**INTERNATIONAL MOTORS, LLC**

**MASTER SOFTWARE AS A SERVICE AGREEMENT**

*Effective [Insert Date]*

**INTERNATIONAL MOTORS, LLC**

**MASTER SOFTWARE AS A SERVICE AGREEMENT**

This Master Software-as-a-Service Agreement (including all exhibits, schedules, and addendum hereto, collectively, this “Agreement”) is entered into this <insert date>, 20<insert year>, (“the Effective Date”) between International Motors, LLC, a Delaware entity d/b/a International Motors USA LLC in Illinois, Missouri, New Jersey, Ohio, and Utah, having a principal place of business at 2701 International Drive, Lisle, IL 60532 (“International”) and <insert Supplier name>, a corporation of the State of <insert state>, having a principal place of business at <insert address, city, state, zip> (”Supplier”).

1. **Defined Terms**. In addition to the defined terms as otherwise contained in this Agreement and associated Orders, the following terms shall have the meanings herein specified unless the context otherwise requires. Defined terms herein shall include in the singular, the plural, and in the plural, the singular.
	1. "Affiliate" shall mean any Person directly or indirectly owned or controlled by Party. A Party shall be deemed to control an entity if such Party possesses, directly or indirectly, the power to direct or cause direction of the management and policies of such entity, whether through the ownership of voting securities, by contract or otherwise.
	2. “Aggregated and Anonymized Information” means data that may be derived from International Data or International’s use of the Software that has been aggregated with data from other Supplier customers and anonymized such that it does not identify and cannot be used to identify any individual or International as the source of the information and which cannot otherwise be attributed to any identifiable individual or International.
	3. “Authorized Users” shall mean all Persons authorized by International or any of its Affiliates to access and use the Software.
	4. “Availability Deficit” shall have the meaning set forth in Section 5.5.
	5. “Availability Requirement” shall have the meaning set forth in Section 5.1.
	6. “Available” and “Availability” shall have the meanings set forth in Section 5.1.
	7. "Business Day" shall mean any day on which International is open for business. Unless otherwise stated, any references to a number of other “days” shall mean calendar days.
	8. “Change” shall mean a material change to any Order, including without limitation any material

change to the description of Software, Services, fees, or schedules therein.

* 1. “Change of Control Event” shall mean a merger of a Party, or any consolidation, share exchange, combination, reorganization, or like transaction with respect to a Party.

**1.10** “Change Order” shall mean a document memorializing a Change, as prepared by the Parties in accordance with the process and specifications set forth in Section 3.1.

* 1. “Charge” shall have the meaning set forth in Section 10.
	2. “Documentation” shall mean any operator and user manuals, training materials, technical materials and other materials provided by Supplier or made available to International in any form or medium and which describes the functionality, components, features, or requirements of the Services, including any aspect of the installation, configuration, integration, operation, use, support, or maintenance thereof.
	3. “Effective Date” shall mean the date that this Agreement is fully executed.
	4. “Error” shall mean any failure of the Software to conform to the Documentation in any material fashion.
	5. “Exception” shall have the meaning set forth in Section 6.2.
	6. “Harmful Code" means any virus, Trojan horse, worm, logic bomb, drop-dead device, backdoor, shutdown mechanism, expiry code or similar software, hardware, system or combination of any of the foregoing that is intended or designed to, is operable to, is likely to or has the effect of disabling, deleting, erasing, denying authorized access to, permitting unauthorized access to, repossessing, damaging, destroying, corrupting or otherwise affecting or interfering with the Software or any other software, hardware, data, or files on or used in conjunction with the Software.
	7. “Implementation Services” shall mean those services which International contracts Supplier to perform as set forth on an applicable Order for the set up and configuration of the Software, if applicable, but does not include Support Services.
	8. “Intellectual Property” shall mean all intellectual and industrial property rights, whether now existing or existing in the future, including without limitation, (i) all patent rights, including any rights in pending patent applications and any related rights; (ii) all copyrights and other related rights throughout the world in works of authorship, including all registrations and applications therefor; (iii) all trademarks, trade names, service marks, trade dress or other proprietary trade designations, including all registrations and applications therefor (iv) all rights throughout the world to proprietary know-how, trade secrets and other confidential information, whether arising by law or pursuant to any contractual obligation of non-disclosure; and (v) all other rights covering industrial or intellectual property recognized in any jurisdiction
	9. “Intellectual Property Claim” shall have the meaning set forth in Section 14.2.
	10. “International Data” shall mean all data and information that may be received, stored, transmitted, or Processed by Supplier for or on behalf of International in connection with the Services, including its organization, sequence, structure and metadata, derivative works of such data, and any reports or outputs resulting from the Processing of such data. International Data is International’s Confidential Information.
	11. “Laws” shall mean all federal, state and local laws, statutes, rules, codes, directives, regulations and ordinances, and the orders of any courts or other government bodies of competent jurisdiction.
	12. “Losses” shall mean all losses, liabilities, damages, and claims, and all costs and expenses relating to such losses, liabilities, damages and claims (including, without limitation, costs of investigation, litigation, settlement, judgment, interest and reasonable attorney’s fees).
	13. "Order(s)" shall mean any written order(s) mutually executed by the Parties, which sets forth in detail the unique purchase requirements applicable to the Services, that includes, without limitation and as applicable, identification of each Party’s Key Personnel, the number of Authorized Users or other usage limitations, the specifications, schedule, scope, critical milestones for performance of Implementation Services, Term, location of Services, and associated Charges.
	14. “Person” shall mean any individual or joint venture, partnership, corporation or other business or legal entity.
	15. “Personal Data” shall have the meaning set forth in the Data Processing Addendum attached as Exhibit B.
	16. “Personnel" shall mean the officers, directors, agents, temporary workers, contractors, and employees of any Party or such Party’s Affiliates.
	17. “Processing” shall mean any operation or set of operations that are performed on International Data or on sets of International Data, whether or not by automated means.
	18. “Scheduled Downtime” shall have the meaning set forth in Section 5.3.
	19. “Service Credit” shall have the meaning set forth in Section 5.5.
	20. “Service Levels” shall mean those metrics related to operational performance of the Software and/or Services that Supplier agrees to meet as set forth in an applicable Order.
	21. “Service Period” shall have the meaning set forth in Section 5.1.
	22. "Services" shall mean collectively or individually, the services and tasks which Supplier will provide or render for or on behalf of International under an applicable Order, including without limitation its provision of access to the Software and any Implementation Services, Training Services, or Support Services.
	23. “Services Warranty” shall have the meaning set forth in Section 13.5.
	24. “Software” shall mean the software program(s) identified on an applicable Order, including any Updates and Error corrections of such program(s) that may be provided under this Agreement, that Supplier provides remote access to and use of as part of the Services.
	25. “Subcontractors” shall have the meaning set forth in Section 9.1.
	26. “Support Services” shall mean those support and maintenance Services Supplier will perform as described in Section 7 and Exhibit A and as may be further set forth in an applicable Order.
	27. “Taxes” shall have the meaning set forth in Section 10.2.
	28. “Term” shall mean the period of time set forth in an Order during which Supplier shall perform the Services, including without limitation the period of time in which the Software will be made Available to International.
	29. “Third Person” shall mean an unaffiliated Person, including its employees, contractors, or agents.
	30. “Third Person Materials” shall have the meaning set forth in Section 4.3.
	31. “Training Services” shall mean those Services Supplier will perform in connection with training International representatives on the Software as described in an applicable Order.
	32. “Update” shall mean a generally released revision to or version of the Software that includes patches, fixes, modifications and Error corrections to the Software and includes enhancements that impact the functionality and/or features of the Software. Updates do not include any Software revision or version that: (a) is priced and offered separately by Supplier as optional modules for the Software; and (b) is not made generally available to Supplier’s similarly situated clients without separate Charges, unless specifically agreed to by the Parties in an applicable Order.
1. **Agreement**. The provisions of the various Agreement documents shall, to the extent possible, be interpreted so as to supplement each other and avoid any conflict between them. However, in the event of a conflict among the Agreement documents, the Agreement documents will have the following order of precedence except as expressly identified herein or to the extent the parties specifically agree otherwise in writing with respect to a particular provision: (a) these standard terms; (b) attachments, exhibits or addenda to these terms (c) Orders; and (d) attachments, exhibits or addenda to an Order.
2. **Orders and Change Orders.**
	1. Orders**.** Supplier shall provide the Services as designated and specified in an applicable Order. Unless otherwise set forth in an Order, Services shall be deemed accepted by International upon International’s written notice of such acceptance to Supplier.
	2. Change Orders. The Parties agree that: (i) no Change which is reasonably expected to affect the function or performance of the Services will be implemented without prior written agreement between the Parties; and (ii) all approved Changes will be formalized in a Change Order executed by both Parties in accordance with this Section.
3. All requests for Changes by a Party will be communicated in writing by that Party’s authorized representative to the other Party’s authorized representative. Any request for Changes will include a detailed description of the Change requested, the projected schedule and timing for the Change and the priority of the Change.
4. Within five (5) Business Days after receiving a Change request from International, Supplier will prepare and provide to International a document summarizing the effect, if any, of the proposed Change on: (i) the scope of the Services; (ii) Supplier’s and International’s obligations under the Order; (iii) the budget or price for the Change and (iv) any other business impact Supplier believes to be relevant to International’s evaluation of the proposed Change. Within ten (10) Business Days after receiving such information, International will confirm or withdraw the request for the Change in writing.
5. For Changes requested by Supplier, Supplier shall provide International the information set forth in clauses 2.1(b) (i), (ii), (iii), and (iv) above. International shall have ten (10) Business Days after receipt of said request for Change to approve or reject the request in writing. Any request not accepted by International in writing after such ten (10) Business Days shall be deemed rejected.
6. Upon approval by International of the Change as summarized above, Supplier shall prepare and execute a Change Order describing said approved Change, and deliver said Change Order to International. Upon execution of such Change Order by both Parties, the Change Order shall become effective as a part of the Agreement.
	1. No Exclusivity. This Agreement is not an exclusive arrangement. International shall have no minimum purchase or minimum usage and shall be entitled, in its sole discretion, to procure similar software and/or services from any Third Person.
	2. Cooperation. Each Party will reasonably cooperate with the other Party in connection with its obligations under an Order. Such cooperation will include informing the other Party of all management decisions that the Party reasonably expects to have a material effect on the obligations required to be performed by that Party under the Order.
	3. Time of the Essence. Supplier acknowledges and agrees that time is of the essence with respect to its obligations under this Agreement and that prompt and timely performance of all such obligations, including without limitation all Services, maintenance obligations, and other requirements of this Agreement, is strictly required.
7. **Software Access and Use**.
	1. Permitted Use. During the applicable Term, Supplier hereby grants to International and its Affiliates, exercisable by and through their Authorized Users, a non-exclusive, worldwide, non-transferable (except as otherwise specified in this Agreement) right and license to: (a) access and use the Software including in conjunction with other software, hardware, systems, networks, and services, for its and its Affiliates' respective business purposes under the terms and conditions set forth in this Agreement, including for Processing International Data; (b) generate, print, copy, upload, download, store and otherwise process all GUI, audio, visual, digital and other output, displays, or other content as may result from any access to or use of the Software; (c) access, reproduce, print, download and use copies of the Documentation for any permitted use of the Software or receipt of other Services under this Agreement; and (d) access and use the Software for all such non-production uses and applications as may be necessary or useful for the effective use of the Software as agreed upon in an applicable Order, including for purposes of analysis, development, configuration, integration, testing, training, maintenance, support and repair, which access and use will be without Charge and not included for any purpose in any calculation of Customer's or its Authorized Users' use of the Services, including for purposes of assessing any Charge.
	2. Use Restrictions. Except as permitted by this Agreement or an Order, International agrees that it may not: (a) reverse engineer, disassemble or decompile the Software, or otherwise examine the Software for purposes of reverse engineering; (b) make the Software available for use in a service bureau or time sharing environment on a fee for service or access basis; or (c) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make the Software or Documentation available to any Third Person.
8. **Ownership and Intellectual Property Rights**
	1. Supplier Intellectual Property. As between International and Supplier, Supplier is and will retain the sole and exclusive right, title, and interest, in the Software and Documentation, including all Intellectual Property rights in and relating thereto, subject only to the authorization and license rights granted to International herein. International understands that the authorizations and license rights granted herein transfers neither title nor proprietary rights to International with respect to the Software.
	2. International Data. As between the Parties, International is the exclusive owner of all rights, title, and interest in and to International Data, including all Intellectual Property rights in and relating thereto. Subject to the terms and conditions of this Agreement, International hereby grants to Supplier a limited, nonexclusive, non-assignable, nontransferable, non-sublicensable license to Process International Data strictly as instructed by International or an Authorized User and solely as reasonably necessary to provide the Software to International and for the benefit of International.
	3. Aggregated and Anonymized Data. To the extent Supplier processes Aggregated and Anonymized Information, Supplier represents and undertakes as follows: (i) Supplier shall not make any attempts to re-identify the Aggregated and Anonymized Information; (ii) Supplier has implemented and will maintain technical safeguards that prohibit re-identification of Aggregated and Anonymized Information; (iii) Supplier has implemented and will maintain business processes that prohibit re-identification of Aggregated and Anonymized Information and prevent inadvertent release of Aggregated and Anonymized Information; and (iv) Supplier will periodically reassess its technical safeguards and processes to ensure that they are still adequate to prevent the re-identification or the inadvertent release of Aggregated and Anonymized Information. Supplier is granted an irrevocable, non-transferable, non-sublicensable license to create Aggregated and Anonymized Data solely for the purpose of improving Supplier’s Services.
	4. Third Person Materials. Supplier may not provide to or purchase on behalf of International any materials, software, or services from a Third Person (“Third Person Materials”) without International’s prior written consent and agreement in the applicable Order. Supplier must disclose any third party terms and conditions applicable to any such Third Person Materials and all such terms are subject to International’s prior review and approval. International reserves the right to purchase and license products and services directly from any Third Person in International’s sole discretion.
9. **Service Availability and Support**.

