

Rider to Software License Terms

This rider ("Rider") to the Software License between Sage Software, Inc., a Georgia corporation ("Licensor") and the State of Oregon, acting through its Department of Administrated Services , on behalf of the State of Oregon, its agencies as defined in ORS 174.111, boards, commissions, and ORCPP members, (each a "Licensee," amends and supersedes any provision to the contrary in the Software License ("License"), a copy of which is attached to this Rider as Exhibit A. This Rider and the Software License constitute the entire licensing agreement (collectively "Agreement") between Licensor and Licensee, and merge all prior and contemporaneous communications with respect to the matters described in this Agreement.

Notwithstanding any language in the License to the contrary, Licensor and Licensee agree:

1. **Effective Date and Term.** This Agreement is effective between Licensor and a Licensee when fully executed and approved according to applicable laws, rules, and regulations, and Licensor accepts an order placed by Licensee ("Effective Date"). This Agreement continues in effect for the duration of the term stated in the order, unless terminated by either party by providing notice in the manner specified in Section 9 of the License or specified in this Rider.
2. **Software and Services Available.** This Agreement pertains to all Licensor Software, related intellectual property, such as Documentation, licensed by Licensor to Licensee under this Agreement, and Service Plans paid for through Licensor's authorized reseller. No Licensor-hosted software is available under this Agreement.
3. **Statewide Price Agreement.** The Software and Service Plans are available through a price agreement with a Licensor-authorized Reseller. Such price agreement is held by the Oregon Department of Administrative Services under applicable Oregon law. The Oregon Department of Administrative Services is not a party to a purchase or this Agreement unless it is the Licensee placing an order. Licensee will order Software via a purchase order issued to the Reseller.
4. **Definitions.** The following terms are amended to read:
 - 4.1. **"Affiliate"** means each entity that is directly or indirectly controlled by, or under common control with You, where 'controlled' means the authority and responsibility, under Oregon law, to govern or administer.
5. **Confidentiality.**
 - 5.1. Any obligation of Licensee to maintain the confidentiality of Licensor's proprietary information provided to Licensee is conditioned by and subject to Licensee's obligations under the Oregon Public Records Law, Oregon Revised Statutes (ORS) 192.410 to 192.505 which may require disclosure of proprietary information as a "public record" unless exempt under ORS 192.501 or ORS 192.502.
 - 5.2. Licensor acknowledges that, it and its employees, subcontractors or agents in the course of this Agreement may be exposed to or acquire information that is confidential to Licensee or Licensee's clients. Any information Licensor or its employees or agents receive or acquire relating to Licensee or Licensee's clients in the performance of this Agreement is deemed to be confidential information of Licensee ("Confidential Information"), with the exception of:

- 5.2.1. Information that becomes part of the public domain through lawful means and without breach of any confidentiality obligation by Licensor;
- 5.2.2. Information subsequently and rightfully received from third parties who have the necessary rights to transfer the information without any obligation of confidentiality;
- 5.2.3. Information that was known to Licensor prior to the Effective Date of the Agreement without obligation of confidentiality;
- 5.2.4. Information that is independently developed by Licensor and documented in writing without use of, or reference to, any confidential information of Licensee; and
- 5.2.5. Information required to be disclosed by compulsory judicial or administrative process or by law or regulation.
- 5.2.6. If Licensor is required to disclose confidential information under clause 5.2.5, Licensor shall first give Licensee notice and shall provide such information as may reasonably be necessary to enable Licensee to take action to protect its interests.

