iCare Software as a Service Agreement

IMPORTANT - PLEASE READ CAREFULLY: BY CLICKING “I AGREE” AND/OR BY CREATING AN ACCOUNT AND/OR BY UTILIZING THE ICARE SOFTWARE SERVICE AND/OR BY TAKING ANY OTHER ACTION INDICATING YOUR ACCEPTANCE OF THIS AGREEMENT YOU AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS. IF YOU ARE AN AGENT OR EMPLOYEE OF THE INTENDED SUBSCRIBER OR USER, YOU INDIVIDUALLY REPRESENT AND WARRANT TO ORGAMATION THAT YOU ARE AUTHORIZED TO BIND THAT PARTY TO THIS AGREEMENT. IF YOU DO NOT AGREE TO ANY TERM OF THIS AGREEMENT, DO NOT USE THE SERVICES AND EXIT IMMEDIATLEY.

This software as a service subscription agreement (this "**Agreement**") governs your use of the System (as defined below) and any related services provided by Orgamation Technologies, Inc., a Nevada corporation ("**Orgamation**") to you, the "**Customer**."

A. Orgamation is the owner of certain proprietary computer software known as "iCare," an enterprise management solution for childcare centers, Montessori preschools, afterschool care, enrichment programs, and camps.

B. Orgamation provides and sells subscriptions for subscribers to access and use the Software via www.icaresoftware.com, or any website notified to the subscribers from time to time.

C. Customer desires to use the System for Customer’s internal business purposes, including, specifically, use by owners and providers of childcare services, their administrators and teachers, and the parents of children enrolled in a Customer’s childcare programs.

D. Orgamation is willing to provide access to the System for Customer’s internal business use pursuant to the terms and conditions set forth herein.

E. Orgamation and Customer acknowledge and agree that this Agreement shall be effective and in force immediately upon the date that Customer clicks “I Agree” (the “**Effective Date**”).

NOW THEREFORE, in consideration for the mutual promises contained herein and other good and valuable consideration, the parties agree as follows:

1. Definitions

(a) "**Components**" means the individual modules or products that make up the System, including iCare, iCare Next Gen, iCare Door, iCare Lobby, Parent Portal and Teacher Portal. From time to time, new Components or features will be introduced to the System, and those Components or features may be restricted to specific Editions.

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(b) "**Customer Data**" means any of Customer's information, documents, or electronic files that are provided to Orgamation hereunder.

(c) "**Documentation**" means the online documentation provided at www.icaresoftware.com or through the System.

(d) "**Error**" means any reproducible material failure of the System to function in accordance with its Documentation.

(e) "**Maintenance Windows**" means collectively, standard maintenance and emergency maintenance. Standard maintenance windows will be published in advance on Orgamation's website at least 48 hours in advance of the start of the standard maintenance window. Emergency maintenance will occur as needed. Orgamation will make reasonable efforts to publish emergency maintenance windows on Orgamation's website in advance of the emergency maintenance window, but it is possible that advanced notification of an emergency window may not occur.

(f) "**System**" means the software service for which Customer has paid, including any Updates relating thereto that may be provided hereunder or thereunder, and any derivative works of the foregoing. The System is made up of its individual Components.

(g) "**Service Administrator**" means the person(s) that Customer designate(s) to purchase on behalf of Customer usage of the Service, authorize Users under the Agreement, create accounts for additional Users and otherwise administer Customer's use of System.

(h) "**Support**" means the ongoing services by Orgamation to support the System as defined in Section 3 below.

(i) "**Update**" means any patch, bug fix, release, version, modification or successor to the System.

(j) "**User**" means a named individual to whom Customer has granted access to use the System on Customer's behalf, regardless of whether the User accesses the Software. Users may be Customer's employees, consultants, contractors or agents and/or Customers clients (generally parents or guardians of children enrolled in a Customer childcare program).

(k) "**Edition**" means the named configuration of the System that has been licensed to the Customer. An Edition defines what Components, features, limits, and/or usage restrictions are placed on the System licensed to the Customer. From time to time, new Components or features will be introduced to the System, and those Components or features may be restricted to specific Editions. New named Editions may also be introduced from time to time.

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(l) "Effective Date" is the date on which the Customer's subscription to the licensed Edition of the System starts, unless otherwise agreed, upon the date that Customer clicks "I Agree."