Except to the extent the Order expressly sets forth a different Availability Requirement or other Service Level guarantee, the Availability Requirement and related procedures of this Section 5 shall apply to Supplier’s provision of access to all Software hereunder.

* 1. Availability Requirement. Supplier shall make the Software Available for 99.99% of each month during the Term (the “Service Period”) without interruption, excluding only the time the Software is not Available solely as a result of one or more Exceptions (defined below), unless otherwise specified in said Order (the "Availability Requirement"). "Available" means the Software is available and operable for access and use by International over the Internet in full conformance with the Specifications and the Order. The Software is not considered Available in the event of any performance degradation or inoperability of the Software, in whole or in part.
	2. Exceptions. No period of Software degradation, downtime, or inoperability will be included in calculating Availability to the extent that such degradation, downtime, or inoperability is due to any of the following ("Exceptions"): (a) International's material misuse of the Software in violation of the terms of the Agreement; (b) failures of International’s internet connectivity; (c) internet or other network traffic problems other than problems arising in or from networks actually or required to be provided or controlled by Supplier or its Subcontractor, if applicable; (d) International's failure to meet any minimum hardware or software requirements set forth in the Order or Documentation; or (e) Scheduled Downtime as set forth in the following Section 5.3.
	3. Scheduled Downtime. Supplier shall notify International at least 5 Business Days in advance of all scheduled outages of the Software in whole or in part (“Scheduled Downtime”). All such Scheduled Downtime shall: (a) last no longer than one hour; (b) be scheduled between the hours of 12am – 6am EST; and (b) occur no more frequently than once per week; provided that Supplier may request for International’s approval for extensions of Scheduled Downtime above one hour, such approval not to be unreasonably withheld or delayed.
	4. Service Availability Reports. Within thirty days after the end of each Service Period or upon International’s written request at any time during the Term, Supplier shall provide to International a report describing the Availability of the Software during that Service Period and the year-to-date as compared to the Availability Requirement. The report shall be in electronic or such other form as International may approve in writing and shall include, at a minimum: (a) the actual Availability of the Software relative to the Availability Requirement; and (b) if Availability has failed in any respect to meet or exceed the Availability Requirement or other specifications set forth in the applicable Order during the reporting period, a description in sufficient detail to inform International of the cause of such failure and the corrective actions the Supplier has taken and will take to ensure that the Availability Requirement and any other specifications are fully met. The reporting requirements set forth in this Section shall be in addition to and without limitation of any audit right available to International under Section 11.
	5. Service Credits. If the actual Availability of the Software is less than the Availability Requirement during any one month of the Service Period (such difference between the Availability Requirement and the actual period of Availability, the “Availability Deficit”), Supplier shall provide to International a service credit(“Service Credit”) in accordance with the chart below. Such Service Credit shall be assessed against the total Charges applied to International’s access to the Software during the Service Period under the relevant Order.

|  |  |
| --- | --- |
| **Availability Percentage** | **Service Credit Percentage (% reduction)**  |
| 99.99% - 100% | 0% |
| 99.5% - 99.99% | 5% |
| 99.0% - 99.49% | 7% |
| <98.99% | 10% |

