

CONSULTING SERVICES MASTER AGREEMENT

This Consulting Services Master Agreement (“**Agreement**” or “**CSMA**”) is entered into as of ■, 202■ (the “**Effective Date**”) by and between [INSERT COMPANY’S FULL LEGAL NAME- INCLUDING THE LEGAL ENDING – INC., LTD., CORPORATION ETC.] (“**Customer**”) a [INSERT JURISDICTION OF INCORPORATION, E.G. “**DELAWARE**”] company with its principal place of business at [ADDRESS], and **Pythian Services Inc. (“Pythian”)**, a company incorporated under the laws of British Columbia, with offices at 319 McRae Avenue, Suite 600, Ottawa, ON, Canada K1Z 0B9, London, United Kingdom, EC3V 9DU. This CSMA reflects the way Pythian’s services business works and governs each party’s rights and obligations relating to Pythian’s provision of IT consulting services (“**Services**”) to Customer as further described in each Statement of Work (each, including all its attachments, a “**SOW**”) entered into hereunder.

1 SERVICES

- 1.1 Statements of Work.** Pythian will provide the Services described in mutually agreed upon SOW(s) duly executed by authorized representatives of each party. Each SOW will be deemed to incorporate the terms and conditions of this CSMA. Each individual SOW will reference this CSMA and contain such additional information and provisions as the parties deem necessary, including assumptions and, as appropriate, names, addresses, e-mail addresses, telephone and fax numbers of the parties’ project managers; a description of the parties’ responsibilities; and description of payments, including amount, schedule of payments, and address to which such payments are to be made.
- 1.2 Changes to SOW.** Either party may, at any time, request changes within any particular SOW (“**Change Order**”) in accordance with the change order process contemplated in the applicable SOW or, if no such process is contemplated, by submitting the Change Order to the other party in writing. Any requested change or adjustment to the SOW must be agreed to in writing by both parties via a formal amendment or a Change Order signed by both parties, as applicable (“**SOW Amendment**”). In particular, but without limitation, Pythian may submit a Change Order if the effort or hours of work initially estimated by Pythian are impacted by materially incorrect assumptions or materially incomplete or inaccurate Systems Information (as defined in section 3.1), on which those initial estimates were based. Pythian will continue performing the Services in accordance with the applicable SOW until the parties agree in writing on any SOW Amendment. If agreement on a SOW Amendment is not reached, either party may terminate the SOW for convenience in accordance with its terms.
- 1.3 Pythian Personnel.** In the performance of Services under any SOW, Pythian may use any of “**Pythian Personnel**”, which includes (a) employees of Pythian, (b) individuals under a contract for services with Pythian or with an Affiliate of Pythian, and who are subject to the same policies, procedures and supervision as the employees of Pythian (“**In-House Contractors**”) and (c) employees and In-House Contractors of Pythian’s Affiliates. For the purposes of this Agreement, “**Affiliate**” of a party means any corporation, partnership or legal entity that controls, is controlled by, or is under common control with, such party.
- 1.4 Support Software Tools.** In the performance of the Services, Pythian may use various support and remote assist tools (all such tools and each of their respective enhancements, modifications, derivative works, copies and/or translations, “**Support Software Tools**”), as may be appropriate to the Services set out in the SOW. The Support Software Tools include, but are not limited to, discovery and automation tools, tools for analyzing, diagnosing, resolving and documenting problems, and web-based applications to communicate with Customer and document Customer’s requests. Some Support Software Tools may require installation on Customer Systems and may record or generate work logs and work reports.

2 COMPENSATION & PAYMENT TERMS

- 2.1 Compensation for Services; Expenses.** Customer will pay to Pythian all the amounts specified in the relevant SOW, including, without limitation, compensation for Services. Additionally, Customer

will reimburse Pythian for all expenses incurred in the performance of the Services, provided they are pre-approved in writing by Customer.