6. Indemnification.

- 6.1. **Limits on Licensee Indemnification.** To the extent Licensee is required under the License to indemnify or hold Licensor harmless against claims brought by third parties against Licensor, Licensee's obligation to indemnify is subject to the limitations of Article XI, section 7 of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300.
- 6.2. **Licensor Indemnification.** Licensor shall defend, indemnify, and hold Licensee, the State of Oregon, and their agents, officials and employees harmless from all claims, demands, suits, actions, proceedings, losses, liabilities, damages, awards and costs (including reasonable attorneys' fees and expenses at trial, on appeal and in connection with any petition for review), which may be brought or made by a third party against Licensee, the State of Oregon, or their agents, officials or employees and to the extent arising out of or related to any of the following (each, an "Indemnifiable Loss"):
 - (i) Any personal injury, death or property damage caused by any alleged act, omission, error, fault, mistake or negligence of Licensor, its employees, agents, or representatives in connection with or incident to Licensor's performance under or related to this Agreement; or
 - (ii) Any act or omission by Licensor that constitutes a material breach of Section 5 of this Agreement or a breach of warranty under Section 19 of this Agreement; or
- 6.3. Licensee shall timely notify Licensor in writing of any action, claim or demand of which Licensee becomes aware and which Licensee reasonably expects to result in an Indemnifiable Loss. Licensor's obligation under this section does not extend to any Indemnifiable Loss to the extent caused by:
 - (i) The negligence, willful misconduct, or intentional act or omission of Licensee, or its agents, officials or employees.

- 7. Defense of Claims.** To the extent Licensor is required under this Agreement to defend Licensee against claims asserted by third parties, including Section 11 of the License, Licensee shall reasonably cooperate in good faith, at Licensor's reasonable expense, in the defense of the claim and Licensor shall select counsel reasonably acceptable to the Oregon Attorney General to defend the claim, and Licensor shall bear all costs of counsel. The Oregon Attorney General's acceptance of counsel may not be unreasonably withheld. Counsel must accept appointment as a Special Assistant Attorney General under ORS Chapter 180 before counsel may act in the name of, or represent the interests of, the State of Oregon, Licensee, its officers, employees or agents. Licensee may elect to assume its own defense with an attorney of its own choice and its own expense at any time Licensee determines important governmental interests are at stake. Licensee will promptly provide notice to Licensor of any claim that may result in an obligation on the part of Licensor to defend. Subject to these limitations, Licensor may defend a claim with counsel of its own choosing, on the condition that no settlement or compromise of any claim may occur without the consent of Licensee, which consent must not be unreasonably withheld.
- 8. Governing Law; Jurisdiction; Venue.** This Agreement is to be construed and enforced in accordance with the laws of the State of Oregon, without giving effect to its conflict of law principles, and applicable federal law. Any action or suit brought by the parties relating to this Agreement must be brought and conducted exclusively in the Circuit Court of Marion County for the State of Oregon in Salem, Oregon. LICENSOR HEREBY CONSENTS TO THE PERSONAL JURISDICTION OF THIS COURT, WAIVES ANY OBJECTION TO VENUE IN THESE COURT, AND WAIVES ANY CLAIM THAT THIS COURT IS AN INCONVENIENT FORUM. In no way may this section or any other term of this Agreement be construed as a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States, or otherwise, from any Claim or from the jurisdiction of any court.
- 9. Attorney Fees.** Except as specified in Section 6.2, neither party to this Agreement is entitled to obtain judgment from the other party for attorney fees incurred in any litigation between the parties or in defense of any claim asserted by a third party.
- 10. Access and Audit rights.** Licensor's audit rights in Section 12 of the License are modified to provide:
- 10.1. Any audit will take place no more frequently than once per 12 month period, upon not fewer than 30 days' written notice, and during normal business hours and in a manner that does not interfere unreasonably with Licensee's operations. Licensee will provide Licensor or the independent auditor with information reasonably requested in furtherance of the verification. As an alternative, Licensor can request Licensee complete a self-audit questionnaire.
- 10.2. If the agreed-upon final audit report reveals that Licensee does not have sufficient licenses to meet its actual use, Licensee will order sufficient license(s) at then-current prices available to State of Oregon agencies under an Oregon software reseller price agreement. Licensee will not pay a penalty. Licensee may at its option purchase maintenance and support.