2. Use Rights

(a) Use Rights. During the term and subject to the terms of this Agreement, Orgamation hereby grants to Customer a non-exclusive, non-transferable, non-sublicensable right to permit Customer and Customer's Users to use the licensed Edition of the System for Customer's business purposes. The use right in the preceding sentence is limited to use by the number of Users for which Customer has paid. Said use rights are non-transferable, except in the event of a voluntary transfer of substantially all assets by Customer to a transferee that executes Orgamation's form of agreement agreeing to be bound by all the terms and conditions of this Agreement. All rights in and to the System not expressly granted herein are reserved to Orgamation.

(b) License and Use Restrictions. Customer shall not, directly, indirectly, alone, or with another party, (i) copy, disassemble, reverse engineer, or decompile the System; (ii) modify, create derivative works based upon, or translate the System; (iii) license, sell, rent, lease, transfer, grant any rights in or otherwise commercially exploit the System in any form to any other party, nor shall Customer attempt to do any of the foregoing or cause or permit any third party to do or attempt to do any of the foregoing, except as expressly permitted hereunder. You acknowledge and agree that Orgamation shall own all right, title and interest in and to all intellectual property rights (including all derivatives or improvements thereof) in the System and any suggestions, enhancement requests, feedback, recommendations or other information provided by Customer or any of Customer's Users relating to the System.

(c) System Administrator; User Access. Customer shall designate one or more System Administrators. System Administrators shall be responsible for managing User access, including adding and subtracting Users. The System Administrator shall ensure that multiple Users do not share a password or user name. Customer acknowledges and agrees that it is prohibited from sharing passwords and/or user names with unauthorized persons.

(d) Customer Data. Customer owns all right, title and interest in the Customer Data. Customer hereby grants to Orgamation, a non-exclusive, non-transferable (except as set forth in Section 9(d) below), non-sublicensable right and license to use, copy, transmit, modify and display the Customer Data solely for purposes of Customer's and its Users' use of the System. Orgamation shall not use the Customer Data except as necessary to perform its obligations hereunder and/or to improve the System, its utility, efficiency, effectiveness, and outcomes.

(e) Customer Responsibilities. Customer assumes all risk arising from use of any

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sensitive information with the System, including protected health information under HIPAA, credit card numbers, financial account numbers, or other similarly sensitive personal information, and including the risk of any inadvertent disclosure or unauthorized access thereto. Customer is responsible for ensuring that Customer and Customer's Users' use of the System is in compliance with all applicable laws and governmental regulations and Customer acknowledges that Customer assumes all risk arising from any such use that is not compliant with applicable laws and regulations.

(f) Security. Customer is solely responsible for maintaining the security of all user names and passwords granted to it, for the security of its information systems used to access the System, and for its Users' compliance with the terms of this Agreement. Orgamation will act as though any electronic communications it receives under Customer's user names have been sent by Customer. Customer will immediately notify Orgamation if it becomes aware of any loss or theft or unauthorized use of any of Customer's passwords or user names. Orgamation has the right at any time to terminate or suspend access to any User or to Customer if Orgamation believes in good faith that such termination or suspension is necessary to preserve the security, integrity, or accessibility of the System or Orgamation's network.

3. Support

(a) Services Generally. Subject to the terms of this agreement, Orgamation shall use commercially reasonable efforts to make the System available to Customer.

(b) Updates. Orgamation shall deliver Updates to the System that apply to the Customer's currently licensed Edition at no additional charge. From time to time, new Components or features may be released that are applied selectively to different Editions of the System. Only those Updates that apply to the Customer's currently licensed Edition will be delivered automatically to the Customer at no additional charge.

(c) Support Options and Procedures. Orgamation shall provide general support to the Customer as set forth on the Support Section of the System for the Customer's currently licensed Edition. Different Editions of the System will be entitled to different levels of support. In addition, Orgamation may offer premium support options to Customer at an additional charge.

(d) Error Correction. Orgamation shall use commercially reasonable efforts to correct all Errors or to provide a reasonable workaround as soon as is possible using its reasonable efforts during Orgamation's normal business hours. Customer shall provide such access, information, and support as Orgamation may reasonably require in the process of resolving any Error. This paragraph is Customer's sole and exclusive remedy for Errors.