2.2 Invoices. Pythian will invoice Customer in accordance with the payment schedule set forth in the relevant SOW. Should Customer, in good faith, dispute any of the charges set out on an invoice, it will notify Pythian in writing within 30 days of its receipt of such an invoice. Customer's notice will set out in sufficient detail the basis for its dispute. Pythian will have 30 days from the date of such a notice of dispute to reply. Customer will be obligated to pay all amounts not in dispute.

2.3 Taxes. All payments under this Agreement and any SOW are exclusive of, and Customer is liable for, any and all goods and services, harmonized sale, sales, service, use and excise taxes and any other similar taxes, duties and charges of any kind imposed by any federal, provincial/state, territorial or local government entity or regulatory entity on any amounts payable by Customer under this Agreement ("**Taxes**"). If Pythian has a legal obligation to collect and remit payment of any applicable Taxes, Pythian will invoice Customer and Customer will pay the amount of the Taxes, unless it provides Pythian with a valid tax exemption certificate authorized by the appropriate taxing authority. In no event shall Customer pay or be responsible for any taxes imposed on, or with respect to, Pythian's income, revenues, personnel, or real or personal property or assets.

3 CUSTOMER OBLIGATIONS

3.1 Provision of System Information. Customer acknowledges that before the execution of the relevant SOW, Pythian does not have access to Customer Systems (defined below). Customer shall provide Pythian with relevant and accurate information about Customer Systems as required to enable Pythian to provide the Services contracted for ("**Systems Information**").

3.2 Protection of Customer Systems. In no event shall Pythian be responsible for backing up Customer's computer systems, software programs, applications, databases and computer network ("**Customer Systems**") and/or any information, including Personal Data (as defined in section 9.1) ("**Customer Data**"), stored on such Customer Systems. In addition to backing up its Customer Systems and Customer Data, Customer is responsible for taking such other measures that Customer considers necessary to protect Customer Systems and Customer Data, including, without limitation, installing up-to-date anti-virus software.

3.3 Safe Work Environment. If and while any Pythian Personnel or subcontractors of Pythian are on the Customer's premises ("**On-site Representatives**"), Customer will be responsible to ensure that those health and safety precautions required by law and in accordance with good industry practice are in place and fully operational to protect such On-site Representatives. Each party ("**Indemnitor**") agrees to indemnify the other party ("**Indemnitee**") against any claim arising out of the negligence or wilful misconduct of Indemnitor, its employees and other personnel for which Indemnitor is responsible resulting in bodily injury or death.

4 IP RIGHTS

4.1 Pythian Properties. As between Customer and Pythian, Pythian is and will remain the exclusive owner of any Support Software Tools and any and all, know-how, skills, ideas, designs, methodologies, techniques, software, software libraries, tools, scripts, algorithms, solutions, materials, and products, reports or other written documents based on or incorporating the foregoing or containing technical recommendations or advice that Pythian uses or develops in the course of providing Services to Customer, including all intellectual property rights therein, ("**Pythian Properties**"). Nothing in this Agreement or any SOW will restrict or limit Pythian from exploiting or otherwise using the Pythian Properties in any manner whatsoever; provided Pythian does not use in any way any Customer Properties (defined below). Pythian hereby grants to Customer a perpetual, world-wide, royalty-free, non-exclusive, non-transferable, license to use the Pythian Properties (with the exception of the Support Software Tools, which may only be used during the term of the applicable SOW as authorized by Pythian) solely for the purpose of and to the extent required to enable Customer to obtain the benefit of the Services in accordance with the applicable SOW and to exercise its rights in any Custom Works and Customer Properties (defined below) in which the Pythian Properties have been incorporated. The license granted to

Customer hereunder shall be irrevocable so long as Customer is not in default under this Agreement or any SOW.

