# Primavera

## GENERAL LICENSING CONDITIONS

These General Licensing Conditions and the Specific Conditions together make up the Agreement with the Customer.

1. **DEFINITIONS AND INTERPRETATION**

1.1    Capitalized terms and expressions used in this Agreement shall have the following meaning, save where the context clearly requires otherwise:

(a)    **Access Credentials**: means any User account identification and activation means (Username and Password) whereby the User accesses the Software;

(b)    **Affiliate(s)**: means any companies and other forms of association or cooperation wherein the Customer directly or indirectly holds fifty per cent (50%) or more of the relevant share capital, or any companies and other forms of association or cooperation that control, are controlled by, or are under common control with the Customer, pursuant to Article 486 of the Portuguese Companies Code;

(c)    **Agreement**: means the relationship established between PRIMAVERA and the Customer under these General Conditions together with the Specific Conditions or, where applicable, established with PRIMAVERA under a Partner Agreement;

(d)    **Confidential Information**: means any written, oral information or in electronic form containing organizational, technical, trade, or financial data, including software, source and object codes, technology, inventions, prototypes, studies, Customer and supplier lists, know-how, trade secrets, information on costs, profits, sales and prices, intellectual property of the Parties and any ideas, processes, methodologies, procedures and formulas, including not protected by intellectual property rights, the Agreement or any other information concerning the business of the Parties or of the Affiliates or entities of the PRIMAVERA Group that is transmitted by one Party to the other or that comes to the knowledge of either Party as part of the performance of the Agreement, regardless of whether it is marked as confidential;

(e)    **Customer:** means a natural or corporate person, identified by their name and Taxpayer ID number or company number, who becomes entitled to use the Software and be provided PRIMAVERA Services under the Agreement;

(f)    **Customer Data**: means any information, data, and materials (including personal data) processed, on any media, managed and/or stored by the Software falling within the scope of this Agreement, either supplied by the Customer or generated as part of the Customer's use of the Software, including, where applicable, any data generated for purposes of communication with the Tax Authorities**;**

(g)    **Data Extraction**: means the Customer's extraction of Customer Data by means of download;

(h)    **Defects**: means a Software error, failure or defect;

(i)    **Documentation**: means the documents provided by PRIMAVERA to the Customer containing information on the Software, the Services and/or otherwise, such as configuration and parametrization manuals, administrative and programming guidelines, and other materials describing the Software's operation, performance and functionality;

(j)    **Effective Date**: means the effective date of the Agreement, as set out in the Specific Conditions;

(k)    **Force Majeure**: means any unforeseeable and unavoidable event beyond the Parties' will or control that prevents them from fully or partially, definitively or temporarily, achieving their goals and performing their obligations within contractually set deadlines.  Force Majeure events include, without limitation, war (declared or otherwise), riots, civil unrest, general strikes, governmental decisions, and natural disasters such as fire, floods, explosions, earthquakes and other situations beyond the Parties' control that prevent or impair the performance of their obligations arising from the Agreement;

(l) **General Licensing Conditions**: means this document;

(m) **Initial Period**: has the meaning set out in the Specific Conditions;

(n) **Intellectual Property Rights**: means any intellectual property right recognized in any country or jurisdiction (including copyrights, trademarks, patents, database rights, among others), whether or not registered, and whether or not existing on the Effective Date or recognized thereafter, and any related requests, applications and filings;

(o) **Parties:** PRIMAVERA and the Customer;

(p) **Partner**: means, where applicable, a third party authorized by PRIMAVERA to execute a Partner Agreement with the Customer;

(q) **Partner Agreement**: means, where applicable, a relationship established between the Partner and the Customer for PRIMAVERA to supply the Software and for PRIMAVERA and/or the Partner to provide the Services. The Partner Agreement is separate and independent from the Agreement;

(r) **Personnel**: means each Party's directors, officers, agents, employees, service providers, consultants and subcontractors;

(s) **PRIMAVERA**: means Primavera Business Software Solutions, S.A. or any other PRIMAVERA Group entity;

(t) **PRIMAVERA Group**: means any entities wherein Primavera Business Software Solutions, S.A. directly or indirectly holds ten per cent (10%) or more of the share capital, voting rights or any other interest;

(u) **Services**: means the tasks, processes, routine procedures, and services to be provided, where applicable, by PRIMAVERA pursuant to and as detailed in the Specific Conditions;

(v) **Software**: means the software application provided by PRIMAVERA under the Agreement, with the configuration and technical specifications set out in the Specific Conditions;

(w) **Specific Conditions**: means the document setting forth the specific conditions for the chosen licensing model and Services provided, executed between PRIMAVERA and the Customer;

(x) **Territory**: means the territory where PRIMAVERA or any PRIMAVERA Group entities supply the Software and provide certain services to the Customer;

(y) **User(s)**: means the Customer's Personnel or any other persons to whom PRIMAVERA grants access to the Software under the Agreement.

1.2 In the event of any inconsistencies between these General Conditions and the Specific Conditions, or any other document incorporated herein by reference, including the Documentation, the following shall prevail in this order:

(a) First, the Specific Conditions;

(b) Second, the General Conditions;

(c) Third, any other documents incorporated by reference.

1.3 For purposes of interpretation of this Agreement, the following shall apply:

(a) Words importing the singular may be used in the plural and vice-versa, with the corresponding change to their meaning;

(b) Clause headings were included for the sake of convenience only and shall not affect the Agreement's interpretation or construction;

(c) Save where otherwise required by context, any reference in this Agreement to a legal or contractual provision shall be a reference to that legal or contractual provision as amended from time to time.