- 10.3. Each party will bear its own costs of any activity conducted pursuant to Section 12 of the License.
- 11. Dispute Resolution.** Any dispute between the parties under the License that is not resolved through informal discussions may be submitted to mediation upon the consent of both parties. If informal discussions or mediation are unsuccessful, either party may initiate litigation to resolve the dispute. Section 10 of the License is deleted, and the parties specifically disclaim any right to arbitration of disputes or limits on bringing a cause of action in any time period shorter than allowed under applicable law.
- 12. Payment.** Licensee's obligation to pay late charges is subject to ORS 293.462.
- 13. Incorporation of Oregon Statutes.** ORS 279B.220, 279B.230 and 279B.235 are incorporated into this Agreement by reference.
- 14. Termination for Lack of Funding.** Nothing in this Agreement may be construed to permit any violation of Article XI, Section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. Licensee's payment for license fees due after the last calendar day of the current State of Oregon biennium is contingent upon Licensee receiving funding, appropriations, limitations, allotments or other expenditure authority from the Oregon Legislative Assembly (including its Emergency Board) sufficient to allow Licensee, in the exercise of its reasonable administrative discretion, to continue to compensate Licensors. Licensee may immediately terminate this Agreement upon written notice if Licensee fails to receive funding, appropriations, limitations, allotments, or other expenditure authority as contemplated by Licensee's budget or spending plan and Licensee determines, in its assessment and ranking of the policy objectives explicit or implicit in its budget or spending plan, that it is necessary to terminate this Agreement.
- 15. Independent Contractor.** Licensors are at all times independent contractors and not as an agent, employee, or representative of Licensee. Licensors have no right or authority to incur or create any obligation for or legally bind Licensee in any way. Licensors are not an "officer," "employee" or "agent" of Licensee or any other agency, office, or department of the State of Oregon, as those terms are used in ORS 30.265, and Licensors shall make no representations to third parties to the contrary. Neither party shall make any statements, representations, or commitments of any kind or to take any action binding on the other except as provided for in the Contract or authorized in writing by the party to be bound.
- 16. Order of Precedence.** In the event of any conflict between the Rider, the License, additional terms referenced in the License, and any terms and conditions published by Licensors on or after the Effective Date of this Agreement and any terms presented to an end user in a 'click wrap' or end user agreement, the conflict will be resolved in that order.
- 17. Publicity.** Licensors may disclose the form and existence of this Agreement in advertising, press releases or other materials distributed to prospective customers, but shall not otherwise attempt to obtain publicity from its association with Licensee or the State of Oregon, whether or not such disclosure, publicity or association implies an endorsement by Licensee or the State of Oregon of Licensors' Application Services, without the prior written consent of Licensee.

18. Counterparts. This Rider may be executed in two or more counterparts, by facsimile or otherwise, each of which is an original, and all of which together constitute one and the same instrument, notwithstanding that all parties are not signatories to the same counterpart.

19. Tax Compliance. By executing this Rider, the undersigned certifies under penalty of perjury that Licensor has complied with the tax laws of the State of Oregon and the applicable tax laws of any political subdivision of this state. Licensor represents and warrants that it has complied with the tax laws of the State of Oregon and the applicable tax laws of any political subdivision of this state ("Tax Laws") and covenants that it shall, for the duration of this Agreement and any extensions, continue to comply with the Tax Laws. For the purposes of this section, "tax laws" includes: (i) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (ii) Any tax provisions imposed by a political subdivision of this state that apply to Licensor, to Licensor's property, operations, receipts, or income, or to Licensor's performance of or compensation for any work performed by Licensor; (iii) Any tax provisions imposed by a political subdivision of this state that apply to Licensor, or to goods, services, or property, whether tangible or intangible, provided by Licensor; and (iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

19.1. This Agreement will be reported to the Oregon Department of Revenue. The Department of Revenue may take any and all actions permitted by law relative to the collection of taxes due to the State of Oregon or a political subdivision, including (i) garnishing the Contractor's compensation under this Contract or (ii) exercising a right of setoff against Contractor's compensation under this Contract for any amounts that may be due and unpaid to the State of Oregon or its political subdivisions for which the Department of Revenue collects debts.

