

Certinia Master Subscription Agreement

Customer Full Legal Name	[Customer]
Company Number	361958
Customer Address	of 3 Ongar Square, Ongar Village, Dublin 15 D15 H34C

This Master Subscription Agreement is between **Agilyx EMEA Limited (13427137)** with its principal place of business at **1.09 Universities Centre, Faraday Wharf, Holt Street, Birmingham, B7 4BB ("Agilyx")** and the customer named above. This Agreement is effective as of the last date beneath the parties' signatures below (the **"Effective Date"**). The parties agree as follows:

1. DEFINITIONS

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

"Agreement" means this Master Subscription Agreement and any exhibits, schedules and addenda hereto.

"Certinia" means Certinia.com, Inc. and/or its Affiliate(s), as applicable.

"Customer" means the customer named above and its Affiliates.

"Customer Data" means electronic data and information submitted by or for the Customer to the Services.

"Documentation" means the online user guides, documentation, and help and training materials for the Services and Salesforce Platform (including the Force.com Platform Enterprise Edition and Heroku), and the descriptions of Support, as updated from time to time, accessible at <https://www.certinia.com/> or other websites designated by Certinia.

"Malicious Code" means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.

"Order Form" means an ordering document specifying the Services to be provided hereunder that is entered into between the Customer and Agilyx or any of its Affiliates, including any addenda and supplements thereto. By entering into an Order Form hereunder, an Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto.

"Salesforce Platform" means the hosted platform-as-a-service made available by Salesforce.

"Services" means the Certinia products and services that are ordered by the Customer under an Order Form and made available online by Certinia, including associated offline components, as described in the Documentation. **"Services"** exclude Third-Party Applications.

"Support" means customer support by or on behalf of Certinia for the Services, as described in the Documentation.

"Third-Party Applications" means online applications and services and offline software products that are provided by entities or individuals other than Agilyx or Certinia, and that interoperate with the Services.

"User" means an individual who is authorised by Customer to use a Service, for whom the Customer has ordered the Service, and to whom the Customer has supplied a user identification and password. Users may include, for example, employees, consultants, contractors, and agents of the Customer, and third parties with which the Customer transacts business.

2. AGILYX RESPONSIBILITIES

2.1 Authorised Resale of Certinia Services. Agilyx is an authorised reseller of the Services, which are provided by Certinia. The Customer acknowledges that obligations of Agilyx under this Agreement may be performed by Certinia, but that this Agreement

is solely between Agilyx and the Customer, and that Certinia does not incur or assume any obligations under this Agreement. The Customer acknowledges that this Agreement has been entered into, and the benefit of using the Services under this Agreement by the Customer, subject to the delivery of the Service by Certinia which is subject to the terms of which Agilyx sources the supply of the Services for the Customer.

- 2.2 Provision of Services.** Certinia will (a) make the Services available to Customer pursuant to this Agreement and the applicable Order Forms, (b) provide first level Support for the Services to Customer as that support is provided by Certinia at no additional charge, and/or upgraded Support if purchased, and (c) use commercially reasonable efforts to make the online Services available 24 hours a day, 7 days a week, except for: (i) planned downtime (of which Certinia shall give at least 8 hours electronic notice and which Certinia shall schedule to the extent practicable during the weekend hours between 6:00 p.m. Friday and 3:00 a.m. Monday Pacific time), and (ii) any unavailability caused by circumstances beyond Agilyx's or Certinia's reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving Agilyx or Certinia employees), Internet service provider failure or delay, Third-Party Application, or denial-of-service attack.
- 2.3 Protection of Customer Data.** Agilyx will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data subject to standard industry practices. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of Customer Data by Agilyx or Certinia personnel except (a) to provide the Services and Support and prevent or address service or technical problems, (b) as compelled by law in accordance with the "Confidentiality: Compelled Disclosure" section below, or (c) as expressly permitted in writing by Customer. Where Customer's use of Services includes the processing of Personal Data (as defined in the DPA), the terms of Agilyx's standard data processing addendum ("DPA") shall apply to such processing and shall be incorporated into this Agreement, provided and from the date that Customer signs the DPA without edits and returns the signed DPA to Agilyx.
- 2.4 Agilyx and Certinia Personnel.** Agilyx will be responsible for the performance of its personnel (including its employees and contractors) and their compliance with Agilyx's obligations under this Agreement, except as otherwise specified herein.