## 2. PURPOSE AND SCOPE

2.1 This Agreement establishes the terms and conditions whereby, as set out in the Specific Conditions:

(a) PRIMAVERA shall supply the Software to the Customer;

(b) PRIMAVERA shall provide certain Services to the Customer in connection with the Software's supply to the Customer.

3. **SOFTWARE USE AND DOCUMENTATION**

3.1 PRIMAVERA hereby grants to the Customer a non-exclusive, non-transferrable and non-sublicensable license for Users to use the Software and the Documentation over the term of the Agreement, solely for purposes of managing and operating its and its Affiliates' business, where applicable, subject and pursuant to the terms and conditions set forth in the Specific Conditions, the Documentation and any instructions PRIMAVERA may issue from time to time.

3.2 The Software is housed in servers defined by PRIMAVERA and can be accessed remotely by the Customer as instructed by PRIMAVERA. The Customer is expressly barred from installing the Software on its own servers or from otherwise installing, housing, hosting, downloading or causing the Software to be housed in third-party servers.

3.3 PRIMAVERA shall technically and humanly endeavor to provide the Software on a continuous basis, but PRIMAVERA does not warrant that this will be the case at all times. Subject to the provisions of this Clause 3, the Software may not be available, among other things, (i) due to the provision of Services; (ii) in the event of Force Majeure; (iii) when the network's security or integrity is at stake; (iv) in the event of suspicion of anomalous or fraudulent traffic; (v) in the event of suspicion of attempts to hack into the network; (vi) when any services, tasks or activities are carried out on the Software, including, but not limited to, for the purposes of providing new Software versions, updates, correct any defects detected or functional improvements introduced by PRIMAVERA.

3.4 The Customer shall be tasked with maintaining (at its expense) the environment and configuration of its hardware and software required for the Customer's proper use of the Software, ensuring that such environment and configuration are regularly updated as required for the Customer's use of the Software as indicated by PRIMAVERA from time to time, as well as any communications necessary for such purpose, including, but not limited to, an internet connection or other connections that PRIMAVERA deems suitable, as well as the proper implementation of any security measures required to prevent and deter unauthorized access to the Software. The Customer represents that it acknowledges and agrees that PRIMAVERA shall not be responsible for any fees or other charges payable and/or paid to the network's operators for the internet connection required to access the Software.

3.5 The Customer shall prevent any unauthorized access to or use of the Software. If it becomes aware of any unauthorized access or use, the Customer shall immediately notify PRIMAVERA and take any preventive and precautionary measures technically available to it. The Customer shall not perform or exercise any of the following in connection with the Software or the Documentation , save to the extent permitted under applicable legislation:

(a) **Reproduction:** In any way reproduce (i) the Software, except as strictly necessary for its use, and (ii) the Documentation, except to make a reasonable number of copies of the Documentation provided by PRIMAVERA to the Customer in electronic format;

(b) **Use:** Use the Software to develop or market an identical or similar Software, with identical or similar purposes, targeting PRIMAVERA's prospective or existing customers or that in any way competes with PRIMAVERA's Software or infringes PRIMAVERA's Intellectual Property Rights;

(c) **Distribution**: republish, import, display, transmit, distribute, assign, free of charge or for consideration, all or any part of the Software and/or Documentation, or the right to use them, in any form or medium or by any means, or otherwise dispose of them;

(d) **Reverse Engineering**: Disassemble, reverse engineer, decompile or decrypt the Software, or in any way replace, circumvent, remove or disable any system, mechanism or protective measure built into or provided with the Software (including decrypting any encrypted code);

(e) **Derivative Works**: adapt, modify, alter, duplicate, transform, configure, customize, parameterize, redesign or rearrange the Software or Documentation, including for the purpose or to the effect of creating a new, composite, collective work, or compilation involving the Software or the Documentation;

(f) **Third-party rights:** Combine the Software with any unauthorized third-party technology, including but not limited to any open source Software that may cause or could be construed as subjecting the Software to the terms of an open source license or as granting any third-party rights in the Software;

(g) **Translation:** Translate the Software and the Documentation into other languages; provided that, however, the Customer may translate the Documentation at its own cost and risk if strictly necessary for the use thereof and upon prior written notice to PRIMAVERA, which shall own all Intellectual Property Rights in the translation and shall reproduce any proprietary notices contained therein;

(h) **Identification of ownership:** Remove any product identification, Intellectual Property Rights, including copyrights or other notices/warnings from the Software or the Documentation;

(i) **Unlawful content**: store, distribute or transmit any viruses, or any unlawful, dangerous, threatening, libelous, defamatory, obscene, disrespectful, harassing, racist or ethnically offensive material, or aid and abet any kind of unlawful activity, while using or through the use of the Software.

3.6 The Parties agree that each User authorized by PRIMAVERA to access and use the Software as agreed by the Parties in the Specific Conditions shall have the Access Credentials generated by PRIMAVERA. The Customer shall cause Users to use such Access Credentials correctly and ensure that the Software access and use rules are satisfied.

3.7 PRIMAVERA may change the Software or the Services including by removing or adding new functionalities without prior notice, provided that the originally agreed characteristics remain the same. The Customer nonetheless represents that it acknowledges and agrees that this does not create any obligation for PRIMAVERA to provide any other functionalities to the Customer and that the provision of any additional functionalities may be subject to further consideration. If the changes or new functionalities have a material impact on how the Software is used by the Customer, the latter may notify PRIMAVERA accordingly, who shall endeavor to solve the problem. If the problem cannot be solved within thirty (30) days from the launch of the new change or functionality, either Party may terminate the Agreement and no Party shall be entitled to any damages or compensation.