LICENSOR:Sage Software, Inc.

DocuSigned by:

By: Bukky Dele-JurjiAs: 2A65416BAA8B4C2
Director of FinanceDate: 08-May-2018 | 5:56:15 AM PDT**LICENSEE:**

The State of Oregon, acting through

By: Ginny BeckwithAs: Procurement ManagerDate: 4/27/18**Attachments:**

Exhibit A – Software License

EXHIBIT A

SAGE END USER LICENSE AGREEMENT

IMPORTANT—SCROLL THROUGH AND READ ALL OF THE FOLLOWING TERMS AND CONDITIONS

1. GRANT OF LICENSE. Sage ("**Sage**" and other capitalized terms are defined below) grants You a limited, non-exclusive, non-transferable (except as set forth in **Section 3b** below), non-sublicensable license of the scope described in this Agreement to Use the Software only upon the following conditions:

- a. You or someone acting on Your behalf and at Your direction, such as Your Reseller has or will:
 - (1) Place an order with Sage for either an initial license or an upgrade (such as for more users, additional modules, etc.), and Sage has accepted such order and Enabled Use of the Software; and
 - (2) Accepted all of the terms and conditions of this Agreement either before or during installation of the Program. **YOU WILL INDICATE YOUR ACCEPTANCE OF THIS AGREEMENT AND ALL OF ITS TERMS AND CONDITIONS BY DOING ONE OR MORE OF THE FOLLOWING OR ALLOWING OR AUTHORIZING A THIRD PARTY TO DO IT FOR YOU: (a) CLICKING "I AGREE" OR A SIMILAR AFFIRMATION, AS APPLICABLE, THAT APPEARS DURING INSTALLATION OF THE PROGRAM, OR (b) USING THE PROGRAM.**
- b. **IF YOU DO NOT AGREE TO BE LEGALLY BOUND BY THIS AGREEMENT (IN ITS ENTIRETY AND WITHOUT CHANGE TO OR ADDITION TO ITS TERMS AND CONDITIONS), THEN YOU DO NOT HAVE A LICENSE TO USE THE SOFTWARE.**
- c. **If You acquire an On-Premise Subscription License**, You may Use the Software only for the subscription period for which Sage has received Your On-Premise Subscription License fee.
- d. **If You purchase an On-Premise License**, You may Use the Software only if You pay the required On-Premise License fee or fees when due.
- e. **If You access the Software under an Evaluation License** prior to Your purchase of an On-Premise Subscription License or an On-Premise License, You acknowledge and agree that (i) You shall Use the Software only for evaluation purposes before purchasing an On-Premise Subscription License or an On-Premise License to determine if the Software is suitable for Your business, (ii) the Software may be Used and/or operable only for a limited time, (iii) the Software is provided "**AS IS**" with no express or implied warranties, and (iv) upon expiration of the Evaluation License, Sage is under no obligation to return to You data You have entered into, that is processed by or is stored in the Software and it may become irretrievable, unrecoverable and/or otherwise unusable by You after the evaluation period ends. **Subsections 6a, 6b, and 6c of this Agreement do not apply to Evaluation Licenses.**