- 4.2 Customer Properties.** As between Customer and Pythian, Customer is and remains the exclusive owner of any systems, databases, software, software libraries, tools, algorithms, materials, products, documents, and other works and Customer's Confidential Information and Customer Data (including all intellectual property rights thereto) to which Customer grants Pythian access in the course of the provision of Services ("**Customer Properties**"). In addition, to the extent Customer specifically commissions Pythian in a SOW to create any original software program, data model, or other specific tangible work (together with all intellectual property rights therein, a "**Custom Work**"), such Custom Work will be identified as such in the applicable SOW and it will become part of Customer Properties effective immediately upon Customer's payment for same in accordance with the applicable SOW. Custom Work will be considered a work made for hire for Customer within the meaning of Title 17 of the United States Code and, if the Custom Work cannot be considered a work made for hire, Pythian hereby assigns any ownership rights it may have in any Custom Works to Customer. Except as may be necessary to provide the Services, Pythian shall not have any rights in or to the Customer Properties.

5 INDEMNIFICATION

- 5.1 Indemnification.** Subject always to the limitations in this CSMA, Pythian agrees to defend, at its cost, Customer against any Third Party Claim that any Custom Work supplied by Pythian under this CSMA infringes any intellectual property right of any third party ("**IP Claim**") and to pay any damages finally awarded to such third party against Customer by a court of competent jurisdiction or payable to the third party claimant as a result of a settlement to which Pythian agrees in writing, and any costs of such settlement.
- 5.2 Remedies.** Should any Custom Work provided by Pythian under this CSMA become, or in Pythian's opinion is likely to become, the subject of an IP Claim, Pythian will, at its option and expense, either procure for Customer the right to continue using the Custom Work, replace or modify the Custom Work so that it becomes non-infringing (while substantially preserving its utility or functionality), or grant Customer a refund of the amounts paid by Customer under this CSMA for the Custom Work and accept its return.
- 5.3 Exclusions.** Notwithstanding the foregoing, Pythian will have no obligation under this section 5 to the extent that the claimed infringement is caused by (a) an alteration, modification or combination (by Customer or by a third party not hired or retained by Pythian) of the Custom Work with third party products or services; (b) Customer's continued use of the Custom Work after having been notified by Pythian to discontinue its use due to an actual or threatened claim of infringement, or (c) such infringement is the result of information, data, or intellectual property provided by Customer to Pythian.
- 5.4 Conditions.** The defence and indemnification obligations under section 5.1 above will not arise unless the Indemnitee (a) promptly notifies Indemnitor in writing of the initial IP Claim; and (b) grants Indemnitor the sole control of the defence of any action and all negotiations for settlement and compromise.
- 5.5** The provisions of this section 5 represent Pythian's exclusive liability and Customer's exclusive remedies with respect to any IP Claim.

6. LIMITED WARRANTY

- 6.1 Warranty of Performance.** Pythian warrants that the Services will be done in a workmanlike manner and using the degree of skill, care, prudence and foresight and operating practice that would reasonably and ordinarily be expected from time to time of a skilled and experienced provider of services similar to those provided by Pythian pursuant to this CSMA under the same or similar circumstances (the "**Standards**") and any Custom Works will materially conform to the specifications agreed upon in the relevant SOW (the "**Specifications**"). If Customer believes the Services or Custom Works do not meet the applicable Standards or Specifications, Customer

must notify Pythian in writing within 30 days following receipt of the non-conforming Services or Custom Works and Pythian will make commercially reasonable attempts to bring the Services or Custom Works into conformity with the Standards or Specifications. If Pythian is unable to do so within a reasonable period of time, Customer's sole and entire remedy for such failure, is termination of the relevant SOW in exchange for a refund of the amount paid by Customer to Pythian for the non-conforming Services or Custom Works. This warranty specifically excludes non-performance issues caused by a malfunction of or defect in Customer or third-party hardware or firmware, or by incorrect data or incorrect procedures used or provided by Customer or a third party. With respect to Custom Work, this warranty will immediately cease if Customer or any third party modifies any portion of a Custom Work, and/or modifies any Customer system or assets so that a Custom Work is no longer functional or appropriate.