## 4. <u>SERVICES</u>

4.1 If agreed between the Parties in the Specific Conditions, PRIMAVERA undertakes to provide the Services specified therein to the Customer.

4.2 The Customer shall provide any required information to and help PRIMAVERA provide the Services. The Customer further acknowledges and agrees that PRIMAVERA´s ability to provide the Services specified in the Specific Conditions may rest upon the accuracy and timeliness of such information and help.

4.3 The Services, including the provision of the Software, may be predicated on resources and conditions supplied and determined by third parties. To that extent, the Customer represents that it acknowledges and agrees that:

(a) PRIMAVERA cannot be held liable for such Services as are predicated on the resources and conditions established and defined by the relevant third parties, including for any failures, delays, transmission errors, interruption or degradation of the Services arising from circumstances in connection with such third-party services; and

(b) any conditions, amendments, and modifications to those third-party services may inevitably have to be passed on to the Services provided by PRIMAVERA to the Customer, for which PRIMAVERA cannot be held accountable.

## 5. <u>CUSTOMER OBLIGATIONS</u>

5.1 Upon using the Software and accessing the Services, the Customer grants to PRIMAVERA an unlimited territorial, non-exclusive, free, sub-licensable license to house, store, transfer, display, reproduce and modify the Customer's Data, solely and strictly as required to supply the Software and provide the Services under the Agreement.

5.2 Subject to the preceding paragraph, the Customer acknowledges and warrants that PRIMAVERA can, where applicable, allocate Customer Data from previous fiscal years to a certain filing type in order to optimize the storage space corresponding to the software solution agreed under the Agreement and better described in the Software subscription area. The Customer may, however, continue to consult such Customer Data on a dedicated infrastructure.

5.3 The Customer undertakes to comply with any national and foreign laws applicable to the Software's access and use. The Customer acknowledges that PRIMAVERA shall in no way be liable for the use of the Software by the Customer and its Affiliates, nor is it liable nor does it have any obligations in connection with the legal or regulatory compliance of the Software's use or the Services.

5.4 The Customer is solely responsible for the use of the Software, the use of third-party software and hardware together with the Software and the Customer Data, and shall ensure that its network and systems are robust, secure, have the size, architecture and technological means required to enable the Software to perform reliably and securely, as well as the resources, infrastructures, and systems for interconnection with the Software provided by PRIMAVERA. PRIMAVERA shall not be held liable for any interruption, suspension of the operation/use of the Software or inviolability of the transmission caused by the Internet or the Customer's servers, other equipment, and other connections. PRIMAVERA has absolutely no control over the Customer's choices regarding the use of the Software.

5.5 For the avoidance of doubt, PRIMAVERA's obligations arising from the Agreement are restricted to the licensing of the Software and the Documentation and the technical provision of the Services, as detailed in the General Conditions and the Specific Conditions. It is understood that PRIMAVERA does not provide any advice, recommendations or instructions, and that it has no obligation in connection with nor is it liable for the performance of the Customer's and its Affiliates' and the Partner's legal or regulatory obligations.

6. **SECURITY POLICIES AND STANDARDS**

6.1 The Customer shall refrain from any actions likely to have an adverse impact on the Software, PRIMAVERA's security systems and its connections to the Customer and the data therein, and undertakes to:

(a) Promptly notify PRIMAVERA of any security incident that jeopardizes or is likely to jeopardize the confidentiality, integrity or availability of the Software, the data, or any information, or likely to affect the regular operation of the Software, further undertaking to cause any unauthorized use of the Software that it suspects or comes to its knowledge to stop;

(b) Adopt any technical measures to avoid loss of data;

(c) Adopt any measures required to prevent and deter any unauthorized access to the Software and provide to PRIMAVERA any information and the support required for latter to report, if it so wishes, any detected breach or unlawful access, breach of security, of privacy and of data protection rules to the proper authorities and to take legal action against any third parties based on the situations set out in the above paragraph.

6.2 PRIMAVERA shall also notify the Customer as soon as it becomes aware of any actual or threatened security failure likely to affect the Software or the Services.

7. **AUDITS**

7.1 The Customer shall allow PRIMAVERA to audit the use of the Software, as well any related information, reports and records, on such dates as PRIMAVERA may designate from time to time.

7.2 The Customer shall make any payments arising from the audit. If the audit should detect a failure to make payments 5% above the payable amounts, the Customer shall further reimburse the audit costs to PRIMAVERA.

7.3    The Customer acknowledges and agrees that nothing in this Agreement shall limit the legal rights of the regulatory entities, administrative or court authorities, including the right to conduct audits and exercise their powers pursuant to the applicable legislation and regulations, particularly as regards access to facilities, systems, equipment and records.

## 8.    PRICE AND PAYMENT

8.1    The price payable by the Customer under the Agreement and the relevant payment terms are specified in the Specific Conditions. VAT accrues to the specified price at the statutory rate in force.

8.2    Failure to pay any amounts payable to PRIMAVERA under the Agreement on time shall entitle PRIMAVERA to suspend the Customer's use of the Software, effective immediately. The Customer's access to Customer Data and the provision of any Services shall then be restricted pursuant to Clause 16 of the Agreement.