2. DEFINITIONS. As used herein, the following terms have the following meanings:

- a. "**Affiliate**" means any entity that controls You, that You control, or that is under common control with You, where "control" means the ownership, directly or indirectly, of equity securities or other ownership interests which represent more than 50% of the voting power of such affiliate.
- b. "**Agreement**" means this Sage End User License Agreement, and the Supplemental License Terms, all applicable license fee invoices, and Service Plan information as described in **Section 13**, which are incorporated herein by reference and made a part hereof.
- c. "**Customer Support**" means Software assistance You receive by phone, email, chat, access to on-line information, or by similar means because You purchased a Service Plan or an On-Premise Subscription License.
- d. "**Documentation**" means the Program specifications that are set forth in the Program help files and any release-related notes, guides or manuals Sage publishes specific to the current version of the Program.
- e. "**Enabled Use**" means that Sage has fulfilled the applicable software delivery process (whether by shipping tangible goods including recorded media containing the Software, enabling downloading of the Software, delivering activation codes for the Software, or otherwise), thereby enabling Use of the Software.
- f. "**Evaluation License**" means a time-limited license to Use the Software for evaluation purposes only to determine if it is suitable for Your business.
- g. "**Maintenance Software**" means Software that Sage delivers because You have purchased a Service Plan or an On-Premise Subscription License.

- h. **"On-Premise License"** means a license to Use the Software according to this Agreement until this Agreement terminates as described herein.
- i. **"On-Premise Subscription License"** means a license to Use the Software and a Service Plan according to this Agreement until the specified term or subscription period ends or Your license or this Agreement terminates as described herein.
- j. **"Program"** means the computer program, a part of which includes the install routine that when executed causes this Agreement to be displayed.
- k. **"Reseller"** means the independent third party reseller from whom You acquire the Software.
- l. **"Sage"** means the Sage company that distributes the Software to You or Your Reseller.
- m. **"Service Plan"** means a plan You purchase separately or acquire as part of the purchase of an On-Premise Subscription License providing You Customer Support and/or Maintenance Software for a specified period.
- n. **"Software"** means collectively, the Program and the Documentation, and any part thereof.
- o. **"Supplemental License Terms"** means the additional terms and restrictions posted by Sage at <http://na.sage.com/us/legal/eula> that are specific to the Program You license under this Agreement.
- p. **"Use"** means to install and execute the Program, provided that:
 - (1) You install the Program only on a computer system that You own or only on a computer system not owned by You if You will be the only party with access to the installed Program; and
 - (2) You execute the Program during the term of Your license or subscription (i) for its intended purpose solely in connection with the management of the business that You and Your Affiliates conduct, and (ii) solely to the extent of any and all applicable limitations (whether as to specific modules or other parts of the Program, or number of production or backup server computers) set forth in this Agreement; and
 - (3) You may make only a reasonable number of backup copies of the Program solely for the purpose of reinstalling the Program, if reinstallation becomes necessary; and
 - (4) You may make one copy of the Program for Use in a testing environment solely for testing purposes; and,
 - (5) You may make and install one copy of the Program at a disaster recovery site for Your Use only for so long as a disaster or other emergency prevents You from Using the Program at Your original installation site.
- q. **"You"** or **"Your"** means or refers to the company or person that Sage has registered as the licensee for the Software.

3. LIMITS OF LICENSE. The license contained in this Agreement does not include the right to perform, and You shall not perform, any of the following:

- a. Except as expressly set forth in **Section 2p above**, making any copy of the Software, except as an essential step in Your licensed Use thereof.
- b. Distributing any copy of the Software (whether by renting, leasing, lending, sublicensing, time-sharing, or otherwise), except that, if Sage consents in writing, which consent will not be unreasonably denied, You may transfer the Software but only to a purchasing party after the close of a sale of either Your entire business, or all, or substantially all, of the assets of Your business, provided that the purchasing party reads and accepts (in writing to Sage) the terms and conditions of this Agreement, the purchasing party agrees to other reasonable transfer requirements, and You do not retain a copy of the Software.
- c. Using the Software for personal, family, household, or other non-business purposes.
- d. Altering, modifying, translating, decompiling, disassembling, or reverse-engineering the Software or creating any derivative work based upon the Software.
- e. Removing or obscuring any copyright or trademark notices from the Software.
- f. Using the Software in excess of (i) the limitations set forth in this Agreement, and (ii) the number and types of users, seats or licenses You purchase or rightfully acquire. Use of the Software in excess of the number and type of licenses You purchased constitutes a material breach of this Agreement and (1) You agree to pay to Sage the additional license or subscription fees due for the unpaid use calculated in accordance with the applicable Sage retail price list in effect at the time payment is made, and (2) failure to make the foregoing payment within 30 days of Sage's invoice date is also a material breach of this Agreement and results in the automatic termination of this Agreement without notice.