- 6.2 Disclaimer of Warranties. Except as expressly set forth in this section 6, Pythian makes no warranty or representations regarding any software, deliverables (including any Custom Work), information or Services provided under this CSMA. Except as expressly set forth in this section 6, Pythian disclaims and excludes any and all other express, implied and statutory warranties, including, without limitation, warranties of good title, warranties against infringement, and the implied warranties of merchantability and fitness for a particular purpose. Pythian does not warrant that any software, deliverables (including Custom Works), information or Services provided will satisfy Customer's requirements or are without defect or error or that the operation of any software provided under this CSMA will be uninterrupted. Pythian does not assume any liability with respect to any third-party hardware, firmware, software or services.**

7. LIMITATION OF LIABILITY

- 7.1 To the extent allowed by applicable law, neither party nor its Affiliates and their respective directors, officers, personnel (which in the case of Pythian include all Pythian Personnel) and subcontractors (collectively, a party's "Related Parties") will be liable to the other, for any expectation losses, loss of profits, sales or business, loss of anticipated savings, loss of use or corruption of software or loss of data, or for any indirect, special, reliance, incidental or consequential damages, or any other losses of any kind of any third party, whether arising directly or indirectly out of this Agreement and regardless of the cause of action, whether in contract, tort (including negligence) or any other legal theory.**
- 7.2 If, notwithstanding the other terms of the CSMA, either party or its Related Parties are determined to have any liability to the other party or its Related Parties, the parties agree that the total aggregate liability of a party and its Related Parties for all claims arising under or in connection with this Agreement, regardless of the cause of action, whether arising in contract, tort (including negligence) or any other legal theory, will at all times be limited to the fees actually paid by Customer for Services under the applicable SOW.**
- 7.3 Nothing in this Agreement is intended to exclude or limit in any way Customer's payment obligations under this Agreement or the liability of a party for its negligence or willful misconduct resulting in bodily injury or death.**
- 7.4 Multiple claims will not expand the limitations contemplated in this section 7.**
- 7.5 Customer acknowledges that Pythian has set its prices, and each party acknowledges that the other has entered into this Agreement, in reliance upon the limitations of liability and the disclaimers of warranties set forth in this Agreement, and that the same form an essential basis of the bargain between the parties.**
- 7.6 This section 7 will be given full effect even if any remedy specified in this Agreement is deemed to have failed in its essential purpose.**

8. CONFIDENTIAL INFORMATION

- 8.1 Confidential Information.** For the purposes of this CSMA, and except as otherwise expressly provided in this CSMA, "**Confidential Information**" means all non-public and proprietary business, technical and financial information of a party ("**Discloser**") disclosed to the other party ("**Recipient**") or to Recipients' Affiliates, or to their respective employees, officers, directors, attorneys, accounts or contractors ("**Representatives**") and which is clearly marked "confidential," or designated orally as "confidential," if disclosed orally, or is information that a reasonable person in the position of the Recipient would understand to be confidential regardless of whether it is marked or designated as such, given the nature of the information and the circumstances of the disclosure.
- 8.2 Exclusions.** Confidential Information does not include information that:
- a. was rightfully in the Recipient's possession before receipt from the Discloser,
 - b. is or becomes a matter of public knowledge through no wrongful act of the Recipient,
 - c. is received from a third-party source who was not, to the best of Recipient's knowledge, prohibited from disclosing the information by a contractual obligation to the Discloser, or
 - d. is independently developed by the Recipient.
- 8.3 Obligations of Recipient.** The Recipient will hold in confidence the Confidential Information disclosed by the Discloser, exercising the same care it uses to protect its own Confidential Information of like nature, which standard of care will in no event be less than reasonable care. The Recipient may disclose Confidential Information only to its Representatives who need to know such information for purposes of this CSMA and who are bound by obligations of confidentiality at least as restrictive as those contemplated in this Agreement.
- 8.4 Compelled Disclosure.** To the extent the Recipient or its Representatives are required to disclose Discloser's Confidential Information under applicable law or valid order issued by a court or government agency of competent jurisdiction (a "**Legal Order**"), before making such disclosure the Recipient will use reasonable commercial efforts to notify the Discloser, if permitted by law, as to provide the Discloser, at Discloser's expense, an opportunity to object to or limit such disclosure.
- 8.5 Confidentiality Period.** The Recipient's duty to hold Confidential Information in confidence expires five years after the date of disclosure. The expiration of the duty of confidentiality will not modify other restrictions on the Recipient, including, for example, any restrictions under patent or copyright laws.
- 8.6 Return or Destruction.** At any time upon written request from the Discloser, during and/or upon termination of this Agreement, the Recipient will destroy or return, at Discloser's option, any Confidential Information of the Discloser in the Recipient's possession; provided that the Recipient and its Representatives may retain a copy of such Confidential Information for backup purposes and as otherwise required by law.