8.3    PRIMAVERA shall issue invoices in connection with the Agreement exclusively in electronic format by issuing an e-invoice with an advanced electronic signature pursuant to applicable law, which shall then be sent to the Customer's email address set out in the Specific Conditions.  The Customer undertakes to ensure that its email box operates properly and to notify PRIMAVERA in writing of any related change or irregularity.

8.4    The Customer may change its email address by sending an email to customercare@primaverabss.com.

8.5    The Customer shall take appropriate security measures to ensure that the e-invoice sent to its email is not unduly accessed by third parties. PRIMAVERA shall not answer for any unauthorized access to the e-invoice sent to the Customer's email.

## 9.    PARTNER AGREEMENT

9.1    If the Customer executes a Partner Agreement, (i) the commercial conditions and payment terms shall be established in such agreement; (ii) the conditions in Clause 8 shall not apply; (iii) the Customer may be provided certain services as agreed with the Partner; (iv) PRIMAVERA may share Confidential Information with the Partner arising from the Customer's use of the Software and for the Partner's provision of the services agreed with the Customer.

9.2    The Customer acknowledges that the Partner may access the Software to provide the services agreed between the Customer and the Partner and that PRIMAVERA shall not be liable for (i) the services provided by the Partner, (ii) the Partner's access to and use of the  Customer Data, and (iii) the terms and conditions agreed between the Partner and the Customer in respect of the Services.

## 10.    CONFIDENTIALITY

10.1    The Parties represent and warrant that the Confidential Information is confidential and undertake not to disclose the Confidential Information to third parties or to use it to their own or any third party's advantage and to refrain from using it for purposes other than as provided for in this Agreement. The Parties must further protect the Confidential Information adequately or in accordance with the applicable professional standards.

10.2    Paragraph 1 above shall not apply to:

(a)    The transmission of Confidential Information to the receiving Party's Personnel, strictly as required under this Agreement. The receiving Party shall cause its Personnel to be bound by an identical confidentiality duty;

(b)    The transmission of Confidential Information to the Parties' legal, technical and accounting consultants, strictly as reasonably required for the exercise of its rights and the performance of its contractual and legal obligations;

(c)    The transmission by PRIMAVERA of any Confidential Information stored in its systems to PRIMAVERA Group entities to comply with any internal quality control policy;

(d)     Information known to the other Party at the time of disclosure and lawfully obtained or that becomes public domain information through no fault of the Party, or lawfully conveyed to the Party by any third party without breaching the Agreement or any confidentiality obligations incumbent upon such third party;

(e)     Information disclosed pursuant to the law or to comply with any court or administrative decision issued by any entity with jurisdiction.

10.3    Pursuant to paragraph (e), the Party that has been ordered to disclose the information shall notify the other Party in advance and comply with its recommendations that are consistent with the subpoena or with the legal obligation underpinning the duty of disclosure, and shall upon disclosing the information required mention that it is Confidential Information belonging to a third party, containing trade or industrial secrets or any secret relating to Intellectual Property Rights.

10.4    The Parties acknowledge that any information exchanged or given access to under this Agreement is and shall remain proprietary information of the disclosing Party and cannot be reproduced or otherwise copied, save as strictly required to fully comply with the Agreement or to perform any statutory obligations, without the disclosing Party's prior written consent, save where otherwise expressed in the Agreement.

10.5    Both Parties warrant that their Personnel who access the Confidential Information shall abide by the confidentiality duties set out in this Clause.

10.6    The obligations set forth in this Clause shall survive the termination of this Agreement for any reason, for as long as the relevant information qualifies as Confidential Information.


11.     **INTELLECTUAL PROPERTY**

11.1    Any Intellectual Property Rights in or over the Software and the Documentation, including any Software or Documentation developments, adaptations, modifications, alterations, transformations, configurations, customizations, parameterizations or otherwise, belong solely and exclusively to PRIMAVERA regardless of the Party that made them. Nothing in this Agreement vests any rights in the Customer, any User or third party to use, access or enjoy them outside the strict scope of this Agreement and then only if the Agreement is being properly performed.

11.2    PRIMAVERA is also the sole owner of PRIMAVERA's infrastructure and IT systems used under this Agreement, including any software not set out in paragraph 1, hardware, or any other material it uses in the pursuit of its business or for which it obtained the required use licenses, as well as of any trademarks, logos and other distinctive signs.

11.3    It is hereby expressly established that the Agreement is not intended to transfer PRIMAVERA's Intellectual Property Rights, whose authorship and ownership remain unaltered. The Customer does not acquire any rights other than as expressly granted under this Agreement.

11.4    The Customer warrants that its Personnel agree that the Intellectual Property Rights set out above are proprietary rights of PRIMAVERA.

11.5    The Parties hereby agree that PRIMAVERA is exclusively entitled to register its Intellectual Property Rights.  The Customer hereby undertakes, and warrants that its Personnel undertake, to refrain from registering any works, data or materials developed as part of this Agreement. In the event of any breach of the above paragraph, the Customer hereby undertakes, and warrants that its Personnel shall undertake, to notify PRIMAVERA of the filing within thirty (30) days from the date of such filing with the relevant entities, and to transfer to PRIMAVERA any rights arising from the applications and any relevant Intellectual Property Rights, if already granted, at no additional cost.