(e) Support Exclusions. Orgamation is not obligated to correct any Errors or provide any other support to the extent such Errors or need for support was created in whole or in part by:

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(i) the acts, omissions, negligence or willful misconduct of Customer or its Users, including any unauthorized modifications of the System or its operating environment;

(ii) any failure or defect of Customer's, a User's or a third party's equipment, software, facilities, third party applications, or internet connectivity (or other causes outside of Orgamation's firewall);

(iii) Customer's use of the System other than in accordance with the System's Documentation; or

(iv) a Force Majeure Event.

(f) Support Fees. Orgamation has the right to bill Customer at its standard services rates for any support issues excluded by Section 3(e) above that have been pre-approved in writing (including in an email) by Customer.

(g) Limitation of Remedies. Correction of Errors as defined in this Agreement are Customer's sole remedies for any Errors in the System.

4. Financial Terms

(a) Fees. In return for the products, services and use rights to the System provided by Orgamation to Customer hereunder, Customer shall pay to Orgamation the subscription fees in the amount set forth, and for the duration that Customer has entered and agreed pursuant to the sign-up page for this Agreement. All dollar amounts refer to U.S. dollars.

(b) Payment Terms. Customer shall pay for the products, services and rights to use the System as selected by Customer by automatic debit or charge to the payment method entered by Customer in its account settings. Customer may access its account at any time in order to change or update its selected products and/or services plan(s) and/or its preferred payment method. If customer requires active invoicing, such an arrangement may be agreed with Orgamation on a case-by-case basis. If Customer is delinquent in payment of any amount due hereunder, Orgamation may, in addition to any other remedies it may have, including termination, suspend access to the System and/or provision of all services to Customer. Customer agrees to pay interest on delinquent amounts at the rate of 1½% per month (or, if lower, the maximum amount permitted by law) that a payment is overdue.

(c) Taxes. Customer shall pay or shall reimburse Orgamation for all sales taxes and other taxes, however characterized by the taxing authority, based upon the license fees or other charges under this Agreement or otherwise incurred on account of Customer's use of the System, except for any taxes based upon Orgamation's net income or gross receipts or for any franchise or excise taxes owed by Orgamation. If Customer is a tax-exempt organization, then, upon Orgamation's receipt of proof of such status, then

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Orgamation shall not charge Customer for any taxes from which Customer is exempt.

(d) Pricing Changes. Customers selecting annual pricing will receive notice of changes in pricing at least 45 days before each anniversary of the Effective Date. Customers selecting monthly pricing will receive notice of changes in pricing at least 45 days before the month in which the change in pricing will take effect.

(e) Autopay Terms. If Customer has elected the automatic billing and payment option upon sign-up, Customer shall provide a valid credit card, ACH payment system information, bank account information authorized for automatic bill paying, or other acceptable method of payment to Orgamation and shall take all necessary steps to authorize automatic payment of the subscription fees. By agreeing to this Agreement, Client hereby authorizes Orgamation to automatically charge said method of payment for all subscription periods during the term of this Agreement. If, for any reason, automatic payment shall be denied, then Customer shall pay the applicable subscription fee together with a $50.00 late fee, to Orgamation within five (5) days of notice.

5. Term and Termination

(a) Term. The term of this Agreement commences on the Effective Date hereof.

(i) Minimum length of contract: The contract is a minimum of one year, which will renew automatically for another year at the anniversary of the running year.

Customer may discontinue the use the Software upon thirty- (30) days prior written notice to Orgamation. Such discontinuation will apply to all the terms excepting for the purpose of usage and the payment terms.

Upon discontinuance, Customer shall not be entitled to a refund or credit with regard to any fees or charges already paid or accrued. If Customer is paying on a monthly basis, the payments will continue until the end of the term; discontinuance will not stop the payment liability.

(ii) Longer term contracts: If Customer signs up for longer than one-year, whether prepaid or on a payment plan, then within that period the subscription cannot be cancelled.

Whichever term the Customer has selected, at the end of that term, the contract will automatically renew for additional term of the same length, in accordance to the initial contract, unless either party gives the other party written notice of its intention not to renew at least 30 days in advance of the then current term.

(b)Termination for Cause.