* 1. Breach and Refund. If the Software is subject to an Availability Deficit for any two consecutive months during the Service Period, or any three months in a twelve month period during the Term, such Availability Deficit shall constitute a material breach of the Agreement by Supplier. In event of such material breach, International may terminate this Agreement immediately upon written notice to Supplier, notwithstanding the termination for cause provisions set elsewhere in this Agreement. Upon receipt of said notice, Supplier shall promptly provide a refund to International of any Service Credits applicable to the Service Period in which Availability Deficit occurred. International’s remedies for Supplier’s material breach of the Availability Requirement hereunder shall be in addition to and without prejudice to any other remedies available to International under this Agreement.
1. **Support Services**. Supplier shall use commercially reasonable efforts to expeditiously provide Updates and to correct Errors and shall comply with such additional support obligations, as more fully set forth in Exhibit A. To the extent that any Third Person Materials are incorporated into the Software, or are otherwise provided by Supplier as a part of the Services, Supplier shall be responsible for any Errors involving such Third Person Materials. Unless otherwise agreed upon in an Order, the Support Services are included in the Services and Supplier shall not assess any additional Charges for such Support Services.
2. **Implementation Services; Training Services**.
	1. Scope of Services. Supplier shall provide Implementation Services and Training Services as agreed upon by the Parties in an applicable Order. In the event additional professional services are contemplated by the parties beyond Implementation Services or Training Services, the parties shall negotiate in good faith a separate services agreement.
	2. Acceptance. Unless otherwise set forth in the applicable Order, Supplier will notify International in writing when each Service is completed (or, with respect to Software, when fully implemented and ready for production use) and ready for review and testing by International. International will then have at least thirty (30) days to review and test each such Service or deliverable to confirm it meets the requirements of this Agreement and the applicable Order and otherwise meets International’s requirements (collectively, “Acceptance Criteria”). In the event any such deliverable or Service fails to meet the Acceptance Criteria, International will notify Supplier and Supplier will have ten (10) days to redeliver the applicable deliverable or Service to International for International’s review and testing against the Acceptance Criteria. In the event the applicable deliverable or Service again fails to meet the Acceptance Criteria, International may allow Supplier additional time to redeliver the deliverable or Service or at any time thereafter may terminate the Order, or the related deliverable or Service involved, in whole or in part, without obligation, liability or penalty of any kind, and Supplier will refund any monies previously paid for the nonconforming deliverable or Service, together with any deliverables and Services dependent upon such nonconforming deliverable or Service. When any deliverable or Service is acceptable to International, International will notify Supplier in writing of its acceptance. International Information and Resources. International will provide Supplier any International resources or materials as necessary for Supplier to perform the Services and provide the deliverables as identified on the applicable Order, to the extent such resources and information are available. In the event Services require Supplier to access any hardware, network or infrastructure of International, all such access will be subject to International’s security policies and procedures. Supplier will comply with any of International’s applicable disaster recovery and business continuity policies (including periodic testing), as modified from time to time and known or made known to Supplier.
3. **Supplier Personnel**.
	1. Subcontractors. With International’s prior written consent, Supplier may engage independent Third Persons to perform the Services associated with an Order or other obligations to be performed by Supplier under an Order ("Subcontractors"), provided that Supplier will remain fully responsible for the acts and omissions of its Subcontractors under this Agreement, including without limitation the compliance of such Subcontractors with all terms and conditions of this Agreement applicable to the Services subcontracted thereto. Prior to engaging a Subcontractor, Supplier will inform International of its intention to engage such Subcontractor and provide to International any information that it may reasonably request regarding such Subcontractor. Thereafter, at any time upon International’s request, the Parties shall review the performance of any Subcontractor that has been engaged by Supplier to perform any Services under an Order. Matters discussed at such reviews may include, but will not be limited to, said Subcontractor’s performance of the Services.
	2. Removal. International may, upon giving written notice to Supplier, request the reassignment, replacement, or removal of any Supplier Personnel or Subcontractor performing Services under an Order, if International determines in good faith that the performance of such Supplier Personnel or Subcontractor has been incompetent, negligent, or otherwise unprofessional. Upon receipt of such written notice, Supplier shall promptly exercise best efforts to fully address International’s concerns at no additional Charge or other expense to International. In addition, International may, by giving written notice to Supplier and at no additional Charge or other expense to International, require the immediate removal of any Supplier Personnel, if International has determined upon good faith inquiry that such Supplier Personnel has: (i) violated any safety or security rules or policies of which International has previously made Supplier aware; (ii) violated any applicable Laws in the course of performing Services; or (iii) has otherwise breached any of the terms or conditions of this Agreement. If Supplier Personnel has been removed, reassigned, or ceases employment, Supplier shall replace such Personnel with a comparably skilled and qualified replacement, and all costs of retraining shall be borne by Supplier.
4. **Charges**. International shall pay Supplier the applicable License fees, support fees, and service fees (each a “Charge” and collectively, the "Charges") in the amounts set forth in the applicable Order. International shall not be required to pay for access to the Software and/or receipt of Services at prices higher than those specified in the Order, except in accordance with a Change Order or other mutual written agreement of the Parties.
	1. **Travel Expenses**. As between the Parties, all travel undertaken by Supplier, Supplier’s Personnel, or Subcontractors pursuant to an Order shall be at Supplier’s expense. Expenses will not be reimbursed without the prior approval of International. Any pre-approved expenses will be subject to International’s travel and expense policy.
	2. **Taxes**. International shall not be liable for any federal, state, local or foreign taxes (collectively, “Taxes”) unless separately stated in the Order or related document and billed as a separate line item. Unless International has furnished Supplier with an applicable exemption certificate, International shall pay Supplier any applicable sales, excise or use Taxes or other Taxes which directly arise from Supplier’s provision of access to Software or the rendering of other Services which Supplier is responsible for by Law to collect from International. International shall not be responsible for any Taxes based on Supplier’s income or its business operations, including without limitation any employment, income, gross receipts, or license Taxes. Supplier agrees to provide International with documents that may be required to obtain any applicable exemption, credit, rebate, remission, refund, reduction or other relief from Taxes. International is authorized to deduct or withhold from each payment to Supplier all Taxes which International is required by Law to deduct or withhold, and to pay the amount withheld or deducted to the relevant government authorities. Supplier shall comply in a timely manner with all requirements imposed on Supplier by all applicable Laws, including requirements in respect of registration, payment, collection, and remittance of Taxes and provision to government authorities such deposits, guarantees or other forms of security as may be required by Law or the administration thereof, and shall provide International with written proof of such compliance upon International’s request. Supplier failure to so comply with such Laws shall constitute a material breach of this Agreement.
	3. **Invoices**. Supplier shall send itemized invoices to International setting forth the Charges applicable to the Services according to the schedule or timetable set forth in the applicable Order. Except as otherwise stated in such Order, International shall pay the Charges set forth in a non-disputed invoice within ninety (90) days of International’s receipt of said invoice. In the event of any delay in receiving an invoice, or any deficiencies, inaccuracies, or omissions in any invoice, International may withhold payment for the Charges set forth therein until its receipt of a subsequent invoice from Supplier correcting such delay, deficiencies, inaccuracies, or omissions. Except as otherwise stated in an Order, all payments will be in U.S. Dollars (USD). International shall notify Supplier of any disputed Charges within ninety (90) days of receipt of the invoice setting forth such Charges from Supplier.
5. **Audits by International**.
	1. Financial Audits. At International’s prior written request, Supplier will allow International or its designated representatives to audit its accounting books and records to the extent necessary to verify Supplier’s Charges to International under an Order. Supplier will cooperate with and comply with all reasonable requests from International or its designated representatives in connection with such audit. Upon completion of any such audit, the Parties will review the audit report together and work in good faith to agree upon: (1) any adjustment of Charges to International (including without limitation any reimbursement of any overpayment by International or reimbursement to Supplier for any underpayment by International); and (2) any appropriate adjustments to Supplier’s billing and invoicing practices. If any such audit discloses overpayments by International that in the aggregate equal one percent (1%) or more of the amounts that were actually due to Supplier, then Supplier will reimburse International for the costs of the audit.
	2. Operational Audits. Upon prior written request to Supplier at any time during the Term, International may monitor Supplier’s performance of its obligations under an Order, including without limitation its compliance with any Availability Requirement or any representation or warranty set forth in this Agreement.
	3. Security Audits. Upon prior written request to Supplier at any time during the Term, International may monitor Supplier’s compliance with the information security and data privacy obligations set forth in Section 12.6, including, without limitation, Supplier’s compliance with any instructions or restrictions set forth in Exhibit C, the Order, or a vendor security assessment form, if applicable.
	4. Compliance Audits. In order to assess Supplier’s compliance with (a) the terms and conditions of this Agreement, and (b) International’s Code of Conduct for Suppliers & Business Partners in accordance with Section 21 of this Agreement, Supplier shall permit International and its designees (including its accountants and attorneys), and use commercial reasonable efforts to facilitate with respect to its supply chain, access to conduct an inspection of the books, records and documentation of Supplier, its supply chain, and any and all facilities and/or systems pertaining to Supplier’s performance of this Agreement and its supply chain involvement in such performance. The scope of the audit may include, but is not limited to, inspecting, reviewing, ensuring and/or verifying (i) the quality and accuracy of the Services being performed under this Agreement and (ii) compliance with this Agreement. Such access by International and/or its designees shall include the right to discuss such books, records and/or documentation with Supplier’s personnel having knowledge of the facilities, systems, and document contents and the right to copy such documentation, in each instance subject to International’s confidentiality obligations pursuant to Section 12 of this Agreement.
6. **Confidential Information**. "Confidential Information" shall mean any information typically regarded as confidential and proprietary that has been or may hereafter be disclosed or discovered in any form, whether in writing, orally, electronically, visually or otherwise, by either Party or its respective Personnel (collectively, a “Disclosing Party”) to the other Party or its respective Personnel (collectively, a “Receiving Party”), including without limitation all information relating generally or specifically to the Disclosing Party’s business, such as patents, copyrights, inventions, designs, discoveries, improvements, formulae, product data, specifications and processes, trade secrets, customer lists and contacts, information on customer quantity and technical requirements, product pricing, pricing information, geographic and sales data, technical or commercial information, and financial information, information related to mergers or acquisitions, software, software documentation, and information concerning business plans or business strategy that is supplied to or obtained by the Receiving Party pursuant to or as a result of an Order and that is not generally known in the trade or industry. Confidential Information does not include, in each case as established by documentary evidence: (i) information that is generally known or available to the public by means other than by the Receiving Party’s noncompliance with this Agreement;(ii) was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information being or made available to Receiving Party in connection with this Agreement; (iii) was or is independently developed by the Receiving Party without reference to or use of any information disclosed by Disclosing Party. Notwithstanding the foregoing, International Data is International’s Confidential Information.
	1. Restrictions on Use of Confidential Information. The Receiving Party may use Confidential

Information of the Disclosing Party solely in connection with performance of its obligations under the Agreement, and may not access, use, copy, reproduce, or modify Confidential Information or disclose Confidential Information to any Third Person without the Disclosing Party’s express prior written consent in each instance. The Receiving Party will exercise at least the same degree of care, but in any event no less than a reasonable degree of care, to prevent unauthorized disclosure or use of Confidential Information as it employs with respect to its own information of a like nature. The Receiving Party may disclose Confidential Information only to its Personnel, consultants, and professional advisors who have a demonstrable need to know such Confidential Information in furtherance of the Receiving Party’s obligations under this Agreement, and who have agreed to be bound by confidentiality obligations at least as strict as those set forth herein, provided that in any event the Receiving Party shall be responsible for any unauthorized use or disclosure of Confidential Information by such Personnel, consultants, and professional advisors.