3. USE OF SERVICES

- 3.1 Subscriptions.** Unless otherwise provided in the applicable Order Form, (a) Services are purchased as subscriptions, (b) subscriptions may be added during a subscription term at the same pricing as the underlying subscription pricing, prorated for the portion of that subscription term remaining at the time the subscriptions are added, and (c) any added subscriptions will terminate on the same date as the underlying subscriptions.
- 3.2 Usage Limits.** Services are subject to usage limits, including, for example, quantities and/or functionality restrictions referenced in Order Forms. Services are also subject to Salesforce Platform limits, as described in the Documentation. Unless otherwise specified, (a) a quantity in an Order Form refers to Users, and the Service may not be accessed by more than that number of Users, (b) a user's password may not be shared with any other individual, and (c) a user identification may be reassigned to a new individual replacing one who no longer requires ongoing use of the Service. From time-to-time Agilyx may audit the Customer in connection with the Services and the Customer will reasonably cooperate with any Agilyx audit of the Customer's use of the Services. If the Customer violates a contractual usage limit, Agilyx will so notify the Customer and may work with the Customer to bring the Customer's usage into conformity with the limit. If, notwithstanding Agilyx's efforts, the Customer is unable or unwilling to abide by a contractual usage limit, the Customer will, promptly upon Agilyx's request, execute an order form with Agilyx and/or Certinia, as applicable, for additional quantities of Agilyx and/or Certinia services as required, and/or pay any invoice for excess usage in accordance with the payment terms below or in the Customer's agreement with Certinia, as applicable.
- 3.3 Customer Responsibilities.** The Customer will (a) be responsible for its and its Users' compliance with this Agreement and Order Forms, (b) be responsible for the accuracy, quality and legality of Customer Data and the means by which the Customer acquired Customer Data, (c) use commercially reasonable efforts to prevent unauthorised access to or use of Services, and notify Agilyx promptly of any such unauthorised access or use, and (d) use Services only in accordance with the Documentation and applicable laws and government regulations.
- 3.4 Usage Restrictions.** The Customer will not (a) make any Service available to, or use any Service for the benefit of, anyone other than the Customer or Users, (b) sell, resell, license, sublicense, distribute, rent or lease any Service, or include any Service in a service bureau or outsourcing offering, (c) use a Service to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use a Service to store or transmit payment card

information, (e) use a Service to store or transmit Malicious Code, (f) interfere with or disrupt the integrity or performance of any Service or third-party data contained therein, (g) attempt to gain unauthorised access to any Service or its related systems or networks, (h) permit direct or indirect access to or use of any Service in a way that circumvents a contractual usage limit, or use any Services to access or use any Certinia intellectual property except as permitted under this Agreement, an Order Form, or the Documentation, (i) copy a Service or any part, feature, function or user interface thereof (including, without limitation, into a Certinia organization or tenant not authorised in writing by Agilyx), (j) frame or mirror any part of any Service, other than framing on the Customer's own intranets or otherwise for its own internal business purposes or as permitted in the Documentation, (k) access any Service in order to build a competitive product or service or to benchmark with a non-Agilyx product or service, or (l) reverse engineer any Service (to the extent such restriction is permitted by law). If the Customer uses the Services in a way that breaches this Agreement and threatens the security, integrity or availability of the Services, Agilyx may immediately suspend the Services; however, Agilyx will use efforts reasonable under the circumstances to provide the Customer with notice and an opportunity to remedy the breach before any such suspension. This paragraph applies equally to the Certinia Platform as to the Services.

4. SALESFORCE PLATFORM

4.1 General. The Services are developed and operate on the Salesforce Platform and are hosted by Salesforce. This Agreement entitles the Customer to use the Salesforce Platform as part of the Services, and does not entitle the Customer to use any other Salesforce product or service except as expressly provided in the "Salesforce Platform for Certinia Accounting" section below. Unless otherwise specified herein or in an Order Form, the Customer may not use Salesforce Platform subscriptions acquired under this Agreement (a) in a manner or for a purpose other than as needed to use the Services, (b) to develop new applications, (c) to create custom objects, (d) to utilize custom objects other than those delivered by Agilyx or Agilyx's authorised consulting partner as part of the Services or implementation of the Services, or (e) to access the Salesforce Campaigns, Leads, Opportunities, Cases, Solutions or Forecasts objects.