11.6    No Party shall use the other's name, trademarks, trade names, logos and other distinctive signs of trade, without its prior written consent; provided that, however, PRIMAVERA shall be authorized to announce and advertise the existence of the commercial relationship between the parties, including the use of the Customer's logo or trademark and/or its products and services, for the

purpose of reference and demonstration of its experience, including but not limited to, on its website, in any brochures, leaflets or similar commercial presentations and demonstrations.

## 12. __PERSONAL DATA__

12.1 The expressions "controller", "processor", "personal data" and "processing", and any other related terms and expressions shall be interpreted in accordance with Regulation (EU) 2016/679 – General Data Protection Regulation ("GDPR"), as supplemented by national or European legislation, interpretations and guidelines issued by European and national authorities, standard contractual clauses adopted by the European Commission or any supervisory authorities, and by any relevant case law (jointly referred to as "Data Protection Framework").

12.2 PRIMAVERA shall be the controller in respect of the processing of the personal data required for the supply and technical management of the Software, including the management of the Access Credentials, and PRIMAVERA and the Customer shall act as independent controllers, each being bound to perform any related legal obligations incumbent upon them.

12.3 The Customer acts as data controller notably with respect to the Customer Data processed as part of the use of the Software, which includes the Services agreed. PRIMAVERA may act as processor, to the extent it has access to those data and processes them in the name and on behalf of the Customer.

12.4 Where PRIMAVERA acts as processor pursuant to the preceding paragraph, PRIMAVERA undertakes to:

(a) Process the personal data, to which PRIMAVERA has access and identified by the Customer in the Terms of Processing and Technical and Organizational Measures, as strictly provided for in these General Conditions and in the Specific Conditions and in written instructions from the Customer, including with regard to the transfer of personal data to third countries or to international organizations, except where the transfer is required under European Union law or the law of a Member State to which PRIMAVERA is subject;

(b) Ensure that the persons authorized to process the personal data are bound by a confidentiality obligation or subject to an appropriate statutory confidentiality obligation;

(c) Only engage another processor that ensures the performance of the obligations set out in these General Conditions and bind that processor under an agreement or any other binding act pursuant to European Union law or the law of a Member State to the same personal data protection obligations as imposed by these General Conditions. The Customer hereby authorizes PRIMAVERA to engage other processors and PRIMAVERA undertakes to provide information regarding any processors it engages.

(d) Implement the appropriate technical and organizational measures to ensure a level of security appropriate to the risk, taking into account the state of the art, the costs of implementation and the risk of varying likelihood and severity for the rights and freedoms of natural persons, as set out in the Terms of Processing and Technical and Organizational Measures, which are an integral part of these General Conditions;

(e) Provide assistance to the Customer so that the latter is able to check that the processing is compliant with the security obligations established in the Data Protection Framework, notably as regards the obligations of the Customer in connection with personal data breaches, data protection impact assessment and high-risk processing (pursuant to Articles 32 through 36 of the GDPR), considering the nature, scope, context and purposes of the processing, set out in the Terms of Processing and the Technical and Organizational Measures, and the information provided to PRIMAVERA;

(f) Refrain from copying, reproducing, adapting, modifying, altering, deleting, destroying, transmitting, disclosing or in any way communicating to third parties personal data that it processes as processor, unless required by the Software's operational specificities, or pursuant to documented instructions from the Customer, or and administrative or court order, or pursuant to Clause 7.3;

(g)    Completely or partially erase or return any personal data processed to the Customer, at the Customer's option upon termination of the relationship with the Customer and delete any existing copies, except where European Union law or the law of a Member State requires PRIMAVERA to preserve such data;

(h)    Provide to the Customer any information required to demonstrate that the processing complies with the General Conditions and Specific Conditions and the Personal Data Protection Framework, and facilitate and cooperate with any audits including inspections, conducted by the Customer or any other entity appointed by the latter;

(i)    Notify the Customer of any breach likely to compromise the security of the personal data, as soon as possible after becoming aware of the fact;

(j)    Comply with any applicable rules set out in the GDPR and generally in the Data Protection Framework.

12.5    The Customer represents and acknowledges that the technical and organizational measures set out in the Terms of Processing and Technical and Organizational Measures are appropriate for the data processing carried out by PRIMAVERA on its behalf.

## 13.   **LIABILITY**

13.1    Each Party shall be liable for damages suffered by the other Party as a result of the breach or defective performance of the terms and conditions of the Agreement, or of any false or inaccurate warranties.

13.2    The Customer shall be further liable for any acts or omissions that may harm PRIMAVERA or any third parties, committed (i) by its Personnel, even if such acts or omissions are committed maliciously or negligently in violation of orders or instructions issued by it and transmitted to them as part of its powers of authority and direction and (ii) by Users or any third party who, access and/or use the Software, Documentation or PRIMAVERA Services from the Customer's network, servers, infrastructure or facilities, by any means and in any way.

13.3    Except where otherwise provided for in this Agreement, if applicable and to the fullest extent of the law:

(a)    PRIMAVERA's maximum aggregate liability for any liabilities directly and exclusively incurred by it during the term of the Agreement shall be limited to:

    (i)    the total amount paid by the Customer to and effectively received by PRIMAVERA for the licensing of the Software over the twelve (12) months preceding the time of the event giving rise to the liability;

    (ii)    the total amount paid by the Customer to and effectively received by PRIMAVERA for the provision of the Services over the six (6) months preceding the time of the event giving rise to the liability;

(b)    PRIMAVERA shall not be liable in contract or tort for any loss of profits, loss or damage of data or information, image or reputational damages or for any deliverables or advice arising from the Software, the Documentation or any other material provided to the Customer;

(c)    PRIMAVERA shall not be liable for any damages caused by errors or omissions of any information, instructions or details provided to PRIMAVERA by the Customer, nor for any actions of PRIMAVERA performed in accordance with the Customer's guidance.

