidential Information confidential. You shall use the same degree of care that You use to protect the confidentiality of Your own Confidential Information of a like kind, but in no event less than reasonable care. You must:

5.5.1 Not use or disclose any Confidential Information of Winfo for any purpose outside the scope of this Agreement; and

5.5.2 Except as authorised by Winfo in writing, limit access to Confidential Information to those of your employees and advisors who need the access for purposes consistent with the Agreement and who have signed confidentiality terms with You no less stringent than those in the Agreement.

5.6 Upon the Discloser's written request or upon termination of this Agreement (howsoever occurring), the Recipient shall promptly return any data provided in terms of this Agreement or return or destroy all of the Discloser's Confidential Information. Provided however that as to Confidential Information, the Discloser may retain Confidential Information to the extent of such Confidential Information which needs to be retained for the purpose of actual or potential litigation or other record keeping purpose, or is on back-up and it is not practicable to do so. Upon the Discloser's request the Recipient will promptly confirm in writing that the Recipient has taken such action. The Recipient shall ensure that all copies, reproductions, and extracts of Confidential Information in its possession are destroyed or returned in accordance with this clause

6. Your Content

6.1 **Your Responsibilities**

You are solely responsible for the development, content, operation, maintenance, and use of Your Content. For example, You are solely responsible for:

6.1.1 the technical operation of Your Content, including ensuring that calls You make to any Service are compatible with then-current APIs for that Service;

6.1.2 compliance of Your Content with Restrictions on Use (described in clause 1.6) and all applicable laws;

6.1.3 any claims, liabilities or disputes relating to Your Content; and

6.1.4 properly handling and processing notices sent to You by any person claiming that Your Content violates such person's rights and notifying Winfo of any such notices

6.2 **Other Security and Backup**

6.2.1 You are responsible for properly configuring and using the Services and taking Your own steps to maintain appropriate security, protection and backup of Your Content, which may include the use of encryption technology to protect Your Content from unauthorised access and routine archiving Your Content. Log-in credentials (including, without limitation, User Credentials) and private keys generated by the Services are for Your internal use only and You may not sell, transfer or sublicense them to any other entity or person.

6.2.2 You shall:

(a) notify Winfo immediately of any unauthorized use of any User Credentials, password or user id or any other known or suspected breach of security.

(b) report to Winfo immediately and use reasonable efforts to stop any unauthorised use of the Cloud Services that is known or suspected by You.

(c) cooperate with Winfo in any investigation of suspected security breaches or misuse of the Services.

7. Proprietary Rights

7.1 **Client IP**

Save as expressly stated in this Agreement or SoW, as between You and Winfo, You own all right, title, and interest in Client IP. You grant Winfo, its Affiliates, the Hosting Provider and any third party subcontractors engaged by Winfo in connection with the performance of this Agreement, a non-exclusive, royalty free, non-transferable, worldwide licence to access and use (including without limitation make copies) of Client IP in accordance with the Agreement in order to provide the Services to You and Your Users. Winfo may disclose Client IP solely to provide the Services to You or any Users or to comply with any request of a governmental or regulatory body.

7.2 **Adequate Rights**

You represent and warrant to Winfo that:

(a) You own all right, title, and interest in and to Client IP;

(b) You have all rights in Client IP necessary to grant the rights contemplated by this Agreement; and

(c) none of Client IP, or Users use of Client IP or the Services will violate the Restrictions on Use described in clause 1.6 or any applicable law.

7.3 **Winfo IP**

Winfo and its licensors shall own all right, title and interest in and to Winfo's IP.

7.4 **Retention of Rights**

Neither party grants any rights to the other except as expressly specified in this Agreement or as provided under non excludable laws.

7.5 **Work Outputs**

All work outputs created by Winfo (and/or its subcontractors) during the performance of the Services, along with all Intellectual Property Rights therein, shall be deemed to automatically vest in Winfo upon creation. In consideration of Your payment of the applicable Fees, Winfo grants You a revocable, non-exclusive, royalty free, non-transferable licence to use such work outputs solely as may be delivered to You through performance of the Services for your internal business purposes only for the duration of the Subscription Term.

8. Indemnity

8.1 Winfo shall defend You against any third party claim that the Services infringe any Intellectual Property Rights of such third party, and shall indemnify You for any amounts awarded against You in judgment or settlement of such claims, provided that:

8.1.1 Winfo is given prompt written notice of any such claim;

8.1.2 You provide reasonable co-operation to Winfo in the defence and settlement of such claim, at Winfo's expense, and do nothing to prejudice Winfo's defence of such claim; and

8.1.3 Winfo is given sole authority to defend or settle the claim.

In the defence or settlement of any such claim, Winfo may procure the right for You to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this Agreement on 2 days' written notice to You without any additional liability or obligation to pay liquidated or other damages or other additional costs to You.