4.2 Salesforce Platform for Certinia Accounting. If the Customer purchases the Certinia Accounting service, Agilyx may be required to provision to the Customer the full Salesforce CRM service, instead of only the Salesforce Platform, for proper functioning of the Certinia Accounting service. In such case, the Customer shall use only the Accounts, Opportunities, Price Books and Products tabs, and no other functions, of the Salesforce CRM service, and only as needed to use the Certinia Accounting Service, unless the Customer has purchased a full Salesforce CRM subscription for the applicable User.

5. THIRD-PARTY PROVIDERS GENERALLY

5.1 Acquisition of Third-Party Products and Services. Agilyx or third parties may make available third-party products or services, including, for example, Third-Party Applications and implementation and other consulting services. Except as expressly provided herein regarding the Salesforce Platform, any acquisition by Customer of such third-party products or services, and any exchange of data between Customer and any third-party provider, is solely between Customer and the third-party provider. Agilyx does not warrant or support Third-Party Applications or other third-party products or services, whether or not they are recommended by Agilyx or designated by Agilyx or Certinia as preferred, certified or otherwise, except as specified in an Order Form.

5.2 Third-Party Applications and Customer Data. If the Customer installs or enables a Third-Party Application for use with a Service, the Customer grants Agilyx and its licensors permission to allow the provider of that Third-Party Application to access Customer Data as required for the interoperation of that Third-Party Application with the Service. Neither Agilyx nor Certinia is responsible for any processing, disclosure, modification or deletion of Customer Data resulting from access by a Third-Party Application. The Services will allow the Customer to restrict Users from installing or enabling Third-Party Applications (other than the Salesforce Platform) for use with the Services.

5.3 Integration with Third-Party Applications. The Services may contain features designed to interoperate with Third-Party Applications. To use such features, the Customer may be required to obtain access to Third-Party Applications from their providers, and may be required to grant Agilyx access to Customer's account(s) on the Third-Party Applications. Agilyx will not be deemed to be in breach of this Agreement to the extent any such Service features cease to function because the provider of the corresponding Third-Party Application, other than the Salesforce Platform, ceased to make their Third-Party Application available for interoperation with such Service features on reasonable terms.