13.4    Nothing in this Agreement shall limit or exclude either Party's liability for:

(a)    damages arising from malice or gross negligence;

(b)    breach of the parties' obligations under the Intellectual Property Rights Clause.

13.5    The Customer ("Indemnifying Party") undertakes to indemnify PRIMAVERA ("Indemnified Party") in full for any compensation, costs or expenses that it may incur as a result of any third-party claims, including for damages paid to third parties by agreement with PRIMAVERA on the grounds of (i) damages resulting from the breach, defective performance of the Agreement, (ii) false or inaccurate warranties or (iii) use by the Customer of the Software to the extent that such use is not made in accordance with the Agreement or is made in violation of applicable law.

13.6    PRIMAVERA ("Indemnifying Party") undertakes to fully indemnify the Customer ("Indemnified Party") for any damages, costs or expenses it may incur as a result of any third-party claims, including for damages paid to third parties arising from a final decision issued by a relevant authority or an agreement with the Customer on the grounds of infringement by PRIMAVERA of Intellectual Property Rights with respect to the Software in the Territory.

13.7    The indemnified Party shall promptly notify the indemnifying Party of any claim under the preceding paragraphs, and, at the request of the indemnified Party and subject to reimbursement of reasonable costs, shall cooperate in the defense of such claim, except that PRIMAVERA shall have the right to organize the defense of any claim arising from the Software's infringement of Intellectual Property Rights directly and exclusively.

13.8    If a third party should file a complaint alleging that the Software infringes third-party Intellectual Property Rights for reasons solely attributable to PRIMAVERA, PRIMAVERA shall (i) reasonably endeavor, at its expense, to procure for the Customer the right to continue using the Software, or to provide equivalent Software or modify the Software so that it is no longer infringing, and (ii) be entitled to immediately suspend the use of the Software and the provision of any Services.

13.9    If a final and binding decision or an agreement with PRIMAVERA definitively prevents the Customer from using the Software, PRIMAVERA may terminate the Agreement upon written notice to the Customer.

13.10   Clauses 13.6 through 13.9 set forth the only remedies available to the Customer in the event of any complaints or third-party claims.


14.    **FORCE MAJEURE**

14.1    No Party shall be liable if, during the term of the Agreement, any event or circumstance deemed as a Force Majeure event should occur that prevents the Parties' timely performance of their obligations within contractually set deadlines, and the deadline for performance shall be extended for the period corresponding to the delay, without prejudice to the Parties endeavoring to mitigate the consequences of the event.

14.2    Any Party seeking to claim a Force Majeure event shall, immediately upon becoming aware of it, notify the other Party and, if feasible, provide evidence of the event claimed and its effects on the performance of the Agreement, and perform any acts and take any steps reasonably necessary to limit or mitigate its adverse effects.

14.3    The defaulting party shall notify the non-defaulting Party of the expected date to resume performance and notify it in writing as soon as this is the case.

14.4    If the Force Majeure event prevents the performance of the Agreement by either Party for a period longer than thirty (30) days, either Party may terminate the Agreement and no damages for breach shall be payable.


15.    **TERM**

The Agreement shall become effective on the Effective Date and remain in full force and effect for the term set out in the Specific Conditions.


16.    **SUSPENSION OF THE AGREEMENT**

16.1    Subject to the next clause, PRIMAVERA shall suspend the licensing of the Software and the Customer shall be unable to access the Software or the Services or both if the Customer fails to perform any contractual or payment obligations arising from the Specific Conditions.

16.2    The Customer's obligations, including payment obligations, remain in full force and effect during the period of suspension of the licensing or the Services.

16.3    The Agreement shall be suspended by means of notice served via the Software or sent by email, setting out the reasons for the suspension.

16.4    During the fifteen (15) days immediately following the suspension of the Agreement by PRIMAVERA pursuant to Clause 16.1, the Customer may:

(a)    request the reactivation of the Software and, to the extent that the Customer satisfies any and all outstanding payment obligations, the Customer shall not be required to pay any costs for such reactivation; or

(b)    temporarily access the Software for Data Extraction purposes for free, but only during such period.

17.    **TERMINATION**

17.1    Either Party may terminate the Agreement if the other Party breaches any provisions of the Agreement or, if the breach can be remedied, fails to remedy the breach within thirty (30) days following receipt of the other Party's notice. If the breach cannot be remedied, the Agreement shall be terminated effective immediately upon the defaulting Party receiving the notice sent by the non-defaulting Party.

17.2    Subject to any other termination rights provided for in this Agreement:

(a)    The Customer may oppose the renewal of the Agreement by sending a notice at least thirty (30) days prior to the Agreement's date of renewal;

(b)    The Agreement shall be deemed automatically terminated upon expiry of the fifteen (15) days' Software licensing suspension period pursuant to Clause 16;

(c)    PRIMAVERA may at any time terminate the Agreement, in whole or in part, effective immediately from the date of notice if (i) governmental, regulatory or other entities with jurisdiction introduce a new rule or modify an existing rule preventing PRIMAVERA from performing any part of the Agreement because such performance becomes an illegal, unlawful practice or conflicts with professional or independence standards; (ii) a change in circumstances (including, without limitation, a change in the control of the Customer or an Affiliate) makes the performance of any part of the Agreement unlawful or illegal, (iii) the Customer breaches any confidentiality, personal data or Intellectual Property Rights related obligation, or (iv) insolvency proceedings, or preliminary proceedings for the Customer's insolvency or judicial proceedings of equivalent effect are brought, the Customer is wound up or liquidated or an action is brought to wind up or liquidate the Customer, to the extent permitted by applicable law.