(i) Orgamation may terminate this Agreement if Customer fails to pay Orgamation any delinquent amounts owed to Orgamation hereunder within 10 days of written notice by

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Orgamation specifying the amounts owed;

(ii) Orgamation may terminate this Agreement immediately with written notice upon any breach by Customer of Section 2(b) and/or Section 2(e) above;

(iii) either party may terminate this Agreement immediately with written notice upon any breach of any confidentiality obligations owed to such party by the other party;

(iv) either party may terminate this Agreement if a party has committed any other material breach of its obligations under this Agreement and has failed to cure such breach within 30 days of written notice by the non-breaching party specifying in reasonable detail the nature of the breach (or, if such breach is not reasonably curable within 30 days, has failed to begin and continue to work diligently and in good faith to cure such breach); or

(v) either party may terminate this Agreement immediately with written notice upon the institution of bankruptcy or state law insolvency proceedings against the other party, if such proceedings are not dismissed within 30 days of commencement.

(c) Obligations Upon Termination. Upon termination of this Agreement:

(i) if Customer has paid all amounts owed to Orgamation hereunder, Orgamation shall, upon written request received within 30 days of termination, provide Customer access to the System for a period of 24 hours for the limited purpose of exporting Customer Data;

(ii) Orgamation shall immediately terminate access to the System by Customer; and

(iii) Customer shall immediately pay Orgamation any amounts payable or accrued but not yet payable to Orgamation, including any deferred payments or payments originally to be made over time.

CUSTOMER ACKNOWLEDGES THAT IF CUSTOMER IS USING ANY EDITION OF THE SYSTEM, UPON TERMINATION OF THIS AGREEMENT, ORGAMATION IS UNDER NO OBLIGATION TO EITHER MAINTAIN CUSTOMER DATA OR TO PROVIDE CUSTOMER WITH ACCESS TO OR A COPY OF THE CUSTOMER DATA. DATA INCLUDES ANYTHING ENTERED INCLUDING PHOTOS AND FILES.

6. Confidentiality

(a) Confidential Information."**Confidential Information**" means any and all tangible and intangible information (whether written or otherwise recorded or oral) of a party that: (A) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; or (B) the

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disclosing party designates as confidential or, given the nature of the information or the circumstances surrounding its disclosure, reasonably should be considered as confidential. Confidential Information includes, without limitation: (i) nonpublic information relating to a party's technology, customers, business plans, promotional and marketing activities, finances and other business affairs; (ii) third-party information that Customer or Orgamation is obligated to keep confidential; (iii) the material terms and conditions of this Agreement; and (iv) any nonpublic information relating to any activities conducted hereunder.

(b) Exclusions. Notwithstanding the above, the term "Confidential Information" does not include any information that is either: readily discernible from publicly available products or literature; or approved for disclosure by prior written permission of an executive officer of the disclosing party.

(c) Use of Confidential Information. Each party shall only use Confidential Information furnished to it hereunder in furtherance of the activities contemplated by this Agreement, and, except as authorized in this Agreement, it shall not disclose the Confidential Information to any other persons without the disclosing party's express written authorization.

(d) Required Disclosures. A receiving party may disclose Confidential Information of the disclosing party as required to comply with binding orders of governmental entities that have jurisdiction over it or as otherwise required by law, provided that the receiving party (i) gives the disclosing party reasonable written notice to allow it to seek a protective order or other appropriate remedy (except to the extent compliance with the foregoing would cause the receiving party to violate a court order or other legal requirement), (ii) discloses only such information as is required by the governmental entity or otherwise required by law, and (iii) and uses its best efforts to obtain confidential treatment for any Confidential Information so disclosed.

(e) Return of Information. Except as set forth otherwise in the specific provisions concerning Customer Data set forth in Section 5(c) above, if a disclosing party so requests at any time, the receiving party shall return promptly all copies, extracts, or other reproductions in whole or in part of the Confidential Information in its possession.

(f) Survival. The parties hereto covenant and agree that this Section 6 will survive the expiration, termination, or cancellation of this Agreement for a period of 3 years, except for Confidential Information constituting a trade secret, with respect to which this Section will survive the expiration, termination, or cancellation of this Agreement for so long as such Confidential Information remains a trade secret.