8.2 In no event shall Winfo, its employees, agents and/or subcontractors be liable to You to the extent that the alleged infringement is based on:

8.2.1 a modification of the Services by anyone other than Winfo; or

8.2.2 Your use of the Services in a manner contrary to the instructions given to You by Winfo; or

8.2.3 Your use of the Services after notice of the alleged or actual infringement from Winfo or any appropriate authority.

8.3 The foregoing and clause 9.4 states Your sole and exclusive rights and remedies, and Winfo's (including Winfo's employees', agents' and subcontractors') entire obligations and liability, for infringement of any Intellectual Property Rights in connection with this Agreement.

9. Limitation of Liability

9.1 This clause 9 sets out the entire financial liability of Winfo (including any liability for the acts or omissions of its employees, agents and sub-contractors) to You arising under or in connection with this Agreement, including without limitation, in connection with any SoW.

9.2 Except as expressly and specifically provided in this Agreement You assume sole responsibility for the results You obtain from the use of the Services and for conclusions drawn from such use. Winfo shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts (including test scripts) provided to Winfo by You in connection with the Services, or any actions taken by Winfo at Your direction.

9.3 Nothing in this Agreement excludes the liability of Winfo:

9.3.1 for death or personal injury caused by Winfo's negligence; or

9.3.2 for fraud or fraudulent misrepresentation.

9.4 Subject to clause 9.3:

9.4.1 Winfo shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses, or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Agreement; and

9.4.2 Winfo's total aggregate liability in contract (including in respect of the indemnity at clause 8), tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement, SoW or Change Order shall be limited to 100% of the total Subscription Fees paid by You during the 12 months immediately preceding the date on which the claim first arose.

10. Third Party Programmes and Infrastructure

10.1 Unless otherwise agreed between the Parties in the SoW, the Services are provided on a shared third-party infrastructure environment. It is acknowledged that Winfo's contractual obligations hereunder will in part be performed by Oracle or such other third-party provider that Winfo may from time to time engage to provide the infrastructure upon which the Services are provided to You. You acknowledge and agree to act in strict accordance with the additional terms and conditions of the third-party infrastructure provider and its licensors from time to time as specified in the SoW (Third Party Agreement(s)).

10.2 In the event that Your actions or Your Users actions breach the Third-Party Agreement and such breach results in harm, damages or costs to Winfo, You agree to indemnify and hold Winfo harmless in respect of all such damages and costs (including reasonable legal fees) incurred by Winfo. This includes, without limitation, any fines, penalties, or claims arising from Your or Your Users' use of third-party infrastructure contrary to the Third-Party Agreement

11. Changes

11.1 Agreement and Services Changes

Winfo may from time to time add new options or functions to its Services, or in its reasonable discretion, change the Agreement terms or withdraw existing options or functions of the Services, in whole or in part. Winfo will notify You of any such new or changed Services, terms or withdrawals and the effective date of such changes by posting a notice in Winfo Web Portal and/or providing notice directly to the Account Administrator using current contact information as provided by You. Where a change materially affects Your use of the Services, Winfo will use commercially reasonable efforts to provide prior written notice to You and also an option to agree to the new terms and conditions. Notwithstanding the foregoing, if Winfo withdraws a Service in its entirety from the market, Winfo will provide at least three months' written notice to You.

11.2 Acceptance of Changes

You acknowledge agreement to any of the above changes to the Agreement or the Services by, after the effective date of a respective change, i) continuing to use Your Subscription to the Services; or ii) otherwise by signing (in writing or electronically, where permitted) an applicable revised attachment or other change authorisation mechanism that Winfo may provide (such as on-line acceptance). If You do not accept a change, You are responsible for discontinuing use of affected Services prior to the effective date of the change or providing written notice of Your intent not to renew at least thirty days prior to the expiry of the Subscription Term.

11.3 Change Orders

If you request changes to the Services, including without limitation the addition of or change to Names Users and or number of scripts, or the provision of additional Professional Services, Winfo shall prepare a Change Order with associated additional costs and scope change (where applicable) if such changes are feasible, in a Change Order to You. If you elect to proceed with these changes, the Parties shall amend the applicable SoW accordingly (such amendment shall be referred to as a Change Order). Absent of an executed Change Order, You and Winfo shall continue to fulfil your obligations pursuant to the existing SoW.

12. Warranties

Except as expressly stated in this Agreement, the Services are provided on an 'as is' and 'with all faults' basis. To the fullest extent permitted by applicable law, Winfo and its Affiliates, licensors and suppliers hereby disclaim and exclude all other representations and warranties, either express, implied statutory or otherwise included, but not limited to the implied warranties of merchantability, fitness for a particular purpose, non-infringement, satisfactory quality and those arising from course of dealing, course of performance and usage of trade. Winfo and its Affiliates, licensors and suppliers do not warrant, represent or guarantee that Services will be free of errors or omissions or that the Services or their use by You or Your Users, will achieve any particular outcome or result, or will comply with any particular laws, standard, requirements or regulations or any government agency, professional body or any other entity.