17.3    For the avoidance of doubt:

(a)    PRIMAVERA shall be entitled to the terminate the entire Agreement or just the Services breached by the Customer in the instances set out in Clauses 17.1 and 17.2;

(b)    In the event PRIMAVERA breaches its obligations in connection with any Services, the Customer shall only be entitled to terminate the relevant Service;

(c)    Termination of any Service shall not entail the automatic termination of the remaining Services or of the Software licensing;

(d)    Termination of the Agreement for any reason attributable to the Customer or pursuant to Clause 17.2(a) shall not entail the refund of any amounts already paid by the Customer to PRIMAVERA.

17.4    If, within six (6) months following the date of termination of the Agreement for any reason attributable to the Customer, the Customer so advises PRIMAVERA, the Parties shall execute a new agreement with the same characteristics as the previous. In that case, the Customer must pay EUR 250 for the restoration of the Customer Data.

17.5    If the Customer should question the validity of any Intellectual Property Right of PRIMAVERA or register or patent any Intellectual Property Right of PRIMAVERA, the latter shall be entitled to terminate the Agreement effective immediately by means of written notice.

17.6    The Party wishing to terminate this Agreement shall notify the other Party in writing by sending an email to the email address set out in the Specific Conditions, detailing the reasons and the intended effective date for the termination.

18. **EFFECTS OF TERMINATION**

18.1 Upon the termination of the Agreement, regardless of the reason:

   (a) The authorization to access and use the Software granted to the Customer shall terminate and the Customer shall immediately cease to access and use the Software and shall also be required to eliminate all copies of the Software, if any, that it may have in its possession, sending PRIMAVERA proof of their destruction if so requested;

   (b) The Customer shall return or destroy the Documentation, and any other PRIMAVERA information and material (and all copies, duplicates, abstracts or other representations of any confidential information or any part thereof in any form) in its possession, upon notice to that effect from PRIMAVERA;

   (c) For any reason and subject to any costs payable by the Customer, PRIMAVERA (i) shall store the Customer Data for a period of six (6) months from the termination of the Agreement, and (ii) shall delete, after that date, any Customer Data not extracted by the Customer, and shall not be liable thereafter for their subsequent availability, transfer or storage;

   (d) By the Customer pursuant to Clause 16.4(d), the Customer shall Extract the Data (i) within fifteen (15) days from the date of termination of the Agreement;

   (e) PRIMAVERA shall be entitled, if applicable and to the full extent of the law, to access the Customer systems where the Software is used to remove or uninstall the Software or any Software-related files, if any;

   (f) The Parties must stop using the other Party's trademarks;

   (g) The price of the license already paid shall not be refunded and the price of the license outstanding shall remain due and payable for the remainder of the license if the agreement is terminated based on the breach, defective performance by, false or inaccurate warranties of the Customer or if the latter terminates the Agreement pursuant to Clause 17.2(a).

18.2 In the event of termination of one or more Services, the Customer shall no longer be entitled to (i) receive the Services, (ii) use the Software provided by PRIMAVERA, and (iii) shall only be liable for the pro-rata price of the Service up to termination if this is due exclusively to PRIMAVERA's breach of the Agreement. In all other cases, the Customer must pay all amounts due and falling due corresponding to the contractual period in question.

18.3 Upon termination of the Agreement, PRIMAVERA undertakes to return or destroy any information it may have had access to as part of the Agreement that is not required for the performance of its legal or contractual obligations. Notwithstanding, PRIMAVERA shall keep copies of any information it had access to or that is storage in its systems to comply with its internal quality control policies or the applicable law. Such copies shall be kept in accordance with PRIMAVERA's retention and filing policies.

18.4 Termination of the Agreement for any reason shall be without prejudice to any other rights or remedies to which the Parties may be entitled under the law or the Agreement, and shall not affect any vested rights or liabilities of either Party, nor the entry into, or survival of, any provision of the Agreement which is expressly or tacitly intended to enter into or remain in force during or after such termination.


19. **COMMUNICATIONS**

19.1 Save where a special form is required under this Agreement, all notices between the Parties in connection with this Agreement shall be made by telephone or in writing by email, and sent to the addresses set out in the Specific Conditions.

19.2 The parties acknowledge and agree that they have no control over the performance, security, availability, accessibility and compliance of the email and as such disclaim any liability for any losses, damages, expenses, injury or inconvenience arising from the loss, interception, usurpation, violation or modification of any email.

19.3 Without prejudice to the provisions in the following paragraphs, notices made in writing shall be deemed served on the date of their receipt or, if received outside regular business hours, on the first following business day.

20.  **TRANSFER OF RIGHTS AND OBLIGATIONS**

20.1   The Parties may not transfer or assign any rights or obligations arising hereunder to third parties, by any means or form, without the other Party's prior written consent.

20.2   Without prejudice to the above paragraph, PRIMAVERA may assign its rights and obligations arising from this Agreement to any other PRIMAVERA Group entity or to any third party taking over a substantial part or the entire business of PRIMAVERA. The Customer hereby consents to such assignment.