4. ADDITIONAL RESTRICTIONS.

- a. Any report-writing software contained within the Program may be subject to a restriction such that its use may be limited to accessing only the data that is created by, or used by, the Program;
- b. You may not Use, export, re-export or otherwise transfer the Software in violation of any domestic or foreign laws or regulations in effect from time to time in the jurisdiction in which You are a resident or in which the Software is Used. You represent and warrant that You are not located in, under the control of, or a national or resident of, any restricted country or of any entity or person designated as restricted.

5. U.S. GOVERNMENT RESTRICTED RIGHTS. The Software is provided with RESTRICTED RIGHTS. Use, duplication or disclosure by the U.S. Government (including its agencies and instrumentalities) is subject to restrictions set forth in 48 CFR 52.227-19 or DFARS 252.227-7014, as applicable. The manufacturer is Sage SAS for Sage X3, Sage Hibernia Limited for Sage CRM, and Sage Software, Inc. for all other Sage-manufactured products. The Sage address in the United States is 271 17th Street, NW, Suite 1100, Atlanta, Georgia 30363; the Sage address in Canada is 13888 Wireless Way, Suite 120, Richmond, British Columbia, V6V 0A3, Canada.

6. LIMITED WARRANTIES AND DISCLAIMERS.

a. Software. Sage warrants that, during the one hundred and eighty (180)-day period (the “**Software Warranty Period**”) that commences on the date that Sage Enabled Use of the Software (whether for an initial license or for Maintenance Software), the Program, when properly Used, shall perform substantially in accordance with the Documentation. Sage does not warrant or represent that Your Use of the Software will be uninterrupted or error-free. If You report to Sage in writing within the Software Warranty Period any nonconformity between the Documentation and the Program (a “**Warranty Claim**”), and if Sage is able to replicate and verify that such nonconformity exists, Sage shall make commercially reasonable efforts to correct such nonconformity and, if successful, shall supply You with such correction at no additional cost to You. If such efforts are unsuccessful and the nonconformity is material, Your sole remedy for a breach of the warranty described in this **section 6a**, shall be as follows:

- (1) If You acquire an On-Premise License, then (1) except for Maintenance Software, You may terminate this Agreement, discontinue Use of and return all copies You have of the Software, and Sage will ensure that You receive a refund of the license fee You paid and credit for any license fee You owe for the Software; and (2) for Maintenance Software, You may terminate Your Service Plan, discontinue Use of and return all copies You have of the Maintenance Software to Sage, and Sage will ensure that You receive a refund of or credit for the fee You paid for the purchase of the terminated Service Plan.
- (2) If You acquire an On-Premise Subscription License, You may terminate this Agreement, discontinue Use of and return all copies You have of the Software to Sage, and Sage will ensure that You receive a refund of the On-Premise Subscription License fees You paid in the six (6) months preceding the Warranty Claim.

b. Customer Support. If You are entitled to receive Customer Support as part of a separately purchased Service Plan for Your On-Premise License or as part of Your On-Premise Subscription License, Sage warrants that while Your Service Plan is in effect and if You have paid all required Service Plan fees, Sage will use qualified personnel to provide You Customer Support in a professional manner consistent with industry standards. Your sole remedy under this **subsection 6b** is limited to Sage's re-performance of the Customer Support services giving rise to Your claim.