* 1. Compelled Disclosure. If the Receiving Party is ordered, as part of an administrative or judicial proceeding of competent jurisdiction, to disclose any of the Disclosing Party’s Confidential Information, the Receiving Party will, to the extent permitted by applicable Laws: (i) notify the Disclosing Party of such request as promptly as practicable (and in any event within five (5) Business Days after receiving the request); (ii) cooperate with the Disclosing Party, at the Disclosing Party’s expense, in seeking a protective order or similar confidential treatment for such Confidential Information; and (iii) disclose only those portions of Confidential Information strictly required for compliance with said order. No such disclosure compelled by the Receiving Party will otherwise affect the Receiving Party's obligations hereunder with respect to the Confidential Information so disclosed.
	2. Return or Destruction of Confidential Information. As promptly as practicable (and in any event within ten (10) Business Days) after the termination or expiration of the applicable Order, or otherwise upon the written request of the Disclosing Party at any time, the Receiving Party shall, at the Disclosing Party’s option, either: (i) return all Confidential Information in its possession in any tangible or intangible medium, including any copies or reproductions thereof, to the Disclosing Party, or (ii) destroy all Confidential Information in its possession in any tangible or intangible medium, including any copies or reproductions thereof, and deliver a written certification of such destruction to the Disclosing Party. Notwithstanding the foregoing, the Receiving Party may retain electronic copies of Confidential Information in accordance with its corporate document retention program or automated data backup procedures, provided that such retained copies shall remain subject to the confidentiality obligations of this Agreement at all times, and further provided that such copies shall be used solely for nonpublic, noncommercial, internal, archival purposes and for no other purpose.
	3. Injunctive Relief. Because the breach of either Party’s confidentiality obligations may cause the other Party to suffer irreparable harm in an amount not easily ascertained, any such breach, whether threatened or actual, will give the non-breaching Party the right to obtain equitable relief to enjoin or restrain the disclosure or use of such Confidential Information,  without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise.
	4. Survival. The provisions of this Section 12 will survive the termination of the relevant Order for the longer of five (5) years from the date of disclosure of the Confidential Information or three (3) years from the effective date of the applicable Order’s termination or expiration, except in the case of trade secrets, which shall be subject to the confidentiality obligations set forth herein for as long as they remain trade secrets under applicable Laws. Notwithstanding anything to the contrary in this Agreement, any confidentiality or non-disclosure agreement between the Parties that predates this Agreement will remain in effect except as expressly modified by this Agreement, and to the extent of a conflict between the express terms of such an agreement and this Section, the terms of that agreement will control.
	5. Data Security and Privacy. Without limiting any of Supplier’s confidentiality obligations hereunder, with regard to any and all Confidential Information, including International Data, Supplier shall employ the appropriate technical, physical, and organizational security measures in compliance with applicable Laws and in accordance with no less than the minimum standards attached hereto as Exhibit C and incorporated herein regarding Supplier’s use, Processing, handling, security, storage, transmission, and disclosure of such data, which standards at a minimum would constitute the safeguards and security specifications set forth in any International-approved vendor assessment form accompanying the Order. As between the Parties, International retains all rights, title, and interest to all International Data, and nothing herein shall constitute or be construed as a sale, assignment, or other transfer of any proprietary interest thereto. International may impose further requirements or restrictions on Supplier’s receipt, handling, or use of such data in light of regulatory developments, changes in industry best practices, or other issues concerning privacy, security, or consumer protection. Supplier shall strictly comply with all such collection, handling, or usage instructions for such data now or hereafter imposed by International in accordance with the foregoing, including without limitation any such instructions set forth in Exhibit C, an Order, or an accompanying vendor assessment form.
	6. Personal Data. To the extent that Supplier Processes International Data consisting of Personal Data, Supplier will do so in compliance with applicable law and the Data Processing Addendum attached hereto as Exhibit B and incorporated herein. Supplier agrees to make available, upon request, sufficient information to demonstrate compliance, including a copy of any requisite notices or consents.
1. **Representations and Warranties**. The representations and warranties set forth below are in addition to any warranties set forth in an applicable Order or elsewhere in this Agreement:
	1. General Warranties. Supplier represents and warrants that: (a) it is a corporation or other entity duly incorporated or organized, validly existing, and in good standing under the Laws of the state of incorporation or organization; (b) it has all requisite power and authority to execute, deliver and perform its obligations under this Agreement; and (c) the execution, delivery and performance of this Agreement has been duly authorized by Supplier.
	2. Software and Documentation Warranties. Supplier represents and warrants that the Software and all Services will in all material respects conform to and perform in accordance with their respective Documentation and all requirements of this Agreement, including the Service Availability Requirements in Section 5 throughout the Term. Supplier further represents and warrants that (a) all material changes to the Software and Services shall be promptly and accurately documented and made available to International; and (b) all updates to the Documentation shall be of equal or greater quality than the prior Documentation provided to International.
	3. Harmful Code. Supplier represents and warrants that the Software and Services are and shall remain free of Harmful Code. Supplier shall be liable for any and all damages caused by Harmful Code.
	4. Intellectual Property. Supplier warrants that the Software, the Documentation, and all other Intellectual Property provided by Supplier to International under this Agreement are either: (i) Supplier's original work, (ii) public domain materials, or (iii) owned by a Third Person from whom Supplier has acquired all necessary permissions to grant the rights set forth in this Agreement. Furthermore, Supplier warrants that neither its provision of the Services, including without limitation its provision of access to the Software, nor its provision of any other Intellectual Property will infringe, misappropriate, or otherwise violate the proprietary rights of any Third Person, including without limitation any Intellectual Property right.
	5. Services Warranties. Supplier represents and warrants that: (a) the Services will be performed and provided in a prompt, professional, and workmanlike manner, in accordance with industry standards with all due care and diligence; and (b) Supplier possesses the expertise and resources necessary to undertake and complete the Services in accordance with the requirements, specifications, and timeframes set forth in the Order, including without limitation any Service Level guarantees; and (c) Supplier will provide sufficient Personnel to perform the Services within the time frames agreed upon in an Order and that its Personnel have sufficient skill, training, and knowledge to perform the Services ((a)(b), and (c) collectively, the “Services Warranty”). Promptly after International provides written notice to Supplier of any nonconformance of the Services to the Services Warranty, Supplier shall, at International’s option, and without any additional Charge or other expense to International, either: (i) re-perform any Services; or (ii) refund the Charges applicable to any such Services.
	6. Compliance with Laws. Supplier represents and warrants to International that: (a) Supplier, and any Services supplied by Supplier, will comply with all applicable Laws, including without limitation Laws relating to data privacy and security, environmental matters, hiring, wages, hours and conditions of employment, international prohibitions on child labor, Subcontractor selection, discrimination, occupational health or safety, and motor vehicle safety. At International’s request, Supplier shall certify Supplier’s compliance with the foregoing. Supplier shall not utilize slave, child, prisoner or any other form of forced, involuntary or illegal labor, or engage in abusive worker treatment or corrupt business practices in fulfilling the obligations of this Agreement. Without limitation of the foregoing, Supplier further represents and warrants to International that, in performing its obligations under this Agreement: (i) it will not employ or subcontract with any Person who is a "Specially Designated National" as defined from time to time in regulations issued by the Office of Foreign Asset Control of the United States Department of the Treasury; and (ii) Supplier is not a Specially Designated National.
	7. Vendor Security. To the extent that International has requested Supplier’s completion of any vendor security assessment form, Supplier represents and warrants that its responses in such form are true and accurate, and that its current processes and procedures pertaining to data protection and information security are in full compliance therewith.
	8. Artificial Intelligence. Supplier represents and warrants that with respect to any artificial intelligence technologies and the resulting algorithms that are part of the Cloud Services (“AI”): (a) the collection and use of all data and information used to train the AI or that was otherwise input in the AI (the “Input Data”) and any outputs generated by the AI (“Output Data”) (i) comply with applicable laws, (ii) does not infringe the intellectual property rights of a third party, (iii) does not violate any contract with a third party (including without limitation any website terms of use or terms of services), (iv) was and is not biased or discriminatory data, and (v) does not contain Personal Data; (b) Supplier has implemented controls and performed testing to ensure the foregoing statements in (a) are true and accurate; (c) Supplier has complied with, and will continue to comply with, generally accepted ethical principles pertaining to the development and use of AI; and (d) International Data is not and will not be used to train, modify or enhance AI used in the Services, except for the instance of the Services that is accessible solely to International (i.e., no third party will have access to Services that have been trained, modified or enhanced in any way by International Data, or data derived from International’s Data or International’s use of the Services).
	9. Exceptions. Supplier’s warranty obligations and other obligations under this Agreement with respect to the Software are expressly conditioned upon International’s use of the Software in accordance with the terms and conditions of this Agreement, and do not include correction of Errors or delays in provision of Services that result from: (a) International’s gross negligence, use of the Software in violation of applicable Laws, or use of the Software outside the terms and conditions of this Agreement; (b) International’s failure of electrical power or air conditioning, or humidity controls that cause International’s computer failure; and/or (c) modifications made to the Software, Documentation, or Services by International without the knowledge of Supplier or its Personnel.
	10. Remedies. The rights and remedies available to International under each Order will be cumulative with and in addition to all other or legal or equitable remedies.
2. **Indemnification**
	1. General. Supplier will, at its expense, indemnify, defend and hold harmless International and its Affiliates, and their respective Personnel, successors, and assigns (each a "International Indemnitee"), from all Losses claimed by any Third Person in any claim, demand, suit or proceeding in connection with any of the following: (a) the breach or misrepresentation by Supplier of any of its obligations, representations, or warranties under this Agreement; (b) the death or bodily or personal injury of, or other legally enforceable damage incurred by, any agent, employee, customer, business invitee, visitor, or other Person caused by the breach of contract, breach of warranty, negligence, intentional or willful misconduct, or other acts or omissions of Supplier or its Personnel, agents, or Subcontractors; (c) the damage, loss or destruction of any real or personal property caused by the breach of contract, breach of warranty, negligence or willful misconduct of Supplier or Supplier Personnel; (d) misuse of any International Data or any breach of Supplier’s confidentiality, data security, or privacy obligations; and (e) claims by Supplier’s Personnel or Subcontractors that they are entitled to any benefits normally associated with employment at International, including without limitation any insurance, pension, lease cars, compensation, or tax withholdings.
	2. Intellectual Property Indemnification by Supplier. Supplier will, at its expense, indemnify, defend and hold harmless the International Indemnitees from all Losses claimed by any Third Person in any claim, demand, suit, or proceeding in connection with any allegation that the Software, the Documentation, Supplier’s Intellectual Property, and/or the Services infringe, misappropriate, or otherwise violate the proprietary right of any Third Person, including without limitation any Intellectual Property right (such claim, demand, suit, or proceeding, a "Intellectual Property Claim"). International shall notify Supplier promptly in writing and furnish Supplier with such information and assistance as Supplier may reasonably request to evaluate the Intellectual Property Claim. Supplier shall then, at its own expense and option, either: (i) settle the Intellectual Property Claim; (ii) procure for International the right to use the alleged infringing Software, Documentation, and/or Service; (iii) replace or modify the alleged infringing Software, Documentation, and/or Service in order to avoid the Intellectual Property Claim; (iv) remove the alleged infringing Software, Documentation, and/or Service and refund any Charges or other expenses paid by International to Supplier less the amounts directly applicable to International's actual usage of the infringing Software, Documentation, and/or Service; or (v) litigate the Intellectual Property Claim; provided, however, that prior to Supplier taking any of the foregoing responses, the Parties shall meet to discuss the action or actions which Supplier proposes to take in response to the Intellectual Property Claim. If the Parties are unable to agree upon the action or actions to take in response to the Intellectual Property Claim, International may, at its sole option, elect to terminate, for its convenience and without liability upon five (5) days prior written notice to Supplier, this Agreement and/or any Order incorporating the alleged infringing Software, Documentation, and/or Service. Notwithstanding the foregoing, Supplier shall be obligated to defend all Intellectual Property Claims, to pay any final judgments awarded against Supplier and/or International based upon such Intellectual Property Claims, and to comply with the indemnification procedures set forth in the following Section 14.3.
	3. Indemnification Procedures. Promptly after receipt by International of written notice of the commencement or threatened commencement of any civil, criminal, administrative or investigative action or proceeding involving a claim for which an International may be entitled to indemnification, International shall convey written notice of such claim to Supplier. However, no failure by International to notify Supplier will relieve Supplier of its indemnification obligations under this Agreement, except to the extent that Supplier is materially prejudiced by such failure. Each International Indemnitee will have the right to select its own legal counsel and experts and to control its own defense in any negotiations or litigation pertaining to a claim covered by this Section 14 (notwithstanding that Supplier shall bear the cost of the defense for the International Indemnitees). However, to the maximum extent permitted by applicable Laws and principles of legal ethics, counsel for Supplier and counsel for the International Indemnitees will work together to avoid duplication of effort or expense, in attorney’s fees or otherwise. In addition, Supplier and the International Indemnitees will make good faith efforts to coordinate their activities so as to take consistent positions in the course of negotiations or litigation. If Supplier does not participate in the defense of a claim covered by this Section 14, International Indemnitees will have the right to defend the claim in such manner as they may deem appropriate, at Supplier’s cost and expense. Supplier will promptly reimburse the International Indemnitees for all such costs and expenses, demand for which may be made periodically. Supplier will obtain prior written approval from International in respect of any proposed settlement of any indemnified claims hereunder before entering into any settlement of such claims or otherwise ceasing to defend such claims, such approval not to be unreasonably withheld. Supplier’s indemnification obligations under this Section shall survive the termination, cancellation or non-renewal of this Agreement for any reason.
3. **Liability Limitation**.
	1. Excluded Damages. INTERNATIONAL SHALL NOT BE LIABLE TO SUPPLIER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (THE "EXCLUDED DAMAGES"), WHETHER BASED UPON CONTRACT, TORT OR ANY OTHER LEGAL THEORY, RESULTING FROM OR IN CONNECTION WITH THE PERFORMANCE BY INTERNATIONAL OF ITS OBLIGATIONS UNDER THIS AGREEMENT, WHETHER FORESEEABLE OR NOT, AND EVEN IF INTERNATIONAL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH EXCLUDED DAMAGES.
	2. IN NO EVENT WILL INTERNATIONAL’S LIABILITY FOR ANY CLAIMS ARISING FROM OR RELATED TO THE SOFTWARE, SERVICE OR THE SUBJECT MATTER OF THIS AGREEMENT, EXCEED THE FEES PAID BY INTERNATIONAL TO SUPPLIER FOR THE SOFTWARE OR SERVICES IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE CLAIM.
4. **Insurance**.