9 PRIVACY AND DATA PROTECTION

- 9.1 Privacy Obligations.** With respect to any processing of information about an individual ("**Personal Information**" or "**Personal Data**"), each party will comply with the privacy laws binding on it and applicable to the Services being provided under the relevant SOW. For the avoidance of any doubt, Customer understands and agrees that the Services provided by Pythian do not include any physical transfer of Personal Data from Customer Systems into Pythian's infrastructure.

In some jurisdictions, business contact information (i.e., name, title, business address, business email address and business phone number) ("**Business Contact Information**") constitutes Personal Information. Each party agrees that, with respect to any Business Contact Information about personnel of the other party, which is collected for the purposes of communicating and managing the parties' business relationship, each party acts as a controller of such Business Contact Information, and its collection and use, to the extent it constitutes Personal Information, is subject to the controller's Privacy Policy. In the case of Pythian, such Privacy Policy is available at <https://pythian.com/privacy/>. Except for Business Contact Information, Pythian does not wish to receive for storage any Personal Information from Customer.

- 9.2 Privacy Assurances by Customer.** If Customer requests Personal Information other than Business Contact Information about Pythian Personnel in order to grant those individuals with access to Customer Systems or for other similar purpose, then Customer represents and warrants that it has implemented, and will maintain, technical, administrative and organizational security measures appropriate to the protection of Personal Information in accordance with applicable law.
- 9.3 Security of the Services.** Taking into account the nature of Pythian Services and Pythian's remote service delivery model, Pythian has implemented appropriate technical, organizational and administrative security safeguards reasonably designed, in accordance with industry standards, to prevent unauthorized access to Customer Systems ("**Pythian Security Program**"). Pythian will notify Customer without undue delay if it becomes aware of any breach to Pythian Security Program leading to an unauthorized access of Customer Systems (as defined in Section 3.3) or unauthorized access, use or disclosure of the Customer Data (as defined in Section 3.3) stored in such Customer Systems ("**Security Breach**"). Pythian will produce an incident report detailing the timeline and scope of the Security Breach, including a root cause analysis, and recommended corrective actions to prevent similar incidents from reoccurring in the future. For greater certainty, a Security Breach does not include security incidents in the nature of pings and other broadcast attacks on Pythian's firewall, port scans, unsuccessful log-on attempts, denials of service attacks and any combination of the above, so long as no such incident results in a successful compromise of the security and integrity of the Customer Systems.
- 9.4 Remote Connectivity.** In the remote delivery of Services, Pythian may require a secure method of connectivity. Customer is responsible for providing or selecting a secure method of connectivity when required by the nature of the Services, identified in the relevant SOW as "**Customer-provided Connection**". Customer will promptly provide Pythian with documentation about the Customer-provided Connection as to allow Pythian to assess the compatibility of the selected method with Pythian's systems. If upon review, Pythian determines that the Customer-provided Connection would disrupt the security or operation of the Pythian's systems, Pythian may require that Customer selects a different method of connectivity. Pythian is not responsible for the security of any method of connectivity, whether it is the Customer-provided Connection or a Third-Party Connection.