6. FEES AND PAYMENT

- 6.1 Fees.** Customer will pay all fees specified in Order Forms. Except as otherwise specified herein or in an Order Form, (i) fees are based on Services and Support purchased and not actual usage, (ii) payment obligations are non-cancelable and fees paid are non-refundable, and (iii) quantities purchased cannot be decreased during the relevant subscription term.
- 6.2 Invoicing and Payment.** Fees will be invoiced annually in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, fees are due net 20 days from the invoice date, and invoices may be sent electronically. The Customer is responsible for providing complete and accurate billing and contact information to Agilyx and notifying Agilyx of any changes to such information.
- 6.3 Overdue Charges.** If any invoiced amount is not received by Agilyx by the due date, then without limiting Agilyx's rights or remedies, those charges may accrue late interest per the Late Payment of Commercial Debts (Interest) Act 1998.
- 6.4 Suspension of Services.** If any charge owing by the Customer is 30 days or more overdue, Agilyx may, without limiting its other rights and remedies, suspend Services and Support until such amounts are paid in full, provided Agilyx has given the Customer at least 10 days' prior notice that its account is overdue in accordance with the "Notices" section below. In addition, if the Customer has an agreement directly with Salesforce, and Salesforce suspends services to the Customer due to the Customer's breach of that agreement, any Services installed in the same Salesforce instance will also be inaccessible and neither Agilyx nor its licensors will thereby be deemed to be in breach of this Agreement.
- 6.5 Payment Disputes.** Agilyx in its sole discretion may exercise its rights under the "Overdue Charges" or "Suspension of Service" section above if the Customer is disputing the applicable charges reasonably and in good faith and is cooperating diligently to resolve the dispute.
- 6.6 Taxes.** Agilyx's fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, VAT, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "**Taxes**"). The Customer is responsible for paying all Taxes associated with its purchases hereunder. If Agilyx has the legal obligation to pay or collect Taxes for which the Customer is responsible under this section, the Customer will reimburse Agilyx for that amount unless the Customer provides Agilyx with a valid tax exemption certificate authorised by the appropriate taxing authority. Agilyx will calculate applicable Taxes based on the address where the Customer primarily uses the Services as specified in the relevant Order Form. The Customer will be responsible for self-assessing and paying any additional Taxes arising from its use of Services and/or Support at a different address and provide Agilyx with proof of payment of such additional Taxes on request. The Customer will promptly notify Agilyx of any changes to the Customer's registered address specified in an Order Form. Should any payment for Services be subject to withholding tax by any government, the Customer shall remain liable to Agilyx for the full amounts invoiced hereunder, without reduction, and provide proof of payment of such withholding tax upon Agilyx's request. For clarity, Agilyx is solely responsible for taxes assessable against it based on its income (other than such withholding taxes), property and employees.
- 6.7 Future Functionality.** The Customer agrees that its purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Agilyx regarding future functionality or features.
- 7. PROPRIETARY RIGHTS AND LICENSES**
- 7.1 Reservation of Rights.** Subject to the limited rights expressly granted hereunder, Agilyx and its licensors reserve all of their right, title and interest in and to the Services and Support, including all related intellectual property rights. No rights are granted to the Customer hereunder other than as expressly set forth herein.
- 7.2 License by the Customer to Host Customer Data.** The Customer grants Agilyx, its Affiliates and its hosting providers a worldwide, limited-term license to host, copy, transmit and display Customer Data as necessary for Agilyx to provide the Services and Support in accordance with this Agreement and Order Forms. Subject to the limited licenses granted herein, Agilyx acquires no right, title or interest from the Customer or its licensors under this Agreement in or to any Customer Data, Third-Party Application or program code.
- 7.3 License by Customer to Use Feedback.** The Customer grants to Agilyx and Certinia worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into the Services any suggestion, enhancement request, recommendation, correction or other feedback provided by the Customer or Users relating to the operation of the Services.
- 8. CONFIDENTIALITY**

8.1 Definition of Confidential Information. “**Confidential Information**” means all information disclosed by a party (“**Disclosing Party**”) to the other party (“**Receiving Party**”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information of the Customer includes Customer Data; Confidential Information of Agilyx and/or its licensors includes the Services and the Certinia/Salesforce Platform; and Confidential Information of each party includes the terms and conditions of this Agreement and all Order Forms (including pricing), as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

8.2 Protection of Confidential Information. The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement (for clarity, it is within scope to disclose for Service support purposes subject to confidentiality), and (ii) except as otherwise authorised by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates’ employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Neither party will disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates, legal counsel and accountants and Salesforce without the other party’s prior written consent, provided that a party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate’s, legal counsel’s or accountant’s compliance with this “Confidentiality” section.

8.3 Compelled Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party’s cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party’s Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

9. REPRESENTATION, WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS

9.1 Representation. Each party represents that it has validly entered into this Agreement and has the legal power to do so.

9.2 Agilyx Warranties. Agilyx warrants that (a) the Services will perform materially in accordance with the applicable Documentation, (b) subject to the “Integration with Third-Party Applications” section above, Agilyx will not materially decrease the functionality of the Services during a subscription term, and (c) Agilyx will not materially decrease the overall security of the Services during a subscription term. For any breach of an above warranty, the Customer’s exclusive remedies are those described in the “Termination” and “Refund or Payment upon Termination” sections below.

9.3 Disclaimers. EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY OR ITS LICENSORS MAKE ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY AND ITS LICENSORS SPECIFICALLY DISCLAIM ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. AGILYX DOES NOT GUARANTEE THAT SERVICES WILL BE ERROR-FREE, WILL MEET CUSTOMER’S REQUIREMENTS, OR WILL ADDRESS ALL LAWS, RULES OR STANDARDS APPLICABLE TO CUSTOMER’S ACCOUNTING, FINANCE OR HUMAN RESOURCES ACTIVITIES.