21.  **REPRESENTATIONS AND WARRANTIES**

21.1   Each Party represents and warrants that:

(a)   It is duly authorized to execute the Agreement and perform the obligations arising hereunder, all legal and statutory requirements for such purpose having been fulfilled;

(b)   The Agreement is a legal, valid and binding obligation of the Parties, enforceable in accordance with its terms and conditions;

(c)   It shall not provide any express or implied warranty to any third party in the name or on behalf of the other Party with respect to the application or outcome to be derived from the information, materials, Services, Intellectual Property rights, Software or any other rights granted and/or supplied by such Party under this Agreement.

(d)   PRIMAVERA shall make periodic backup copies of the Customer Data for the purpose of restoring the data or configurations in the event that they are totally or partially destroyed, as better detailed in the Terms of Processing and the Technical and Organizational Measures, which are an integral part of these General Conditions;

(e)   The Customer answers for the content of all Customer Data and it shall protect and maintain all necessary rights in or over the Customer Data to enable PRIMAVERA to provide the Software and supply the Services to the Customer without infringing any third-party rights or otherwise subjecting PRIMAVERA to any obligations to the Customer or any third party;

(f)   The Customer owns and maintains all rights, including, without limitation, intellectual property rights, trade secrets and confidentiality rights in the Customer Data stored on PRIMAVERA's servers. However, the Customer represents that it acknowledges and agrees that, to provide the Services, PRIMAVERA requires the Customer's authorization to conduct certain operations over the Customer Data and hereby authorizes PRIMAVERA, to extent required to perform such operations lawfully as strictly required to supply the Software and provide the Services;

(g)   PRIMAVERA has no control over, and shall not be liable for, the content of the Customer Data, any tools or software required to access the Software, and the compatibility of the Software with third-party software and/or hardware, including the hardware and software ecosystem being used by the Customer;

(h)   Acknowledges that there may be limitations related to the Customer Data storage volume, if applicable, as described in the Specific Conditions, and that the Customer is solely responsible for monitoring the space used up by Customer Data.

21.2   PRIMAVERA shall endeavor to keep the Software running properly for the duration of the Agreement, but it does not warrant that: the Software, the Documentation and the Services will be provided free of Defects, viruses or malicious components or will not suffer interruptions or malfunctions or performance failures, or that there is no erroneous or defective performance of the Software, whatever its cause, including as resulting from the access or irregular action of third parties (viruses or computer attacks); (b) the Software, the Documentation and the Services comply with all laws and regulations applicable to the Customer's business; (c) there are no delays, delivery failures, intrusion or any other loss, including loss of data or Confidential Information, notably attributable to its subcontractors, the Partner or the Customer itself, or damage resulting from the transfer of data over communication networks, including the internet, and the Customer acknowledges that the use of the Software may be subject to limitations, delays, unavailability and other problems associated to the use of such communication networks (d) there are no problems caused by

accident, misuse, abuse or use contrary to the provisions of this Agreement; (e) the results obtained through the Software are correct, true, accurate, up to date or reliable, (f) any advice, recommendations or information made available in the Software, Documentation or other material provided by PRIMAVERA, is up to date, accurate, complete and free of error, and PRIMAVERA has no legal obligation in this regard, (g) the Software and the Services work in combination with the Customer's systems (h) the Software and the Services are suitable for a specific purpose of the Customer or meet the Customer's expectations; (i) the Software will not be discontinued but undertakes, within a reasonable time before the relevant date, to inform the Customer through the Software.

21.3    For the purposes of subparagraph (i), a version is considered to have been discontinued and require an update when PRIMAVERA provides or starts to market a more recent version. However, PRIMAVERA undertakes to continue to endeavor to keep the Software running properly pursuant to the previous paragraph for a period of eighteen (18) months from the time a new version of the Software is made available, at no additional cost to the Customer.

21.4    PRIMAVERA further represents that it shall reasonably endeavor to keep the Software and Customer Data contained therein secure. PRIMAVERA cannot, however, ensure, that they are completely immune to any attack, unauthorized access, violation, intrusion or any other act or omission that compromises the confidentiality, integrity and/or availability of the Customer Data.

21.5    These warranties shall be exclusive to the fullest extent of the law, and there shall be no other warranties or express or implied conditions, including with respect to the Services, the Software, hardware, communication systems or networks.


## 22.    **MISCELLANEOUS**

22.1    The Agreement constitutes the entire agreement between the Parties regarding its subject-matter, and shall prevail over and supersede any prior oral or written representations, commitments, contracts, agreements regarding such subject-matter.

22.2    This Agreement may only be amended by express written agreement, signed by all Parties.

22.3    Failure by either Party to enforce any term, condition and obligation arising under this Agreement shall not be construed as a waiver of any rights and is not a precedent that will change any provision herein nor shall it be deemed to be a waiver of future enforcement of that obligation, and any future compliance obligation shall remain in force.

22.4    Should any provision in this Agreement be declared null and void or otherwise invalid, ineffective or unenforceable by any entity with jurisdiction, such voidness, invalidity, ineffectiveness or unenforceability shall not affect the validity of the remaining Agreement provisions, and the Parties undertake to agree in good faith on a provision to replace the invalid provision, which to the extent possible produces similar effects.


## 23.    **APPLICABLE LAW AND DISPUTE RESOLUTION**

23.1    This Agreement shall be governed by applicable Portuguese law provisions.

23.2    Any disputes arising from or in connection with this Agreement shall be subject to the exclusive jurisdiction of the Braga district courts, in Portugal.