c. With respect to any media by which You may have received Your installation copy of the Program, Sage warrants that the media is free of defects in materials and workmanship under normal use for the Software Warranty Period. Your sole remedy under this **subsection 6c** is limited to replacement of defective media.

d. Evaluation License. SOFTWARE PROVIDED UNDER AN EVALUATION LICENSE IS PROVIDED “**AS IS**” WITH NO IMPLIED OR EXPRESS WARRANTIES. **Subsections 6a, 6b, and 6c** do not apply to Evaluation Licenses.

e. OTHER THAN THE EXPRESS, LIMITED WARRANTIES STATED IN THIS **SECTION 6**, SAGE AND ITS SUPPLIERS EXPRESSLY DISCLAIM TO THE FULLEST EXTENT PERMITTED BY LAW ALL OTHER REPRESENTATIONS, WARRANTIES, CONDITIONS, AND GUARANTEES, OF ANY KIND OR NATURE WHATSOEVER, WHETHER EXPRESS, IMPLIED, AND STATUTORY, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES, CONDITIONS, OR GUARANTEES (I) OF MERCHANTABILITY, (II) OF FITNESS FOR A PARTICULAR PURPOSE, (III) OF NON-INFRINGEMENT OF PROPRIETARY OR INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY, AND (IV) ARISING FROM CUSTOM OR TRADE USAGE OR BY ANY

COURSE OF DEALING OR COURSE OF PERFORMANCE. YOU UNDERSTAND AND AGREE THAT: (1) THE UTILITY OF A BUSINESS MANAGEMENT COMPUTER PROGRAM DECREASES AS TECHNOLOGY EVOLVES AND THE BUSINESS ENVIRONMENT CHANGES, (2) YOU ARE FREE TO DECIDE, AND ARE RESPONSIBLE FOR DECIDING, WHEN TO UPGRADE YOUR SOFTWARE, AND (3) SAGE DISCLAIMS ANY RESPONSIBILITY TO DELIVER LATER-RELEASED SOFTWARE OR OTHERWISE RENDER ANY CUSTOMER SUPPORT SERVICES UNLESS INCLUDED IN A SERVICE PLAN THAT YOU HAVE PAID FOR IN FULL.

f. Other Limitations. Sage will have no responsibility under these limited warranties for any Software or media that has been modified, lost, stolen, or damaged by accident, abuse, or misapplication. No employee, agent, or representative of Sage, nor any reseller (including Your Reseller) or any other third party, is authorized to make any warranty with respect to the Software, except those expressly stated in this Agreement, and You may not rely on any such unauthorized warranty. You acknowledge and agree that You have chosen Your Reseller, and that such Reseller is an independent party and not an agent of Sage.

7. EXCLUSIONS OF AND LIMITATION OF LIABILITY.

a. You acknowledge Your understanding that software is inherently complex and may not be free from errors and that You have been advised to verify the work produced by the Program. Neither Sage nor its suppliers shall be liable for any special, indirect, incidental, consequential, or punitive damages resulting from any defect in the Software or media, even if Sage has been advised of the possibility of such damages. This means Sage is not responsible or liable for damages or costs incurred as a result of loss of time, loss of data, loss of anticipated profits, lost opportunity cost, or loss of use of the Software, nor for damages or costs incurred in connection with obtaining substitute software, receiving support services under Your Service Plan, claims made against You by others, or similar costs. IN NO EVENT SHALL SAGE'S LIABILITY TO YOU ARISING OUT OF OR IN CONNECTION WITH THE SOFTWARE, YOUR SERVICE PLAN, OR THIS AGREEMENT, WHETHER IN CONTRACT, TORT, OR OTHERWISE, EXCEED (i) THE LICENSE FEE ACTUALLY PAID BY YOU TO PURCHASE AN ON-PREMISE LICENSE, (ii) THE ON-PREMISE SUBSCRIPTION FEES ACTUALLY PAID BY YOU IN THE TWELVE (12) MONTHS PRECEDING YOUR CLAIM, OR (iii) THE FEES ACTUALLY PAID BY YOU TO PURCHASE OR RENEW THE ANNUAL SERVICE PLAN IN EFFECT WHEN THE CLAIM AROSE. You acknowledge and agree that this Agreement allocates risk between You and Sage as authorized by applicable law and that the pricing of Sage products reflects this allocation of risk and the exclusions and limitations of liability contained in this Agreement. If any remedy hereunder is determined to have failed of its essential purpose, all limitations of liability and exclusion of damages set forth in this Agreement shall remain in full force and effect.