10. MUTUAL INDEMNIFICATION

10.1 Indemnification by Agilyx. Subject to clauses 10.4 and 11, Agilyx will defend the Customer against any claim, demand, suit or proceeding made or brought against the Customer by a third party alleging that the use of a Service in accordance with this Agreement infringes or misappropriates such third party’s intellectual property rights (a “**Claim Against Customer**”), and will indemnify the Customer from any damages, attorney fees and costs finally awarded against Customer as a result of, or for amounts paid by the Customer in settlement of, a Claim Against Customer, provided the Customer (a) promptly gives Agilyx written notice of the Claim Against Customer, (b) gives Agilyx sole control of the defense and settlement of the Claim Against Customer (except that Agilyx may not settle any Claim Against Customer unless it unconditionally releases the Customer of all liability), and (c) gives

Agilyx all reasonable assistance, at Agilyx's expense. If Agilyx receives information about an infringement or misappropriation claim related to a Service, Agilyx may in its discretion and at no cost to the Customer (i) modify the Services so that they no longer infringe or misappropriate, without breaching Agilyx's warranties under "Agilyx Warranties" above, (ii) obtain a license for the Customer's continued use of that Service in accordance with this Agreement, or (iii) terminate the Customer's subscriptions for that Service upon 30 days' written notice and refund the Customer any prepaid fees covering the remainder of the term of the terminated subscriptions. The above defense and indemnification obligations do not apply if (1) the allegation does not specifically state that the Services are the basis of the Claim Against Customer, or (2) a Claim Against Customer arises from the use or combination of the Services or any part thereof with software, hardware, data, or processes not provided by Agilyx or Certinia, if the Services or use thereof would not infringe without such combination.

10.2 Indemnification by the Customer. The Customer will defend Agilyx and its licensors against any claim, demand, suit or proceeding made or brought against Agilyx or its licensor by a third party alleging that the Customer Data, or the Customer's use of any Service in breach of this Agreement, infringes or misappropriates such third party's intellectual property rights or violates applicable law (a "Claim Against Agilyx"), and will indemnify Agilyx from any damages, attorney fees and costs finally awarded against Agilyx as a result of, or for any amounts paid by Agilyx in settlement of, a Claim Against Agilyx; provided Agilyx (a) promptly gives the Customer written notice of the Claim Against Agilyx, (b) gives the Customer sole control of the defense and settlement of the Claim Against Agilyx (except that the Customer may not settle any Claim Against Agilyx unless it unconditionally releases Agilyx and its licensors of all liability), and (c) gives the Customer all reasonable assistance, at the Customer's expense. The above defense and indemnification obligations do not apply if (1) the allegation does not specifically state that Customer Data or the Customer's use of a Service in breach of this Agreement is the basis of the Claim Against Agilyx, or (2) a Claim Against Agilyx arises from the use or combination of Customer Data with software, hardware, data, or processes not provided by the Customer, if the Customer Data or use thereof would not infringe without such combination.

10.3 Exclusive Remedy. This "Mutual 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.

10.4 Extent of indemnity given. The indemnities given in this Agreement by Agilyx in respect of any of the Services will: (a) automatically be extinguished where the the Customer modifies or misuses the Service, or an act or omission of the Customer is in breach of this Agreement or in breach of a software or service licence provided by Certinia or Agilyx; and (b) only apply to the extent that Certinia provides an indemnity to Agilyx (and where Certinia does not provide such indemnities, the indemnities in this Agreement will automatically extinguish).

11. LIMITATION OF LIABILITY

11.1 Limitation of Liability. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT, NEITHER PARTY'S LIABILITY WITH RESPECT TO ANY SINGLE INCIDENT ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL EXCEED THE AMOUNT PAID BY THE CUSTOMER HEREUNDER IN THE 12 MONTHS PRECEDING THE INCIDENT, PROVIDED THAT IN NO EVENT WILL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER HEREUNDER. THE ABOVE LIMITATIONS WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY. THE ABOVE LIMITATION DOES NOT APPLY TO THE CUSTOMER WHERE THE CUSTOMER OR ITS PERSONNEL WILLFULLY MISUSE ANY OF THE SERVICES OR INFRINGES ANY INTELLECTUAL PROPERTY RIGHT IN THE SERVICE OR SOFTWARE SUPPLIED UNDER THIS AGREEMENT.