7. Indemnification

(a) Indemnification by Orgamation. FOR A CUSTOMER USING ONLY A FREE EDITION OF THE SYSTEM, THIS SECTION 7(A) DOES NOT APPLY AND CUSTOMER ACKNOWLEDGES THAT CUSTOMER IS NOT ENTITLED TO ANY

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INDEMNIFICATION FROM ORGAMATION. For Customers using an Edition of the System on a monthly or annual payment plan, Orgamation shall defend, indemnify and hold harmless Customer from and against all damages, liabilities, losses and expenses, including reasonable attorneys' fees and expenses, resulting from any third-party claim, suit or proceeding that arises from Customer and/or the Customer's Users' use of the System in accordance with this Agreement that, to Orgamation's knowledge, infringes or misappropriates any U.S. trade secret, trademark, or copyright. Orgamation will have no indemnity obligation to Customer if the alleged infringement or misappropriation is based on (i) any combination, operation, or use of the System with products, services, information, materials, technologies, business methods or processes not furnished by Orgamation to the extent the infringement or misappropriation is based on such combination, operations or use; (ii) any modification (other than by Orgamation) to the System to the extent the infringement or misappropriation is based on such modification; or (iii) the Customer's failure to promptly install any Update that is provided by Orgamation that would have eliminated the actual or alleged infringement or misappropriation. Indemnification pursuant to this Section is Customer's sole remedy for any third-party claim against Customer in the nature of intellectual property infringement or misappropriation.

(b) Indemnification by Customer. Customer shall defend, indemnify and hold harmless Orgamation, its officers, directors, employees and agents from and against all damages, liabilities, losses and expenses, including reasonable attorneys' fees and expenses, resulting from any third-party claim, suit or proceeding that arises from Customer's breach of this Agreement and/or the Customer's and/or the Customer's Users' use of the System (other than to the extent indemnified by Orgamation under Section 7(a) or, in the case of a Customer using only a free Edition of the System, other than to the extent the third-party claim would have been subject to indemnification by Orgamation under Section 7(a) if Section 7(a) applied to Customer).

(c) Indemnification Process. The indemnified party shall promptly notify the indemnifying party in writing of any third-party claim, stating the nature and basis of the third-party claim, to the extent known. The indemnifying party shall have sole control over the defense and settlement of any third-party claim, provided that, within fifteen (15) days after receipt of the above described notice, the indemnifying party notifies the Indemnified Party of its election to so assume full control. The foregoing notwithstanding, the indemnified party shall be entitled to participate in the defense of such third party claim and to employ counsel at its own expense to assist in the handling of such claim, except that the indemnified party's legal expenses in exercising this right shall be deemed legal expenses subject to indemnification hereunder to the extent that (x) the indemnifying party fails or refuses to assume control over the defense of the third party claim within the time period set forth above; (y) the indemnified party deems it reasonably necessary to file an answer or take similar action to prevent the entry of a default judgment, temporary restraining order, or preliminary injunction against it; or (z) representation of both parties by the same counsel would, in the opinion of that counsel, constitute a conflict of interest. The indemnifying party shall not settle any such third party claim without the written consent of the indemnified party, except for a

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complete settlement requiring only the payment of money damages to be paid by the indemnifying party.

8. Service Level Commitments, Disclaimers and Limitations

(a) Service Level Commitments; Credits. Orgamation guarantees that the System and all Services provided on the System will be accessible to Customer and its authorized Users 99% of the time in any given calendar month, excluding Maintenance Windows. Notwithstanding the foregoing, Orgamation does not guarantee network availability between Customer and the Orgamation hosting servers, as such availability can involve numerous third parties and is beyond the control of Orgamation. Orgamation will not be liable for nor provide any service credits hereunder for any downtime caused in whole or part by a third-party data center provider nor for any downtime that Customer experiences as a result of Customer's or Customer's Users' own network connectivity issues. If Customer experiences a System or Service outage and is unable to access the System or any Service, Customer must immediately contact Orgamation's help desk, providing any/all necessary information that may assist Orgamation in determining the cause of the outage. Orgamation will determine in good faith whether the outage was within Orgamation's reasonable control. If Orgamation determines that a timely reported outage was attributable to Orgamation, then Orgamation will credit Customer 1-day of Service fees for every 8 hours of downtime Customer experienced, up to a maximum of half of that month's Service fees. This shall be Customer's sole remedy, and Orgamation's sole liability, for Orgamation's failure to provide the guaranteed availability set forth in this Section 8(a).