10 TERM AND TERMINATION

- 10.1 Term.** This CSMA will become effective upon the Effective Date and will continue in force for a term of five years (the "**Initial Term**") and will automatically renew for additional one-year periods ("**Renewal Term(s)**"), provided either party may terminate the CSMA prior to the expiration of the Initial Term or any Renewal Term in accordance with one of the following provisions.
- 10.2 Termination for Cause.** Either party may terminate this CSMA or any SOW effective upon written notice to the other party (the "**Defaulting Party**") if the Defaulting Party materially breaches any term or condition under this CSMA or any SOW and such breach is incapable of cure, or if being capable of cure the Defaulting Party does not cure, or commences to cure (if a cure cannot be performed within the time period set forth below) within 10 business days after receipt of written notice.
- 10.3 Consequences of Termination.**
- 10.3.1 Termination of a SOW.** Termination of a SOW does not terminate the CSMA or any other SOW(s). If any SOW(s) are in effect at the time of termination of the CSMA, the CSMA will continue to be in effect in connection with such SOW(s) until their completion, but no new SOWs may be entered into pursuant to the terminated CSMA.
- 10.3.2 Termination Payment.** If a SOW is, or a SOW and this CSMA are, terminated, Customer will pay Pythian the amounts specified in the applicable SOW for the Services performed by Pythian prior to and including the effective date of termination, as well as any pre-approved expenses that Pythian has incurred or contracted for with respect to the Services and is unable to avoid.
- 10.3.3 Survival of Obligations.** Termination of this CSMA and/or any SOW will not discharge or otherwise affect any pre-termination obligations of either party existing under the CSMA or such

SOW at the time of termination.

11 GENERAL PROVISIONS

11.1 High Risk Activities. Customer acknowledges that the Services (including Custom Works) are not intended for servicing on-line control equipment in hazardous environments requiring fail-safe performance, such as, but not limited to, nuclear facilities, aircraft navigation, aircraft communications systems, air traffic control, direct life support machines or weapons systems, in which failure of the products could lead directly to death, personal injury, or severe physical or environmental damage.

11.2 Force Majeure. If either party is prevented from performing any portion of this CSMA by causes beyond its control, including, without limitation, labor disputes, civil commotion, war, governmental regulations or controls, casualty, inability to obtain materials or services or acts of God ("**Force Majeure Event**"), the party affected by the Force Majeure Event will promptly notify the other party and it will be excused from performance for the period of the Force Majeure Event and for a reasonable time thereafter; provided, however, that this subsection shall not relieve or limit Customer's obligation to all payments due to Pythian under this CSMA or any SOW up to and including the date on which the notice is received.

11.3 Jurisdiction & Dispute Resolution.

11.3.1 Governing Law & Venue. This Agreement, including all schedules, exhibits, attachments and appendices thereto, and all matters arising out of or relating to this Agreement, are governed by, and construed in accordance with, the laws of England and Wales, without regard to conflict of law principles. Any action in connection with a dispute arising out of this CSMA will finally be settled under the laws of England and Wales. The language used in any proceedings will be English.

To the extent their exclusion is permissible, the terms of the United Nations Convention on the International Sale of Goods will not apply to this CSMA, even where they have been adopted as part of the domestic law of the country whose law governs the CSMA.

11.3.2 Dispute Resolution. Prior to the commencement of any litigation, upon receipt of a notice of dispute, the parties will make reasonable efforts to resolve any disputes that arise hereunder by good faith negotiations. If such good faith negotiations between the parties' initial representatives do not resolve the dispute after 10 business days, it shall be escalated to senior executives for further good faith negotiations. If the senior executives are unable to resolve the dispute within 10 business days, then either party may initiate litigation. Notwithstanding the foregoing or any other provision in this CSMA or elsewhere, either party may seek a preliminary injunction, attachment or other judicial relief, if such action is necessary to avoid irreparable harm, preserve the *status quo* or preserve and protect the subject matter of the dispute. Despite such action, the parties will continue to participate in good faith dispute resolution negotiations as set out herein. So long as the parties are seeking dispute resolution, each party shall during the dispute resolution periods, continue to perform its obligations under this CSMA and any applicable SOW pending final resolution of any dispute arising out of or relating to it.