Throughout the Term, Supplier will maintain, at its own expense, insurance policies of the type and in the amounts set forth below:

1. Statutory workers’ compensation insurance in accordance with the legal requirements of each country, state, territory, or locality exercising jurisdiction over Supplier and Supplier Personnel performing Services in such country, state, territory, or locality;
2. Employer’s liability insurance with a minimum limit in an amount not less than $1,000,000 per accident, covering bodily injury by accident, and $1,000,000 per policy covering bodily injury by disease, including death;
3. Comprehensive commercial general liability insurance (written on an occurrence basis and including contractual liability and products and completed operations liability insurance) in an amount not less than $5,000,000 per occurrence, general aggregate products and completed operations aggregate;
4. Professional liability or errors and omissions liability insurance to cover financial Losses due to Supplier’s errors or omissions in the performance or failure to perform its professional Service obligations or responsibilities under this Agreement, with a per claim limit in an amount not less than $2,000,000 and $2,000,000 in the annual aggregate;
5. Insurance coverage with respect to information and data protection security, information security, and cyber liability in amounts not less than $5,000,000;
6. Employee fidelity bond with Third Person liability endorsement or International added as loss payee in an amount not less than $500,000; and
7. Umbrella/excess liability in an amount not less than $10,000,000 per occurrence, with International and its Personnel to be named as additional insureds.
	1. Insurance Company Rating. All policies described above will be written by insurance companies rated at least A- by A.M. Best’s rating service or equivalent. The required insurance will provide primary and non-contributory coverage to International for claims arising out of or in connection with this Agreement.
	2. Waiver of Subrogation; No Restriction; Primary Coverage. Supplier, for itself and on behalf of its insurance carrier(s), agrees to waive any right of subrogation and has no right of recovery from International, its Personnel or its insurers. Supplier warrants that its respective insurance carriers grant them the right to agree to such advance waivers of subrogation. Supplier represents that required types and amounts of insurance will be adequate to respond to all exposure to Losses arising under this Agreement. The required limits of insurance shall not be deemed as a limitation of liability or any other cap on liability with respect to Supplier’s indemnification obligations hereunder. As between the Parties, Supplier shall be solely responsible for its payments, deductibles, retentions, self-insurance, or co-insurance obligations under the foregoing policies.
	3. Insurance Documentation. On or before the Effective Date of this Agreement, or otherwise upon International’s written request at any time during the Term, Supplier will furnish International certificates of insurance or other appropriate documentation (including endorsements as required to bind the insurers) evidencing all coverage referenced in this Section. Such certificates or other documentation will include a provision under which the applicable insurer will give at least thirty (30) days’ written notice to International before limits or scopes of coverage are materially altered or insurance is cancelled or non-renewed. In addition, Supplier will promptly advise International in writing if it becomes aware that required limits or scopes of coverage are materially altered or that required insurance is cancelled or non-renewed.
8. **Termination**.
	1. Termination for Convenience. Unless otherwise agreed upon in an Order, International may terminate this Agreement, in whole or in part without cause, for any reason or for no reason, at any time during the Term upon thirty (30) days' written notice to Supplier.
	2. Termination for Material Breach. Either Party may terminate this Agreement immediately by written notice to the other Party if the other Party is in material breach of any of its respective representations, warranties, or obligations under this Agreement, provided that the non-breaching Party first gives written notice describing said breach to the other Party, and such breach remains uncured for thirty (30) days following the other Party’s receipt of such notice.
	3. Termination for Insolvency. International may terminate this Agreement upon ten (10) days’ written notice to Supplier, if Supplier: (i) provides International grounds for insecurity; (ii) files for bankruptcy; (iii) becomes or is declared insolvent or is the subject of any proceedings related to its liquidation or insolvency, or a receiver or similar officer has been appointed for Supplier in connection with such proceedings; (iv) makes an assignment for the benefit of all or substantially all of its creditors; or (v) enters into an agreement for the composition, extension or readjustment of substantially all of its obligations.
	4. Effect of Termination. Subject to Section 17.5, upon termination of this Agreement or an Order, Supplier shall cease work and International shall pay to Supplier all fees and expenses due through the effective date of termination in accordance with the payment terms herein. Supplier shall refund to International the pro-rata portion of any pre-paid fees remaining for the unused period.
	5. Termination Assistance. Upon expiration or termination of an Order for any reason, Supplier shall, at International’s written request, provide transition assistance Services as reasonably requested by International for a period of up to ninety (90) days after the Termination Date (the "Transition Assistance Period"). During the Transition Assistance Period, Supplier shall cooperate with International and its designees and provide the assistance reasonably requested by International or its designees to allow International’s business operations to continue without material interruption or adverse effect and to facilitate the orderly transfer of responsibility for the Software or Services then being provided by Supplier to International or its designees, including the following:
		1. Continuing to perform any or all of the Services then being furnished by Supplier at the rates set forth in the Order;
		2. Developing and implementing, with the assistance of International or its designees, a plan for the transition of the Services to International or its designees upon such terms and at such rates as shall be mutually agreed upon between the Parties; and
		3. Providing training for International Personnel or its designees in the performance of any Services then being performed by Supplier upon such terms and at such rates as shall be mutually agreed upon between the Parties.
9. **Corruption Prevention and Trade Compliance.**
	1. Supplier will conduct its business operations in accordance with all applicable laws and regulations including, but not limited to, the United States Foreign Corrupt Practices Act, the UK Bribery Act, U.S. Foreign Asset Control Laws, and U.S. Export Control Laws, and will not attempt to directly or indirectly improperly obtain any benefit by payments, the giving of anything of value or other actions contrary to any applicable law or regulation; and Supplier has not made and will not make, directly or indirectly, any payment of funds (a) to any foreign governmental official or any representative or employee of a foreign governmental entity, (b) to any employee or representative of any purchaser, or (c) which is illegal under any applicable law inside or outside of the country in which Supplier will provide the goods or Services including but not limited to, the U.S. Foreign Corrupt Practices Act and UK Bribery Act, all as may be amended from time to time; and Supplier has not requested the return, and will not accept the return, directly or indirectly, of any portion of the funds paid to it by International or paid by any end purchaser of International Products or the Services, nor will any director, officer, or employee of the Supplier so request or accept any such funds.
	2. Neither Supplier nor any employee, agent, or principal of Supplier nor any of their immediate families is or will be (a) a foreign governmental official or any employee or representative of a foreign governmental entity, or (b) an officer or employee or representative of or holder of a beneficial interest in any end purchaser of International products or the Services sold by Supplier pursuant to this Agreement and any resulting subcontract agreement and/or Statement of Work; and no government entity or end purchaser of International products has or will have a beneficial interest in Supplier’s business; and if Supplier assists in the actual sale of International goods, Supplier will investigate the identity of the end-user of the goods to be sold and will provide documentation as requested by International regarding the ultimate end-user and the use of goods to be sold; and Supplier hereby agrees that it will put into place for itself and for all related companies, policies, procedures, and guidelines with respect to all applicable laws and regulations including, but not limited to the U.S. Foreign Asset Control Laws, U.S. Export Control Laws, the UK Bribery Act, and the U.S. Foreign Corrupt Practices Act (“FCPA”) and that Supplier will provide compliance and corruption prevention training to its employees and representatives as well as employees and representatives of all related companies on an as-needed basis and not less than annually. Supplier further acknowledges that International shall have the right to terminate this Agreement if Supplier fails to institute such policies, procedures, and guidelines within sixty (60) days of the Effective Date of this Agreement or if Supplier fails to provide the above-referenced training on an annual basis.
	3. Supplier acknowledges that International’s corporate policy prohibits payments made to induce a foreign government official to perform a routine duty or service, commonly referred to as “facilitating payments,” and Supplier agrees that no such payments will be made or offered by Supplier to carry out its obligations in connection with this Agreement and any resulting subcontract agreement. Supplier shall obtain and maintain any and all licenses, concessions, and permits Supplier is required to obtain under any applicable law or regulation for Supplier to carry out its obligations in connection with this Agreement and any resulting subcontract agreement and/or Statement of Work; and Supplier has not been convicted of, pleaded guilty to or been charged with any offense involving fraud, export violations, corruption, or bribery in any jurisdiction or country; and Supplier shall keep accurate books and records and shall preserve all books, records, data, and evidence of procedures and policies relating to the Supplier’s compliance with the foregoing and shall make all books, records, data, and evidence of procedures and policies relating to compliance with the foregoing available for examination and audit by upon request of International or any Government including the U.S. Government and shall provide the reasonable assistance of Supplier’s employees with knowledge of compliance efforts in connection with any such examination or audit. Supplier will execute a certificate containing the above representations and warranties as reasonably requested by International throughout the term of this Agreement and any resulting subcontract agreement and/or Statement of Work.
	4. International shall have the right to terminate this Agreement immediately upon forming a reasonable belief that Supplier has defaulted or has otherwise failed in the performance any of the requirements of this Corruption Prevention and Trade Compliance Section as set forth above.
10. **U.S. Export Controls and Compliance.** Certain technical data, technology, software, defense services, defense articles, and commodities (collectively “Export-Controlled Material”)  are controlled by either the International Traffic in Arms Regulations (“ITAR”, 22 CFR 120-130) or the Export Administration Regulations (“EAR”, 15 CFR 730-774) and require a valid license or other approval from the U.S. Department of State or Department of Commerce prior to export, transfer, re-export, or retransfer to a “Foreign National” or “Foreign Person” (as these terms are defined at EAR § 734.2(b)(2)(ii) and ITAR § 120.16, respectively). An export, transfer, re-export, or retransfer includes the provision of defense services or the disclosure or transmission (including oral or visual disclosure) of technical data, technology, or software to a Foreign National or Foreign Person, whether such activity takes place in the U.S. or in another country. Supplier shall not make any temporary or permanent export, transfer, re-export, or retransfer of International-origin Export-Controlled Materials to a third party Supplier must promptly notify International, in writing, if International-origin Export-Controlled Material is transferred to any unauthorized Foreign National or Foreign Person. Supplier will defend, indemnify and hold International harmless from and against any and all claims, judgments, costs, awards, expense (including reasonable attorneys' fees) and liabilities of any kind arising from Supplier's noncompliance with applicable United States or foreign government regulations, statutes, decrees or other obligations regarding the use or transfer of any International-origin Export-Controlled Material by Supplier.
11. **Supplier Diversity Program.** Supplier agrees to provide maximum practical opportunities which are fair and equitable to qualified “Small Business Concerns, Minority-Owned Business Concerns (Small Disadvantaged-Owned Business Concerns), Women-Owned Business Concerns, Veteran-Owned Business Concerns, Service Disabled-Owned Veteran Business Concerns, and HUBzone-Certified Business Concerns” as required by Federal Laws, 97-507, 99-661, 100-656, 103-355, 105-135, and 106-50. International’s policy requires that all Suppliers, except small business concerns defined above, receiving contracts from International in excess of six hundred fifty thousand dollars (US $650,000), will:
* set a twenty-three percent (23%) minimum spending goal to further subcontract with Small Business Concerns;
* set a five percent (5%) minimum spending goal to further subcontract with Minority-Owned Business Concerns (Small Disadvantaged Owned Business Concerns);
* set a five percent (5%) minimum spending goal to further subcontract with Women-Owned Business Concerns; and
* set a three percent (3%) minimum spending goal to further subcontract with Veteran-Owned Business Concerns, Service Disabled-Owned Veteran Business Concerns, and HUBzone Certified Business Concerns commensurate with the Supplier’s sales during each year of this Agreement to International. Supplier further agrees to submit an annual written plan to International by August 31st outlining how the above stated goals will be achieved. Supplier also agrees to report its accomplishment toward the above goals on a quarterly basis in the International electronic second-tier reporting system [www.International.com/supplierdiversityportal](http://www.navistar.com/supplierdiversityportal).