b. You acknowledge that unless You and Sage agree in writing for Sage to provide software implementation services to implement the Program at Your place of business, You are responsible for engaging a qualified party to provide implementation services for You on terms You negotiate. You also acknowledge that You are responsible for independently investigating the skills and qualifications of such party to ensure that they provide You with the level of skill and service Your business requires. You agree that Sage shall have no liability whatsoever for any failure associated with such implementation services, even if the party You engage is an authorized or certified Reseller, consultant, or installer of Sage products.

8. JURISDICTIONAL RIGHTS. This Agreement gives You specific legal rights, and You may also have other rights, which vary from jurisdiction to jurisdiction. Some jurisdictions do not allow the exclusion or limitation of implied warranties or of liability for incidental or consequential damages, so some or all of those sections of this Agreement may not apply to You.

9. TERM AND TERMINATION. This Agreement takes effect from the date You accept it as set forth in **Section 1a(2)**, and continues until terminated in accordance with this Section.

a. If You acquire an On-Premise License, You may terminate this Agreement at any time, at which point the licenses granted to you in this Agreement will terminate.

b. If You acquire an On-Premise Subscription License:

(1) The "Initial Term" will run for one (1) year unless You are offered and select a shorter or a longer subscription term when You acquire Your initial On-Premise Subscription License; in such event, the

shorter or longer subscription term will be Your Initial Term. Your Initial Term will automatically continue to renew thereafter for the same subscription term (Your "**Renewal Term**"). Payment is required for the full length of Your Initial Term and each Renewal Term and is non-cancellable and non-refundable (except as described in **Subsections 6a(1), 6a(2), 11c**, and in **subsection (2)** immediately below), even if You cancel or choose not to renew Your On-Premise Subscription License.

- (2) You may choose not to renew Your On-Premise Subscription License or to reduce the number of Your On-Premise Subscription License users by providing Your non-renewal or reduction request to Sage at **Subscriptionchanges@sage.com**. Your request must include Your Sage customer number, Your company name, a company contact name, a company phone number or email, and the name of the Software.

i. If Your Initial Term or current Renewal Term is less than one year, Sage must receive Your request at least five (5) business days before the end of the Initial Term or current Renewal term in order for the request to take effect at the end of that term (the "**Termination Date**"). Requests received less than five (5) business days before the end of an Initial Term or current Renewal Term will take effect at the end of the next Renewal Term.

ii. If Your Initial Term or current Renewal Term is one year or more, Sage must receive Your request at least one month prior to the end of Your Initial Term or current Renewal Term in order for the request to take effect at the end of that term (the "**Termination Date**"). If Your non-renewal or reduction request is received less than one (1) month before but by the end of the Initial Term or the current Renewal Term, Sage may charge and You agree to pay a processing fee equal to the pro-rated cost for one month of Your subscription term to process Your request. Requests received after the Termination Date will be applied to the following Renewal Term.

- (3) You shall be responsible (i) for all On-Premise Subscription License fees and processing fees that fall due before or after the Termination Date, and (ii) for retrieving Your data from the Software within 30 days after the Termination Date.

c. If You acquire an Evaluation License, the Evaluation License will expire at the end of the evaluation period provided by Sage or Your Reseller, or if no evaluation period end date is provided, Your Evaluation License shall expire thirty (30) days after Sage or Your Reseller makes the Software available to You for evaluation.

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