13. General Terms

13.1 Governing Law and Jurisdiction

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of United States of America You irrevocably agree that the courts at Dallas, Texas, USA shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

13.2 Severability

If any provision of these terms is found invalid or unenforceable, it will be enforced to the extent permissible and the remainder of this Agreement will remain in full force and effect.

13.3 Waiver

The failure of a party to prosecute its rights with respect to a breach hereunder will not constitute a waiver of the right to enforce its rights with respect to the same or any other breach.

13.4 Assignment

Neither party may assign this Agreement or any SoW or Change Order and rights or obligations hereunder without the express written consent of the other party, except certain Services may be performed by subcontractors to Winfo, provided that Winfo shall have in place written agreements with such subcontractors sufficient to enable Winfo to comply with is obligation under this Agreement and shall remain responsible for the performance of such subcontractors.

13.5 Non Solicitation

During the term of this Agreement and for a period of six (6) months after its expiration or termination, You agree not to solicit or engage any employees or subcontractors of Winfo who You (or Your Users) have had dealings in connection with the performance of this Agreement, without Winfo's prior written consent. This provision does not restrict general advertisements of employment or the rights of any employee or subcontractor, on that person's own initiative, or in response to general advertisements, to seek employment (or other engagement) from You under such circumstances, or for You to hire such employees.

13.6 Entire Agreement

These terms and conditions are the entire agreement between You and Winfo regarding Winfo's provision of and Your access to, use and receipt of the Services. No other communication, whether written or oral, will be deemed to supplement or supersede these terms and conditions unless made in writing and signed by both the Account Administrator and an authorised representative of Winfo.

13.7 Language

These terms are drafted in the English language. If these terms are translated into any other language, the English language version shall prevail.

13.8 References

Notwithstanding clause 5 (Confidentiality) Winfo may refer to you as a customer in its sales presentations and marketing activities, both orally and in writing. .

14. Definitions

Account Administrator:	the individual nominated by You as Your representative as stated in the SoW or elsewhere in writing, having authority to act on Your behalf in respect of all matters relating to this Agreement and Your use of the Services; including an individual nominated by You to Winfo in writing as a replacement representative from time to time
Affiliates:	Means in respect to Winfo: any entity controlled by Winfo, controlling Winfo, or under common control with Winfo. For the purpose of this definition, 'control' shall exist through direct ownership of more than 50% of the nominal value of the issue equity share capital or more then 50% of the shares entitling the holders to vote for the election of directors or persons performing similar functions or rights by any other means to elect or appoint directors or persons who collectively may exercise such control through direct ownership of all of the issue equity share capital
APIs:	Application Programming Interfaces
Business Day(s):	Monday to Friday excluding public and bank holidays, during the normal business hours of 09.00 – 17.30
Change Order:	Winfo's standard format Change Order
Client IP:	Means all rights including Intellectual Property Rights in Your Content that is submitted by or on Your behalf to Winfo through the use of the Services or as otherwise specified in an SoW. Client IP expressly excludes Winfo IP
Cloud Services:	Those web services made available by Winfo from time to time for which You have signed an SoW
Confidential Information:	Means all non-public information disclosed by a party (Discloser) to the other party whether orally or in writing (Recipient), that the Discloser has designated as confidential or that the Recipient should reasonably understand to be confidential given the nature of the information and circumstances of disclosure. Confidential Information includes (without limitation) confidential information relating to the subject matter of this Agreement, whether disclosed prior to or after the Effective Date. Winfo's Confidential Information includes without limitation the Cloud Services, and the terms of this Agreement, its intellectual property, business plans, technology and technical information, product plans and designs and business processes. Confidential Information does not include a) any information that is or becomes generally known to the public without breach of any obligation the Recipient owed to the Discloser; Any information that was known to the Recipient without breach of an obligation owned to the Discloser before the Discloser disclosed the information to the Recipient; any information that is received from a third party without breach of any obligation owed to the Discloser before the Discloser disclosed the information the Recipient; any information that is received from a third party without breach of any obligation the third party owed to the Discloser; or any information that the Recipient independently developed without the use of any Discloser's Confidential Information, which fact can be shown by satisfactory evidence upon request.
Content:	Test Data and/or scripts that You or any User supplies and (a) runs on the Services, (b) causes to interface with the Services, or (c) uploads to the Services or otherwise transfers, processes, uses or stores in connection with your use of the Services. Content expressly excludes Winfo IP
Data Protection Laws:	Data Protection Regulation as applicable in the jurisdiction and/or any other relevant applicable data protection laws or regulations
Dependencies	Refers to the dependencies cited in the relevant SoW (if any)
Discloser:	Has the meaning ascribed to this term in the definition of Confidential Information (above)