Supplier acknowledges and agrees that, for purposes of satisfying the foregoing goals:

* such goals apply only to those goods and services purchased by Supplier in the United States; and
* purchases of goods and Services may be entitled to credit toward more than one of the foregoing goals depending on the status of the subcontractor—e.g., a subcontract with a “Minority Owned Business Concern” may also qualify as a subcontract with a “Small Disadvantaged-Owned Business Concern” and/or a “Women-Owned Business Concern.”
1. **Code of Conduct**. Supplier agrees to comply with International’s Code of Conduct for Suppliers & Business Partners, which is set forth at [www.navistarsupplier.com [navistarsupplier.com]](https://urldefense.com/v3/__http%3A/www.navistarsupplier.com__;!!LFgXvAMM-w!1ENSfCD4pBeBlikCdWIh4Rik0TaMpsC3kQirtg34ztUS8AHSVw8YuXHoGgDKjqyip0RunkBLrk9EQogv8igp9hbDaFXxiQ$) (as may be updated from time to time), when conducting business with International. Supplier agrees not to engage in any activity that could cause International or any of International’s employees to violate the International’s Code of Conduct for Suppliers & Business Partners.
2. **Miscellaneous**.
	1. Publicity; Non-Disparagement. Neither Party will use the other Party’s name, trademarks or service marks or refer to the other Party directly or indirectly in any media release, public announcement, promotional or marketing materials, customer list, business presentation, or other public disclosure relating to this Agreement or its subject matter without first obtaining prior written consent from the other Party in each instance, which consent may be withheld at said other Party’s sole discretion. Supplier shall refrain, and shall ensure that its Personnel and Affiliates refrain from making any negative or disparaging comments about International, its Affiliates, or their respective products and services throughout the Term and for a period of no less than one (1) year after the termination or expiration of this Agreement.
	2. Notices. All consents, notices, requests, demands, and other communications to be given or delivered under this Agreement will be in writing and will be deemed given: (i) when delivered personally; (ii) on the second Business Day when sent by a nationally recognized overnight courier; or (iii) on the third Business Day after being mailed by certified mail, return receipt requested.

**If to International Motors LLC**: International Motors, LLC

 2701 International Motors LLC Drive

 Lisle, Illinois 60532

 Attn: <insert International Motors LLC Category Manager

name>

 Phone: <insert phone number>

 E-mail: <insert email address>

With copies to: International Motors LLC, Inc.

 2701 International Motors LLC Drive

 Lisle, Illinois 60532

 Attn: General Counsel, International Motors LLC Law Department

 Fax: (331-332-2261)

**If to Service Provider**: <insert Service Provider name>

 <insert address, city, state, zip>

 Attn: <insert name and title>

 Phone: <insert phone number>

 E-mail: <insert email address>

With copies to: Attn: <insert name and title>

 Phone: <insert phone number>

 E-mail: <insert email address>

* 1. Assignment. Neither Party may assign or sublicense this Agreement or any portion thereof without the other Party’s express prior written consent, except that International may assign or sublicense all or a portion of its rights and responsibilities under this Agreement to an Affiliate or to any entity that succeeds to or acquires all or substantially all of the business of International through a Change of Control Event. Any attempted assignment or sublicense without such consent will be void. Subject to the foregoing restrictions on assignment, the rights and duties of the Parties hereunder shall inure to the benefit of and be binding upon their respective successors and permitted assigns and sublicensees.
	2. Relationship of the Parties. International and Supplier are independent contractors, and nothing contained in this Agreement shall constitute or be construed as creating any partnership, joint venture, agency relationship, or employment relationship between the Parties.
	3. Approvals and Similar Actions. Where agreement, approval, acceptance, consent or similar action by either Party is required by any provision of this Agreement, such action will not be unreasonably delayed or withheld. If regulatory or other governmental approval of the use of the Software and/or provision of Services in any state is required by any Law, Supplier, at its expense, will obtain such approval in sufficient time to permit the use of the Software and/or provision of Services in such state in accordance with the Order, and will furnish an authenticated copy of each such approval to International.
	4. Written Modification; No Waiver. This Agreement may be modified only by a written instrument duly executed by the Parties. No delay or omission by either Party to exercise any right or power under this Agreement will impair such right or power or be construed to be a waiver of the delay or omission. A waiver by either Party of any of the obligations to be performed by the other Party or any breach thereof will not be construed to be a waiver of any succeeding breach thereof or of any other obligation contained in this Agreement.
	5. No Third-Party Beneficiaries. This Agreement for the benefit of the Parties and is not intended to confer any rights or benefits on any Third Person.
	6. Equitable Relief. In any action brought by International against Supplier under this Agreement, Supplier acknowledges and agrees that monetary damages are not a sufficient remedy for any actual, anticipatory or threatened breach of the Order and that, in addition to all other rights and remedies that International may have, International shall be entitled to specific performance and injunctive equitable relief as a remedy for any such breach, plus International's reasonable attorneys' fees.
	7. Severability. If any term or condition in this Agreement is invalid or unenforceable under any applicable Law, said term or condition will be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with said applicable Law. The remaining provisions of the Order will remain in full force and effect.
	8. Governing Law; Venue. The Order will be governed by the Laws of the State of Illinois and the United States of America, without reference to its principles of conflict of Laws. The Parties hereby acknowledge and agree that the provisions of the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. The Parties agree that any claim, suit, dispute, or other legal proceeding arising under this Agreement shall be brought exclusively before the state and federal courts sitting in Cook County, Illinois, and the Parties hereby expressly and irrevocably submit to the jurisdiction thereof for the resolution of all such claims, suits, disputes, or proceedings.
	9. Entire Agreement. Except as otherwise expressly provided in a writing signed by both Parties, this Agreement constitutes the final, entire, and exclusive agreement between the Parties with respect to the subject matter hereof and all prior or contemporaneous oral agreements, representations, statements, understanding, or undertakings are superseded by this Agreement Any contrary or additional pre-printed terms and conditions imprinted on or embedded in a purchase or sales order, order acknowledgement, invoice, quote, shrink-wrap terms, browse-wrap terms, click-wrap or click-through terms, or other business form or correspondence shall have no binding effect or supersede the terms of this Agreement.
	10. Jury Trial Waiver. International AND SUPPLIER ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED BY CONTRACT. EACH OF International AND SUPPLIER, AFTER CONSULTING (OR HAVING THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS CHOICE, HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY ORDER.
	11. Claims by Supplier. Any legal action proceeding by Supplier under any Order must be commenced no later than one (1) year after the earlier of: (i) the date that the breach or other event giving rise to Supplier’s claim occurs; or (ii) the date that Supplier becomes aware of the facts and circumstances giving rise to the existence of such claim.
	12. Headings. The section headings contained herein are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

|  |  |
| --- | --- |
|  | International Motors, LLC |
| **Name:** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Title:** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Date:** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Signature:** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

|  |  |
| --- | --- |
| **Supplier Name:** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Name:** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Title:** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Date:** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Signature:** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**Exhibit A**

**Support Services**

**Definition of Support Severity and Response Times**

Supplier will provide support services based on error reports logged by International (“Error Reports”). International shall assign priorities to the errors (“Errors”) that are reported in accordance with the priority level definitions below. Supplier and International will work together to achieve consensus should there be any disagreement in assigned priorities in connection with such Errors; provided, however, that International’s priority rank shall control until any disagreements are resolved. Priorities assigned Errors may change with time if mutually agreed to by both parties. For example, an issue may be initially categorized by International as a “Low” priority and upon further investigation; it may be mutually concluded by Supplier and International that the issue should be reclassified as a “Medium” priority.

A “**Critical**” or “**Severity 1**” Error renders the Software completely unusable Such Error may render the Software or critical feature of the Software nearly unusable or inoperable. Access is denied to all Authorized Users and no workaround is available.

A “**High**” or “**Severity 2**” Error materially impairs substantial, but not critical, functions of the Software. If a workaround is available (including, but not limited to a procedural workaround), performance may be degraded or functions limited.

A “**Medium**” or “**Severity 3**” Error is an inconvenience on inconsistent behavior, which does not impede the normal functioning of the Software. It could be an issue that occurs inconsistently, or moderately impacting multiple users, or a more sizeable inconvenience which impacts a single user.

A “**Low**” or “**Severity 4**” Error has a small degree of significance, is a cosmetic change, or is a “one off” case. A “one off” case occurs when the Error occurs one time and cannot be recreated. These are Errors that do not impact the daily user. A Low Error may be something that business is willing to live with for a period of time, but would eventually want changed. The Software is not impaired but could be improved.

**Error Investigation & Reporting Procedures**

In order to correct an Error, Supplier will investigate the Error that is reported by International or which otherwise become known to Supplier. Supplier will diagnose the Error and will assist International until the Error is resolved, including resolved as a bug fix or product enhancement. Supplier will work jointly with International during investigation in such a way that current status will be known to International. Supplier will respond in accordance with the priority level as described below. With the exception of Critical and High Errors, all time intervals are expressed in Business Hours and Business Days.

**Critical** - Within thirty (30) minutes of reporting a Critical Error to Supplier, Supplier will acknowledge receipt of notification and will indicate when diagnosis will begin. Within one (1) hour after International reports such Error to Supplier, Supplier will assign one or more personnel to begin investigating the Error, will begin diagnosing the Error and will assist International on a continuous basis until the Error is resolved. Supplier will ensure that appropriate personnel will be available 24x7x365 to assist with the problem. Supplier will provide International with status updates every hour by a method that is mutually acceptable and agreeable to both parties.