11.2 Exclusions. IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS, REVENUES, GOODWILL OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER, BUSINESS INTERRUPTION OR PUNITIVE DAMAGES, AND IN NO EVENT WILL EITHER PARTY'S LICENSORS HAVE ANY LIABILITY UNDER THIS AGREEMENT FOR ANY DAMAGES, HOWEVER CAUSED, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF A PARTY'S REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

11.3 Payment Obligations. THE ABOVE LIMITATIONS AND DISCLAIMER WILL NOT LIMIT THE CUSTOMER'S PAYMENT OBLIGATIONS UNDER THE "FEES AND PAYMENT" SECTION ABOVE.

12. TERM AND TERMINATION

12.1 Term of Agreement. This Agreement commences on the Effective Date and continues until the 30th day after all subscriptions hereunder have expired or have been terminated.

- 12.2 Term of Subscriptions.** The term of each subscription shall be as specified in the applicable Order Form. Except as otherwise specified below or in an Order Form, Order Forms and all subscriptions thereunder will automatically renew for additional periods of one year, on the same terms and without entry into a new Order Form, unless either party gives the other notice of non-renewal at least 60 days before the end of the relevant subscription term. The per-unit pricing during any automatic renewal term will be the same as that during the immediately prior term unless Agilyx has given Customer written notice of a pricing increase at least 90 days before the end of that prior term, in which case the pricing increase will be effective upon renewal and thereafter.
- 12.3 Non-Renewal and Reinstatement of Subscriptions.** If the Customer provides timely notice of non-renewal, the Services will expire and the Customer's access to the Services will cease on the subscription end date unless a new Order Form for the Services is entered into on or before the subscription end date. If any Service subscriptions are not renewed by the subscription end date (other than due to Agilyx's notice of non-renewal under the "Term of Subscriptions" section above), and Agilyx and the Customer enter into a new Order Form for such Services during the 90-day period after the subscription end date, the Customer will be charged an additional reinstatement fee equal to a pro rata portion of the total annual renewal subscription for each day that has elapsed since the subscription end date.
- 12.4 Deactivation of User Subscriptions.** In the event of a permitted reduction in the number of the Customer's User subscriptions (e.g., upon renewal), the Customer will promptly deactivate the applicable Users in the Services upon termination of the subscriptions. Any failure to do so will be considered a violation of a contractual usage limit under the "Usage Limits" section above.
- 12.5 Termination.** A party may terminate this Agreement if the other party (a) materially breaches this Agreement and fails to cure the breach within 30 days after written notice by the non-breaching party detailing the breach, or (b) becomes the subject of a petition in bankruptcy or other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors, and such petition or proceeding is not dismissed within 60 days. Agilyx may terminate this Agreement where an invoice remains outstanding for 30 days after the payment due date, Agilyx has given 10 days' notice for the invoice to be paid and it remains outstanding after that notice period has elapsed. Termination of this Agreement will not result in termination of all Order Forms.
- 12.6 Refund or Payment upon Termination.** If the Customer validly terminates this Agreement in accordance with the "Termination" section above, Agilyx will refund the Customer any prepaid fees covering the remainder of the term of all Order Forms after the effective date of termination. If this Agreement is terminated by Agilyx in accordance with the "Termination" section above, the Customer will pay any unpaid fees covering the remainder of the term of all Order Forms. In no event will termination relieve the Customer of its obligation to pay any fees payable to Agilyx for the period prior to the effective date of termination.
- 12.7 Customer Data Portability and Deletion.** The Customer may export Customer Data weekly during the term of this Agreement. If the Customer so requests within 30 days after the effective date of termination or expiration of this Agreement, Agilyx or its licensor will make the Customer Data available to the Customer for export or download in the format that it is held. After such 30-day period, neither Agilyx nor its licensors will have any obligation to maintain or provide any Customer Data and will thereafter delete or destroy all copies of Customer Data in their systems or otherwise in their possession or control, unless legally prohibited. For clarity, if this Agreement terminates or expires but the Customer continues to use the Salesforce instance where the Services were operating, Customer Data specific to the Services will remain inaccessibly stored in the Salesforce Platform unless and until the corresponding Service packages are removed from that Salesforce instance. The Customer may engage Agilyx to assist with such package removal pursuant to a signed statement of work.
- 12.8 Surviving Provisions.** The sections titled "Fees and Payment," "Proprietary Rights," "Confidentiality," "Disclaimers," "Mutual Indemnification," "Limitation of Liability," "Refund or Payment upon Termination," "Customer Data Portability and Deletion," "Surviving Provisions" and "General Provisions" will survive any termination or expiration of this Agreement.
- 13. GENERAL PROVISIONS**
- 13.1 Export Compliance.** The Services and derivatives thereof may be subject to export laws and regulations of the United Kingdom (UK) and other jurisdictions. Agilyx and the Customer each represents that it is not named on any UK government denied-party list. The Customer will not permit any User to access or use any Service in a UK embargoed or in violation of any UK or other applicable export law or regulation.
- 13.2 Anti-Corruption.** The Customer has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from a Agilyx employee or agent in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If the Customer learns of any violation of the above restriction, it will use reasonable efforts to promptly notify Agilyx.