(b) Disclaimer of Warranties. EXCEPT FOR THE LIMITED SERVICE LEVEL COMMITMENTS SET FORTH IN SECTION 8(A), ORGAMATION MAKES NO, AND HEREBY DISCLAIMS ANY, REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE SYSTEM, THE SERVICES PROVIDED OR THE AVAILABILITY, FUNCTIONALITY, PERFORMANCE OR RESULTS OF USE OF THE SYSTEM. WITHOUT LIMITING THE FOREGOING, EXCEPT AS SPECIFICALLY SET FORTH IN THE LIMITED SERVICE LEVEL COMMITMENTS IN SECTION 8(A), ORGAMATION DISCLAIMS ANY WARRANTY THAT THE SYSTEM, THE SERVICES PROVIDED BY ORGAMATION, OR THE OPERATION OF THE SYSTEM ARE OR WILL BE ACCURATE, ERROR-FREE OR UNINTERRUPTED. ORGAMATION MAKES NO, AND HEREBY DISCLAIMS ANY, IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF NON-INFRINGEMENT, MERCHANTABILITY, OF FITNESS FOR ANY PARTICULAR PURPOSE OR ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE.

(c) Disclaimer of Consequential Damages. ORGAMATION HAS NO LIABILITY WITH RESPECT TO THE SYSTEM, SERVICES, OR ITS OTHER OBLIGATIONS UNDER THIS AGREEMENT OR OTHERWISE FOR CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF PROFITS AND THE COST OF COVER) EVEN IF

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ORGAMATION HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(d) Limitations of Remedies and Liability. ORGAMATION'S TOTAL AGGREGATE LIABILITY TO CUSTOMER FOR ANY REASON AND UPON ANY CAUSE OF ACTION INCLUDING WITHOUT LIMITATION, BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATIONS, AND OTHER TORTS, IS LIMITED TO (1) IN THE CASE OF CUSTOMER ON A MONTHLY PAYMENT PLAN, ALL FEES PAID TO ORGAMATION BY THE CUSTOMER IN RESPECT OF USER LICENSES FOR THE SYSTEM DURING THE THREE MONTHS IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE LIABILITY; (2) IN THE CASE OF CUSTOMER ON AN ANNUAL PAYMENT PLAN, ALL FEES PAID TO ORGAMATION BY THE CUSTOMER IN RESPECT OF USER LICENSES FOR THE SYSTEM DURING THE TWELVE MONTHS IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE LIABILITY; OR (3) IN THE CASE OF CUSTOMER USING ONLY A FREE EDITION OF THE SYSTEM, ONE HUNDRED UNITED STATES DOLLARS ($100.00).

9. General

(a) Notices. Notices regarding this Agreement to Orgamation shall be in writing and sent by first class mail or overnight courier at the address provided at that time on Orgamation's website or within the System. Orgamation may give notice by means of posting notice on the System, by electronic mail to Customer's e-mail address on record with Orgamation, or by written communication sent by first class mail or overnight courier to Customer's address on record in Orgamation's account information. All notices shall be deemed to have been given three days after mailing or posting (if sent by first class mail), upon delivery in the case of courier (as evidenced in the courier's delivery records), or 12 hours after either sending by e-mail or posting on the System.

(b) Promotional Materials. Either party may include statements, and may use the other party's name and logos, in its website, commercial advertisements and promotional materials for the sole and limited purpose of indicating that Customer is a user of the System.

(c) Force Majeure. "Force Majeure Event" means any act or event that (a) prevents a party (the "**Nonperforming Party**") from performing its obligations or satisfying a condition to the other party's (the "**Performing Party**") obligations under this Agreement, (b) is beyond the reasonable control of and not the fault of the Nonperforming Party, and (c) the Nonperforming Party has not, through commercially reasonable efforts, been able to avoid or overcome. "Force Majeure Event" does not include economic hardship, changes in market conditions, and insufficiency of funds. If a Force Majeure Event occurs, the Nonperforming Party is excused from the performance thereby prevented and from satisfying any conditions precedent to the other party's performance that cannot be satisfied, in each case to the extent limited or prevented by the Force Majeure Event. When the Nonperforming Party is able to resume its performance, or satisfy the conditions precedent to the other party's

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obligations, the Nonperforming Party shall immediately resume performance under this Agreement. The relief offered by this paragraph is the exclusive remedy available to the Performing Party with respect to a Force Majeure Event.