11.3.3 Costs. If either party initiates legal proceedings to enforce a term of the CSMA or any SOW, the prevailing party will be entitled to recover reasonable lawyers' fees and disbursements and reasonable experts' and other witness costs.

11.4 Survival of Terms. The provisions of this CSMA which by their nature extend beyond the termination of the CSMA will survive, including, but not limited to, sections 4, 5, 6, 7, 8, 9, and 11 (except for subsections 11.2 and 11.8).

11.5 Waiver. No waiver of any right or remedy on one occasion by either party will be deemed a waiver of such right or remedy on any other occasion.

- 11.6 Integration.** This CSMA, together with any schedules, exhibits, addenda or any other attachments that the parties may enter and incorporate into this CSMA, and the SOWs entered into pursuant to this CSMA, set forth the entire agreement and understanding between the parties pertaining to the subject matter and merges all prior discussions between them on the same subject matter. The provisions of this CSMA, including, without limitation, section 8 and section 9.1, govern any disclosures of Confidential Information between the parties and any non-disclosure agreement executed by the parties prior to the execution of this CSMA is hereby terminated. This CSMA will not be supplemented or modified by any course of dealing or trade usage. Neither of the parties will be bound by any conditions, definitions, warranties, understandings, representations, stipulations or other terms with respect to the subject matter other than as expressly provided in this CSMA and applicable SOWs hereunder. Any such terms contained or referenced in any purchase order or other written notification or documentation, from Customer or otherwise, will be of no effect. This CSMA may only be modified by a written document signed by duly authorized representatives of the parties.
- 11.7 Order of Precedence.** In the event of a conflict between the terms of this CSMA and the terms of any SOW, the terms of this CSMA will control; provided, however, that the parties may in any SOW specifically (i.e., with reference to this CSMA) agree to: (a) exclude or except an otherwise controlling provision of this CSMA; or (b) adopt a clause or provision to apply in lieu of an otherwise controlling provision of this CSMA.
- 11.8 Assignment.** Neither party may assign any or all of its rights (other than the right to receive payments) or its duties or obligations hereunder without the consent of the other party, which consent will not be unreasonably withheld, except to an Affiliate or in connection with a merger, acquisition, sale or other disposition of all or substantially all of the business to which this Agreement relates. An assignee of either party authorized hereunder, whether or not requiring consent, shall confirm in writing that it agrees to be bound by the terms of this Agreement and the assignor agrees to deliver this written confirmation to the other party.
- 11.9 Notice.** Unless otherwise agreed to by the parties, all notices required under this CSMA will be deemed effective when received (a) at the address specified by each party in the signature block by either (i) registered mail; (ii) certified mail, return receipt requested; or (iii) overnight or other expedited delivery service such as FedEx, UPS, or DHL, or (b) by email to legal@pythian.com, for Pythian, and for Customer, to the email address as designated by Customer from time to time, provided that notice by this method will be deemed effective upon acknowledgement of receipt (not including an automated “read receipt”) by the party to which the notice was given or on the fifth day following delivery of the notice, whichever occurs first.
- 11.10 Severability.** If any term or provision of this CSMA is deemed by a court of competent jurisdiction to be overly broad in scope, duration or area of applicability, the court considering the same will have the power and is hereby authorized and directed to limit such scope, duration or area of applicability, or all of them, so that such term or provision is no longer overly broad and to enforce the same as so limited. Subject to the foregoing sentence, in the event any provision of this CSMA is held to be invalid or unenforceable for any reason, such invalidity or unenforceability will attach only to such provision which will be severed from this CSMA and will not affect or render invalid or unenforceable any other provision of this CSMA.
- 11.11 Independent Contractor.** The parties acknowledge that Pythian is an independent contractor to Customer and that Pythian Personnel are not employees or agents of Customer. Nothing in this Agreement will in any way be construed to constitute a party as an agent, employee or representative of the other party. Without limiting the generality of the foregoing, neither party is authorized to bind the other party to any liability or obligation or to represent that it has any such authority.
- 11.12 Subcontracting.** In addition to Pythian Personnel, Pythian may retain subcontractors to perform the Services contracted for under this Agreement or any SOW in accordance with Pythian’s applicable procedures. Subject to the provisions of this Agreement, Pythian remains responsible for the performance of Services by its subcontractors.