**High** - Within two (2) hours of reporting a High Error to Supplier, Supplier will acknowledge receipt of notification and will indicate when diagnosis will begin. Within four (4) hours after International reports such Error to Supplier, Supplier will assign one or more personnel to begin investigating the Error and will assist International on a continuous basis until the Error is resolved. Supplier will provide International with status updates every four (4) hours on the status of investigating any High Error by a method that is mutually acceptable and agreeable to both parties.

**Medium** - Within one (1) Business Day of reporting a Medium Error to Supplier, Supplier will acknowledge receipt of notification and will indicate when diagnosis will begin. Within two (2) Business Days of notification of the Error, Supplier will assign one or more personnel to begin investigating the Error until the Error is resolved. All Medium Errors are worked on during Business Hours and Supplier will use reasonable efforts to resolve, provide a workaround, or correct the Issue in a future Update. Supplier will provide International with status updates daily on the status of investigating any Medium Error by a method that is mutually acceptable and agreeable to both parties.

**Low** - Within three (3) Business Days of International reporting a Low Error to Supplier, Supplier will acknowledge receipt of notification. Within ten (10) Business Days of International reporting a Low Error to Supplier, Supplier will assign one or more personnel to begin investigating the Error.

**Support Response Table**

|  |  |  |  |
| --- | --- | --- | --- |
| **Severity**  | **Response**  | **Resource Assigned Within**  | **Updates** |
| **Critical (S1)**  | 30 Minutes  | 1 Hour  | Every 1 Hour  |
| **High (S2)**  | 2 Hour  | 4 Hours  | Every 4 Hours  |
| **Medium (S3)**  | 1 Business Day  | 5 Business Days  | Weekly  |
| **Low (S4)**  | 3 Business Days  | Based on Resource Availability  | On Request  |

**Exhibit B**

**Data Processing Addendum**

This Agreement is entered into between

International Motors LLC. (“**Controller**”)

2701 International Drive

Lisle, Illinois 60532

USA

and

Company Name (“**Processor**”)
[*Address
City, State, Zip code
Country*](https://www.google.com/maps/dir/2701%2BNavistar%2BDrive%2BLisle%2BIL%2B60532)

**Preamble**

Controller and Processor have entered into a Master Software-as-a-Service Agreement, effective *Month XX, 20XX*, (the “**Agreement**”). This Data Processing Addendum (“**Addendum**”) establishes the terms and obligations for the Processing of Personal Data (as defined below) by Processor on behalf of Controller subject to Data Privacy Laws (as defined below). In the event of a conflict between any of the provisions of this Addendum and the provisions of the Agreement the provisions of this Addendum shall prevail.

**1. Definitions**

* 1. **Data Privacy Laws**

Data Privacy Laws means all applicable laws and regulations applicable to the Processing or protection of Personal Data including but not limited to (i) US state and federal data laws including but not limited to (a) the data security breach notification laws and data security laws of the various states of the US and other privacy, security, labor, and consumer protection laws; and (b) the California Consumer Privacy Act of 2018, (ii) Mexico’s Federal Law on the Protection of Personal Data in Possession of Private Parties, and (iii) Canada’s Personal Information Protection and Electronic Documents Act, each as they may be adopted, implemented, superseded or amended from time to time.

* 1. **Personal Data**

Any information that identifies, relates to, describes, can be used to identify, or could be reasonable linked directly, or indirectly, with a natural person or household, and may include, but is not limited to, any combination of the following, first and last name (full name), email address, postal or other physical address, internet protocol address, social security number (SSN), driver’s license number, passport number, health care information, criminal history, electronic network activity, credit card information, employee photo, geolocation, vehicle identification number (VIN), or biometric data. Personal Data can also include one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, or social identity of an individual in combination with a unique identifier for that person. Personal Data includes any information that is protected as “personal information,” “personal data,” “personally identifiable information” or other equivalent term under Data Privacy Laws.

* 1. **High-Risk Personal Data**

Personal Data which if lost, compromised, or disclosed without authorization, could result in substantial harm to an individual. This includes but is not limited to social security number (SSN), electronic personal health data (ePHI), passport information, etc.

* 1. **Controller**

Natural or legal person or entity (data provider) which, alone or jointly with others, determines the purposes and means of the Processing of Personal Data.

* 1. **Processor**

Legal person or entity (data recipient) responsible for Processing Personal Data on behalf of the Controller.

* 1. **Data Subject**

The identified or identifiable natural person to whom the Personal Data refers, e.g., employees of a company or contacts of a customer.

* 1. **Processing**

Any manually or automatically executed operation in connection with Personal Data, particularly collection, storage, alteration, transfer, disclosure, and destruction of Personal Data.

* 1. **Subprocessor**

Any natural or legal person or entity appointed by the Controller or Processor to Process Personal Data on behalf of the Processor.

1. **Purpose of Processing**

*Provide the high-level purpose for processing of Personal Data*

1. **Data Subjects and Categories of transferred Personal Data**
	1. **Categories of Data Subjects**

*i.e., Employees, Customer, etc.*

* 1. **Categories of Personal Data**

*i.e., Name, Address, Phone number etc.*

* 1. **Categories of High-Risk Personal Data**

*i.e., SSN, Passport Photo, Driver’s license number, etc.*

1. **Details of Processing**

**Processing Operation 1**

**Description**: *E.g., Process weekly employee payroll*

**Purpose:** *E.g., Payroll Administration*

**Roles**:

International Motors acts as [x]  Controller / [ ]  Processor / [ ]  Joint Controller

*Processor Company Name* acts as [ ]  Controller / [x]  Processor / [ ]  Joint Controller

**Processing Operation 2**

**Description**: *E.g., Process weekly employee payroll*

**Purpose:** *E.g., Payroll Administration*

**Roles**:

International Motors acts as [x]  Controller / [ ]  Processor / [ ]  Joint Controller

*Processor Company Name* acts as [ ]  Controller / [x]  Processor / [ ]  Joint Controller

1. **Data Privacy Laws**

Processor shall comply with Data Privacy Laws in relation to the Processing of Personal Data under this Agreement.

1. **Technical and Organizational Security Measures**

Processor shall implement and maintain reasonable technical and organizational measures to protect the transferred Personal Data from loss, unauthorized access, and unauthorized disclosure, which any event shall meet the minimum requirements identified in Exhibit C of the Agreement.

1. **Limitations on the Use of Personal Data**

Processor agrees to process Personal Data only to the extent necessary to perform its obligations as set forth in the Agreement and in accordance with the terms of this Schedule, which together constitute Controller’s written instructions. The restrictions set forth herein shall not restrict Processor’s ability to Process Personal Data to the extent doing so is required by applicable laws. Processor shall not share any Personal Data received under the Agreement with any unauthorized person or entity, for any use apart from the legitimate Processing activities described in the Agreement and this Schedule. Processor acknowledges and agrees that Processor (a) understands the obligations and restrictions imposed on it by Data Privacy Laws in its role as a Processor; (b) will comply with all such obligations, including providing no less than the level of privacy protection required by Data Privacy Laws; and (c) will notify Controller immediately if Processor can no longer meet its obligations under Data Privacy Laws or this Schedule. Processor will further notify Controller immediately if it believes compliance with any Controller instruction infringes or violates any Data Privacy Law. Controller reserves the right to take reasonable and appropriate steps to help ensure that Processor Processes Personal Data in a manner consistent with Controller’s obligations under Data Privacy Laws, including without limitation, the right upon notice to stop and remediate any unauthorized Processing of Personal Data.

Without limiting Processor’s obligations under this Section, Processor will not:

1. retain, use, or disclose Personal Data for any other purpose other than to perform its obligations under the Agreement, which for the avoidance of doubt prohibits Processor from retaining, using, or disclosing Personal Data outside the direct business relationship with Controller or for any other purpose, including any commercial purposes other than the business purposes specified in the Agreement and this Schedule; or
2. “sell” or “share” (as those terms are defined by Data Privacy Laws) Personal Data; or combine or update Personal Data with Personal Data Processor receives from or on behalf of another person or entity or collects from its own interactions with a Data Subject except as expressly permitted under Data Privacy Laws.
3. **Data Subject Rights**

Processor shall promptly inform the Controller of requests from Data Subjects addressed directly to the Processor. Controller shall be responsible for handling such requests of Data Subjects and Processor shall not respond to any such request unless directed to do so by the Controller. Processor will reasonably assist the Controller in the handling such requests.

1. **Processor Assistance**

The Processor shall provide all reasonable assistance to the Controller, based upon the nature of Processing and the Personal Data available to the Processor, in order to assist the Controller to comply with its obligations under the Data Privacy Laws. Processor will assist Controller in meeting Controller’s compliance obligations regarding undertaking privacy and data protection impact assessments and related consultations of supervisory authorities.

1. **Sub-Processors**

To the extent that the use of Subprocessors is required by the Processor to fulfill its obligations as set forth in this Agreement, Controller authorizes the use of any such Subprocessors to process such Personal Data. If Processor engages any Subprocessors that will Process Personal Data, Processor shall enter into a written agreement, with each Subprocessor. This agreement must comply with the Data Privacy Laws and impose similar obligations on Subprocessor as those imposed on Processor under this Schedule. Processor shall take reasonable steps to select and retain Subprocessors that can maintain appropriate safeguards for the Personal Data and periodically assess these Subprocessors based on the risk they present Personal Data and the continued adequacy of their safeguards. Processor shall immediately cease working with such Subprocessor, and notify Controller, if Processor deems the Subprocessor’s safeguards insufficient in meeting the requirements of this Schedule and Data Privacy Laws, and shall notify Controller of any replacement. Processor shall remain liable to Controller for any acts or omissions of its Subprocessors.

1. **Data Breaches**

Processor shall notify the Controller in writing without undue delay, and in no event later than 48 hours, after becoming aware of any actual or suspected accidental or unauthorized access, acquisition, use, modification, disclosure, loss, destruction of, unavailability of, or damage to Personal Data or information systems on which Personal Data is stored, Processed, or transmitted (a “Personal Data Breach”) . Processor shall (1) promptly investigate the Personal Data Breach; (2) provide Controller with sufficient details of the Personal Data Breach to allow Controller to meet any obligations under Data Privacy Laws to report or inform Data Subjects or relevant regulators of the Personal Data Breach; and (3) cooperate, and require any Subprocessor to cooperate, with Controller in the investigation, mitigation, notification, and remediation of any such Personal Data Breach. Unless required by any law applicable to Processor, Processor will not notify any individual or any third party other than law enforcement of any actual or suspected Personal Data Breach in any manner that would identify, or is reasonably likely to identify or reveal the identity of, Controller, without first obtaining written permission of Controller.