(d) Assignment. Orgamation may assign any of its rights or obligations under this Agreement at any time; provided, however, that Orgamation shall not assign the rights granted to Customer Data in Section 2(d) except in connection with the sale (whether by merger, asset sale, equity sale or otherwise) of (i) Orgamation, (ii) the System or (iii) a portion of Orgamation or the System that would reasonably require the acquirer of said portion to be assigned such rights to the Customer Data. Customer shall not assign any of its rights under this Agreement, except with the prior written approval of Orgamation, which shall not be unreasonably withheld. The preceding sentence applies to all assignments of rights, except in the event of a voluntary transfer of substantially all assets by Customer to a transferee which executes Orgamation's form of agreement agreeing to be bound by all the terms and conditions of this Agreement. Any change of control transaction is deemed an assignment hereunder. Any purported assignment of rights in violation of this Section is void.

(e) Governing Law; Venue. The laws of the State of Nevada (without giving effect to its conflict of laws principles) govern all matters arising out of or relating to this Agreement and the transactions it contemplates, including, without limitation, its interpretation, construction, performance, and enforcement. Each party waives, to the fullest extent permitted by law, any objection that it may now or later have to (i) the laying of venue of any legal action or arbitration proceeding arising out of or relating to this Agreement brought in Henderson, Nevada; and (ii) any claim that any action or proceeding brought has been brought in an inconvenient forum.

(f) Disputes; Related Costs. (i) In the event of any dispute arising out of, or relating to this Agreement, Orgamation and Customer shall seek to settle the dispute first *via* direct discussions. If a dispute cannot be settled amicably through direct discussions within 30 days from commencement of such discussions, the parties agree to first endeavor to settle the dispute *via* voluntary non-binding mediation. A mediator will be selected by voluntary agreement of both parties, or in the event both parties cannot agree on a mediator, a mediator will be selected in accordance with the rules of the American Arbitration Association. Each party shall bear its own costs and expenses and an equal share of the administrative and other fees associated with such mediation.

(ii) Any dispute that remains unresolved following mediation may be settled by binding arbitration before a single arbitrator administered by the American Arbitration Association in Henderson, Nevada accordance with its Commercial Arbitration Rules, at the election of either party. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The arbitrator(s) shall award to the prevailing party, as determined by the arbitrator(s), all its costs and fees, including all reasonable pre-award expenses of the arbitration, including the arbitrators' fees, out-of-pocket expenses, court costs, witness fees, and reasonable attorneys' fees. In rendering the award, the arbitrator(s) shall determine the rights and

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obligations of the parties according to the substantive and procedural laws of the State of Nevada.

(iii) The forgoing shall not apply to a dispute or controversy involving either party's Confidential Information or intellectual property. In the event of such a dispute or controversy, either may immediately seek any legal and/or equitable remedies it deems necessary. Any mediation or arbitration or litigation proceeding relating to or arising out of this Agreement shall be held in Henderson, Nevada.

(g) Entire Agreement. This Agreement constitutes the final agreement between the parties. It is the complete and exclusive expression of the parties' agreement on the matters contained in this Agreement. All prior and contemporaneous negotiations and agreements between the parties on the matters contained in this Agreement are expressly merged into and superseded by this Agreement. The provisions of this Agreement cannot be explained, supplemented or qualified through evidence of trade usage or a prior course of dealings. In entering into this Agreement, neither party has relied upon any statement, representation, warranty or agreement of any other party except for those expressly contained in this Agreement. There are no conditions precedent to the effectiveness of this Agreement, other than any that are expressly stated in this Agreement.

(h) Headings. The paragraph headings in this Agreement are for convenience only and they form no part of the Agreement and shall not affect the interpretation thereof.

(i) Waiver. The delay or failure of either party to exercise any right under this Agreement or to take action against the other party in the event of any breach of this Agreement shall constitute a waiver of such right, or any other right, or of such breach, or any future breaches, under this Agreement.

(j) Amendments. The parties can amend this Agreement only by a written agreement of the parties that identifies itself as an amendment to this Agreement.

(k) No Construction Against the Drafter. In the interpretation of this Agreement, the '*contra proferentem*' rule of contract construction shall not apply, this Agreement being the product of negotiations between commercially sophisticated parties, and therefore shall not be interpreted in favor of or against any party by the sole reason of the extent to which such party or its professional advisors participated or did not participate in the drafting of this Agreement.

(l) Survival of Certain Provisions. Each party hereto covenants and agrees that the provisions in Sections 1, 2(b), 5(c), 6, 7, 8, and 9 in addition to any other provision that, by its terms, is intended to survive the expiration or termination of this Agreement, shall survive the expiration or termination of this Agreement.

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