- 11.13 Compliance with Laws.** Each party agrees to comply with the laws to which it is subject in the performance of its obligations under this CSMA.
- 11.14 Non-solicitation of Personnel.** During the period beginning with the commencement date for Services under a particular SOW and ending one year after the completion or termination of the SOW, Customer, for and on behalf of itself and its Affiliates, agrees not to offer employment or hire any employee or contractor of Pythian or its Affiliates who are directly involved in the Services being performed under the SOW, except with the written consent of Pythian. For purposes of this subsection 11.14, the terms "**employment**" and "**employs**" will include any form of employment, consulting, contract relationship, or other arrangement pursuant to which such individual will, directly or indirectly, perform services for the new employer. This Section shall not apply to general job postings or advertisements, without further pro-active solicitation.
- 11.15 Insurance.** Pythian will insure against losses and damages that are the result of the fault or negligence of Pythian and which relate to this CSMA, including professional liability, cyber liability, and commercial general liability.
- 11.16 No Third Party Rights.** This CSMA is made solely for the benefit of the parties to the CSMA and their respective permitted successors and assigns, and no other person or entity will have or acquire any right by virtue of this CSMA unless otherwise agreed to by the parties hereto.
- 11.17 Headings.** The headings of sections and subsections in this Agreement are included for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of the Agreement.
- 11.18 Counterparts.** This Agreement may be executed in any number of counterparts, and all of such counterparts taken together will be deemed to constitute one and the same document.
- 11.19 Publicity.** Customer consents to Pythian's use of Customer name and logo for the purposes of identifying Customer as such on Pythian's website, on Pythian's social media channels, and in other promotional materials such as brochures, as well as in Pythian's customers lists and lists of referrals for other customers or potential customers ("**Permitted Use**"). Pythian's use of Customer name and logo for any other purpose, including, without limitation, press releases, white papers, case studies, reports, letters and other publications requires prior written consent of Customer, and Pythian will not use Customer name and logo for purposes other than the Permitted Use without first obtaining Customer's consent.
- 11.20 Facsimile or Electronic Transmission.** This Agreement and/or any counterparts hereof may be transmitted by facsimile, in PDF format by email or a similar device, and the reproduction of signatures by such means will be treated as binding as original. The parties acknowledge and agree that neither will contest the validity or enforceability of this CSMA and related documents, including under any applicable statute of frauds, because they were accepted and/or signed in electronic form. Facsimile signatures shall be considered valid signatures as of the date hereof. Computer maintained records of a party when produced in hard copy form shall constitute business records and shall have the same validity as any other generally recognized business records. Customer agrees that use of Pythian's designated electronic signature service provider, currently DocuSign, shall be deemed a valid, enforceable, and incontestable means of executing this Agreement, and other related documents hereunder.

By signing in the space provided, the parties agree to the terms and conditions stated here as of the Effective Date indicated above.

Customer:

Pythian:

Name:

Name: Ian Cascagnette

Title:

Title: CFO

Address:

Address:

Address for Correspondence:

319 McRae Avenue, Suite 600
Ottawa, ON K1Z 0B9