To the extent incurred with due to Processor’s or any Subprocessor’s action or inaction or violation of this Schedule or the Agreement; Processor shall be responsible for: (a) costs incurred by Controller as a result of the Personal Data Breach, including without limitation forensics, e-discovery, information technology, attorneys, public relations, and the cost of providing notice to affected Data Subjects; (b) the cost of providing notice to regulators, credit bureaus, and other required entities, including required media notices; (c) the cost of providing affected Data Subjects with credit monitoring and protection services for twelve (12) months (or longer, if required by Data Privacy Laws) to the extent the disclosure of the affected Data Subject’s Personal Data could lead to a compromise of the Data Subjects’ credit or credit standing or if otherwise required by Data Privacy Laws; (d) the cost of any other legally required or industry standard measures; and (e) fines or penalties attributable to the Personal Data Breach.

1. **Duration of Processing / Deletion of Data**

Processor agrees to process and retain Personal Data only for as long as is necessary to fulfil its obligations under this Agreement and as needed to comply with legal obligations, Data Privacy Laws, other applicable laws, and data retention policies. Upon termination of this Schedule or any earlier termination of the Processor’s obligation to process Personal Data, and as otherwise directed by the Controller, the Processor shall either (a) securely destroy the Personal Data and all copies thereof; or (b) return or transfer the Personal Data to the Controller or such other third party as the Controller may direct. In either instance, Processor will provide Controller with written assurance of compliance with this section. In the event that Processor has a legal obligation to retain Personal Data, Processor will return or destroy any Personal Data retained following termination in the manner contemplated in this Section as soon as possible after such legally required retention period has ended.

1. **Audit**In addition to any audit rights Controller may have under the Agreement:
	1. Processor shall allow for and contribute to audits requested by the Controller to demonstrate compliance to its obligations as set forth in this Schedule and shall assist and support Controller in the event of an investigation by any law enforcement body or regulator, including a data protection or similar authority, if and to the extent that such investigation relates to Personal Data handled by Processor in accordance with this Schedule..
	2. Controller will send any request for an audit to the Processor with at least 4 weeks’ notice.
	3. Controller and Processor will discuss and agree in advance on the reasonable start date, scope, and duration before commencement of any such audits.
	4. Any audit requested will be at the expense of the Controller, unless such audit identifies a material noncompliance by Processor with this Schedule or Data Privacy Laws in which case Processor will reimburse Controller all such costs.
	5. Processor may object to any third-party auditor appointed by the Controller to conduct an audit if the auditor is, in the Processor's reasonable opinion, not suitably qualified or independent or a competitor of the Processor. Any such objection will require the Controller to appoint another auditor or conduct the audit itself.
2. **Point of Contact / Responsible Departments**

International Motors LLC

Data Protection Office

DPO@international.com

*Processor Company Name*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. **Signatures**

**Processor**

|  |  |
| --- | --- |
| **Company Name:** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Name:** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Title:** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Date:** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Signature:** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**Controller**

|  |  |
| --- | --- |
| **Company Name:** | International Motors, LLC |
| **Name:** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Title:** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Date:** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Signature:** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**Exhibit C**

**Minimum Technical and Organizational Security Measures**

This Exhibit C is a made a part of and is incorporated into the Master Software-as-a-Service Agreement (the “Agreement”) between Supplier and International and outlines the minimum-security requirements Supplier must meet (“Information Security Standards”). Any capitalized terms not defined herein have the same meaning as the Agreement. In the event a mutually executed Order, statement of work, or other agreement between International and Supplier specifies more stringent or comprehensive security obligations, such enhanced requirements will supersede the requirements of this Exhibit C.

**Subcontractors**

Supplier must ensure that all subcontractors who handle International Data are informed about, and adhere to, the Information Security Standards, and such Information Security Standards apply to such subcontractors to the same extent as they apply to Supplier. Supplier is fully responsible and liable for its subcontractors’ compliance with these Information Security Standards.

**Written Information Security Program**

Supplier must maintain and enforce a written information security program, including policies, standards, and procedures that align with industry-standard frameworks such as NIST Cybersecurity Framework (CSF), NIST SP 800-53, and ISO/IEC 27001. Supplier must provide International with information related to its written information security program, including providing supporting documentation, upon International’s request. Such request may include responding to International’s vendor security questionnaire. In addition, Supplier must maintain documentation and governance around any generative AI or machine learning tools used in service delivery.

**Risk Assessments**

Supplier must conduct periodic risk assessments of its information security program to identify reasonably foreseeable internal and external threats to the confidentiality, integrity, availability, and security of International Data (as defined in the Agreement) and systems. These assessments must evaluate the adequacy of existing safeguards and identify any risks that could result in unauthorized disclosure, misuse, alteration, destruction, or other compromise of such data or systems. Supplier must design, implement, and maintain appropriate safeguards to mitigate or accept identified risks based on the assessment findings. Risk assessments must include evaluation of AI-generated content, insider threats, misconfigurations in cloud platforms (e.g., Azure, AWS), and evolving regulatory impacts such as changes in global data protection laws.

**Access Controls**

Supplier must implement and periodically review access controls, including technical and organizational measures and, as appropriate, physical controls to 1) authenticate and permit access only to authorized users to protect against the unauthorized access to the International Data or systems and 2) limit authorized users’ access only to the International Data or systems that such users need to perform their duties and functions (i.e., on a “need to know” basis).

Supplier must implement multi-factor authentication, wherever feasible, for any individual accessing any information system housing the sensitive International Data.

**Data Encryption**

Supplier must encrypt all International Data it holds or transmits, both in transit and at rest. If encryption is deemed infeasible for certain International Data, Supplier may apply effective alternative compensating controls to ensure equivalent protection.

**Secure Development**

Supplier must adopt secure development practices for all internally developed applications used to transmit, access, or store International Data or to access Customer systems. Additionally, Supplier must establish procedures to evaluate, assess, and test the security of any externally developed applications it uses for the same purposes.

**Change Management**

Supplier must implement change management procedures to ensure that all modifications to its technology and information assets are properly tested, approved, documented, and monitored. Any changes to applications—excluding those related to corrective maintenance—must be communicated to the International before deployment to production and must enable International to take appropriate measures in the event of significant changes or potential disruptions.

**Logging and Auditing**

Supplier must create, protect and retain information system log records to the extent needed to enable monitoring, analysis, investigation and reporting of unlawful, unauthorized or inappropriate information system activity. Supplier must conduct regular reviews for indications of inappropriate or unusual activity, and must protect log records from unauthorized access, unauthorized release, loss, modification, falsification, and deletion.

**Physical Security**

Supplier must maintain commercially reasonable security systems at all sites at which an information system that uses or houses the International Data. Supplier reasonably restricts access to such International Data appropriately and has in place practices to prevent unauthorized individuals from gaining access to the International Data.

**Secure Destruction and Disposal**

Supplier must implement procedures to ensure that International Data stored on any storage media is irretrievably destroyed prior to disposal or reuse. If storage media must be removed from the premises for maintenance or other operational purposes, Supplier must apply appropriate safeguards to prevent unauthorized access or recovery of International Data stored on such media.

**Network Security and Virus/Malware Controls**

Supplier must maintain network security using industry-standard practices and commercially available tools, including up-to-date endpoint protection (e.g., antivirus and anti-malware) on all systems handling International Data. Continuous monitoring and scanning must be in place to detect and prevent threats and unauthorized access. Supplier must also regularly test and monitor the effectiveness of key security controls, detect and respond to actual or attempted attacks, and update safeguards as necessary.

**Vulnerability and Patch Management**

Supplier must implement procedures and technologies to identify, assess, and mitigate security vulnerabilities and threats. Supplier must regularly evaluate vulnerabilities in applications and network devices and apply security patches promptly. If a patch cannot be applied immediately, appropriate mitigating controls must be implemented and maintained to manage the risk until the patch is deployed.

**Third-Party Security Assessments**

Supplier must maintain a current SOC 2 Type II report issued by an independent auditor, covering the Trust Services Criteria relevant to the services provided (e.g., Security, Availability, Confidentiality).

If a SOC 2 Type II report is not available, Supplier must maintain an equivalent certification—such as ISO/IEC 27001, TISAX, or CSA STAR—appropriate to the criticality of the data handled and the systems used. Supplier must provide copies of the most recent SOC 2 Type II report or other equivalent certificates upon request, subject to reasonable confidentiality obligations.

If Supplier processes or stores personal data, controlled technical data, financial data, or other sensitive or regulated data, Supplier must demonstrate alignment with relevant regulatory frameworks (e.g., GDPR, CCPA, ITAR, or SOX, as applicable).

**Security Testing and Assessments**

Supplier must conduct annual independent penetration testing of systems and services in scope for the engagement.

Supplier must provide summary reports of penetration tests and vulnerability assessments upon request, including remediation status for any critical or high-risk findings.

**Business Continuity**

Supplier must implement and maintain appropriate backup, disaster recovery, and business continuity plans to ensure the restoration of International Data in the event of unauthorized access or a disaster. These plans must be regularly reviewed, tested, and updated to remain current and effective. Upon request, Supplier must make its backup, disaster recovery, and business continuity plans to International (or executive summaries related thereto) that identifies Supplier’s method of detecting and remedying critical risks to Supplier’s infrastructure.

**Incident Response Plan**

Supplier must establish a written incident response plan designed to promptly respond to and recover from any security event materially affecting the confidentiality, integrity, or availability of the International Data or systems in its control.

Supplier must promptly notify the International at mailto:Cyberthreatrespnse@international.com of any confirmed or reasonably suspected security incident related to the International Data or systems within Seventy-Two (72) hours of becoming aware of such security incident. Supplier must work with the International to contain and remediate the incident and provide an incident report to the International within fifteen (15) calendar days of the confirmed or reasonably suspected incident.

**Security Awareness and Training**

Supplier must implement security training to ensure personnel are equipped to support the security controls required by the International. This includes enforcing compliance with Supplier’s information security program, delivering security awareness training to educate personnel on their responsibilities, assigning qualified security staff to manage and oversee the program, providing ongoing training to address evolving risks, and conducting appropriate pre-employment screening.

**Right to Audit**

In addition to any audit rights International may have pursuant to the terms of Agreement, International reserves the right, upon reasonable prior notice, to conduct or have conducted by an independent third party, audits and assessments of Supplier’s systems, processes, and controls relevant to the services provided under this Agreement. This includes, but is not limited to, the right to perform penetration testing and vulnerability assessments to verify compliance with the security obligations set forth herein.

Such testing must be conducted in a manner that does not unreasonably interfere with Supplier’s operations and must be subject to mutually agreed-upon scope, timing, and confidentiality terms. If Supplier utilizes third parties in the delivery of services, Supplier must ensure that equivalent audit and testing rights are extended to International with respect to such third parties.

If any material vulnerabilities or non-compliance are identified, Supplier must promptly remediate such issues at its own cost. If the audit reveals a material breach of this Agreement, Supplier must bear the cost of the audit.