Fees:	All fees set forth in the relevant SoW
Force Majeure Event:	Means any failure or delay of performance under the Agreement if caused by any cause beyond Winfo's reasonable control including without limitation an act of war, hostility or sabotage; and act off God; pandemic; electrical, internet, satellite, data transmission, networking infrastructure or telecommunication failure of outage; or an act or order of government
Hosting Provider:	The entity or entities suppling the hosting services for the Cloud Services as specified in the relevant SoW
Individual:	Each individual authorised to use the Services for whom Winfo has supplied You with User Credentials
Intellectual Property Rights:	Means any copyright, design, patent, trademark, domain name (whether registered, unregistered or applied for) trade secret, know-how, or intention and any other propriety or personal rights arise from intellectual activity in the business, industrial, scientific, or artistic fields
Maintenance Services:	Maintenance services provided by Winfo to You during the Subscription Term in relation to the Cloud Services, as more specifically described in the Support and Maintenance Schedule attached to the relevant SoW.
Man Day:	Eight (8) hours work performed by a resource in any 24 hour period
Named User:	A named Individual permitted to access and use the Services, as specified in an SoW
SoW:	Winfo's standard format Statement of Work.
Personal Data:	Shall have the same meaning as defined under the relevant Data Protection Regulation as applicable in the jurisdiction and/or any other relevant applicable data protection laws or regulations
Professional Services:	All training, installation, consulting, customization, configuration, or other services provided to the Client with respect to WinfoTest, as specified in an SoW.
Rate Card:	Winfo's rate card set out in the relevant SoW or otherwise notified to You by Winfo from time to time
Recipient:	Has the meaning ascribed to this term in the definition of Confidential Information (above)
Services:	Means any functions, responsibilities, activities and/or tasks to be performed by Winfo for You pursuant to this Agreement, as more specifically defined in an SoW. The Services do not include Third Party Resources.
Service Fee(s):	Any and all fees, charges, expenses and per diems payable by You to Winfo in respect of Professional Services, as set out in an SoW
Subscription Fee(s):	Any and all fees and charges payable by You to Winfo for access to, and use of, the Services (excluding Professional Services), as set out in an SoW
Subscription Term:	Shall have the meaning described in the Order Form
Support Services:	Support services provided by Winfo during the Subscription Term to assist You in remedying a problem with the operational or performance of the Cloud Services, as more specifically described in the Support and Maintenance Schedule.attached to the relevant SoW
Test Data:	The test data supplied by or on behalf of You in connection with the Services. Test Data shall in all cases be dummy data or anonymized data, and not contain any Personal Data
User:	You and any Individual or entity that directly or indirectly through You accesses or uses the Services as specified an SoW
Third-Party Resources:	Software (including plug-ins), applications, integrations, implementations, customizations, services and content provided by a party other than Winfo, excluding software that is embedded in the Cloud Services and is necessary for the ordinary operation of the Cloud Services. No Third Party Resources are required to use the Cloud Services, unless otherwise designed in an SoW
You:	means _____ (name of the Customer/Client), you and or the entity you represent and the words Your, Yours and like expressions shall be interpreted accordingly

Winfo IP:	Means (i) all rights, including Intellectual Property Rights, owned by Winfo or its Affiliates as of the Effective Date; (ii) all rights, including Intellectual Property Rights, acquired, developed or created by Winfo or its Affiliates independently or as part of the Services, (iii) all rights, including Intellectual Property rights in the Cloud Services and all integrations between the Cloud Services and third party applications; and (iv) all modifications, extensions, customizations, upgrades, enhancements and derivative works of any of the foregoing. Winfo IP expressly excludes Client IP.
WinfoTest	WinfoTest is an AI-powered enterprise testing solution designed to automate and accelerate testing across Oracle Cloud, Oracle EBS, and custom applications. A dynamic tool to manage Oracle cloud quarterly upgrades & regression testing. Its AI engine intelligently generates, executes, and maintains test scripts, reducing manual effort and improving release quality. With built-in Oracle process test scripts, knowledge, and self-healing automation, WinfoTest delivers high test coverage and rapid regression cycles. The platform integrates with CI/CD tools and provides clear reporting to support informed decision-making. WinfoTest enables faster releases, reduced risk, and greater value from Oracle transformations.

By signatures below, the duly authorised representatives of the Parties hereto have agreed to abide by the terms and conditions of the Agreement.

On behalf of Winfo Consulting Inc By:_ Name: Title: Date:_____	**On behalf of** _____ By:_____ Name:_____ Title:_____ Date:_____

winfo Solutions
Trust. Quality. Innovation.