- 13.3 Publicity and Reference.** Either party may publicly identify the other party as a customer or vendor, as applicable, using the other party's name and logo. Either party may issue a press release announcing the Customer's selection of the Services, the text of which will be subject to the other party's prior written approval, not to be unreasonably withheld or delayed. The Customer will use commercially reasonable efforts to act as a sales reference for Agilyx upon request once per quarter, provided the Customer is satisfied with the Services.
- 13.4 Entire Agreement and Order of Precedence.** This Agreement and the applicable Order Form(s) constitute the entire agreement between Agilyx and the Customer regarding the provision and use of Services and Support and supersede all prior and contemporaneous agreements, proposals, promises or representations, written or oral, concerning their subject matter. This Agreement supersedes the terms of any online Master Subscription Agreement for Certinia Services. No modification, amendment, or waiver of any provision of this Agreement or any Order Form will be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. The parties agree that any term or condition stated in a customer purchase order or in any other Customer order documentation (excluding Order Forms) is void. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the applicable Order Form, (2) any exhibit, schedule, or addendum to this Agreement, (3) the body of this Agreement, and (4) the Documentation.
- 13.5 Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.
- 13.6 No Third-Party Beneficiaries.** Certinia and Salesforce shall have the benefit of Agilyx's rights and protections hereunder with respect to the Services and the Salesforce Platform, respectively. There are no other third-party beneficiaries under this Agreement.
- 13.7 Notices.** Except as otherwise specified in this Agreement, all notices related to this Agreement will be in writing and will be effective upon (a) personal delivery, (b) the second business day after mailing, (c) confirmed delivery by courier service, or (d), except for notices of termination or an indemnifiable claim ("**Legal Notices**"), the day of sending by email. Notices to Agilyx will be addressed to the attention of **Agilyx EMEA Limited at 1.09 Universities Centre, Faraday Wharf, Holt Street, Birmingham, B7 4BB**, and email **operations.emea@agilyxgroup.com** (for All Notices). Billing-related notices to the Customer will be addressed to the relevant billing contact designated by the Customer, and Legal Notices to Customer will be addressed to the Customer and be clearly identifiable as Legal Notices. All other notices to the Customer will be addressed to the relevant Services system administrator designated by Customer.
- 13.8 Waiver.** No failure or delay by either party in exercising any right hereunder will constitute a waiver of that right.
- 13.9 Severability.** If any provision of this Agreement or any Order Form is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of this Agreement or the applicable Order Form will remain in effect.
- 13.10 Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other party's prior written consent (not to be unreasonably withheld); provided, however, either party may assign this Agreement in its entirety, together with all Order Forms, without the other party's consent to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Notwithstanding the foregoing, if a party is acquired by, sells substantially all of its assets to, or undergoes a change of control in favor of, a direct competitor of the other party, then such other party may terminate this Agreement upon written notice. In the event of such a termination, Agilyx will refund the Customer any prepaid fees covering the remainder of the term of all subscriptions. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.
- 13.11 Governing Law.** This Agreement, and any disputes arising out of or related hereto, will be governed exclusively by the internal laws of the United Kingdom.
- 13.12 Jurisdiction.** Any dispute, claim or controversy arising out of or relating to this Agreement shall be subject to the exclusive jurisdiction of the state and federal courts located in the United Kingdom and each party hereto irrevocably consents to such jurisdiction.
- 13.13 Counterparts.** This Agreement may be executed by facsimile or electronic signature and in counterparts.

Signed by each party's authorised representative:

Agilyx EMEA Limited

[Customer]

Signed: _____

Signed: _____

Role: _____

Role: _____

Position: _____

Position: _____

Date: _____

Date: _____