AGILOS

Terms and Conditions for Software License, Maintenance and Services

The terms of the Agreement apply to all Software License, Maintenance and Services provided to End User by Agilos. The Software License, Maintenance and Services that End User agrees to procure from and that Agilos agrees to provide, as well as the applicable fees, are set forth in these Terms and Conditions, the relevant Schedules, and Order Forms that are effective and binding when signed by representatives of End User and Agilos. The Terms and Conditions are deemed incorporated into and form a part of each Schedule and Order Form. The Software License, Maintenance and Services provided by Agilos that are not specified in a Schedule or Order Form, or that are provided prior to the execution of an appropriate Order Form, are also subject to these Terms and Conditions and relevant Schedules, unless these Software License, Maintenance or Services are expressly covered by a separate agreement signed by representatives of each Party.

1. Definitions

Capitalized terms that are not defined in context shall have the following meanings:

1.1 "**Affiliate(s)**" means any legal entity controlling, controlled by, or under common control with a party to the Agreement, as defined by Directive 83/349/EEC (corporate), for so long as such control relationship exists.

1.2 **"Agilos"** means Agilos SA, having its registered office 21 Rue Glesener, L-1631 Luxemburg, Luxemburg, with VAT n° LU 23433902

1.3 "**Agreement**" means an agreement entered into between Agilos and the End User that consists of the combination of these Terms and Conditions, the relevant Schedule(s) attached hereto, and an Order Form, as well as any amendments to them signed by the representatives of each Party.

1.4 **"Confidential Information"** means any information disclosed by one Party (the "Disclosing Party") to the other Party (the "Receiving Party") which is disclosed in writing, verbally or by inspection and is identified as "confidential" or "proprietary" by the Disclosing Party, or which the Receiving Party should reasonably consider as confidential or proprietary for the Disclosing Party. Any information, in whatever form, disclosed by Agilos to End User that relates to the Software and Documentation and that is not publicly known will fall under the definition of "Confidential Information." Confidential Information does not include information that: (i) has entered the public domain through no fault of the Receiving Party; (ii) is communicated to the Receiving Party by a third party under no obligation of confidentiality; (iii) has been independently developed by the Receiving Party without reference to any Confidential Information of the Disclosing Party; (iv) was in the Receiving Party's lawful possession prior to disclosure and had not been obtained either directly or indirectly from the Disclosing Party; and (v) is required to be disclosed by law, provided the Receiving Party has promptly notified the Disclosing Party in writing of such requirement and allowed the Disclosing Party a reasonable time to oppose such requirement.

1.5 **"Delivery Date"** means the date the Software specified in the relevant Order Form is made available for End User by Agilos, in accordance with the relevant Order Form.

1.6 **"Documentation"** means the then-current End User documentation for the Software published by Agilos or its licensors in the form of manuals and function descriptions in printed or electronic form, as the same may be modified from time to time by Agilos and/or its licensors.

1.7 "**Effective Date**" means the effective date of the Agreement as set forth in the relevant Order Form.

1.8 **"Initial Maintenance Period"** means the initial period of Maintenance purchased by End User for Software licensed pursuant to the Agreement, which shall commence on the Delivery Date thereof, as designated in the applicable Order Form.

1.9 "**Intellectual Property Rights**" collectively means any and all copyrights, author rights and neighbouring rights, moral rights, data rights, database rights, database sui generis rights, works, patents, patent applications, patent registrations, patent renewals, trade secrets, know-how, trademarks, service marks, trade names, service names, and any and all other intellectual or industrial proprietary right arising or enforceable under applicable law, the law of any other jurisdiction or any bilateral or multilateral treaty regime.

1.10 **"Software License Schedule"** means the relevant schedule specifying the terms and conditions of the license applying to specific Software products ordered by End User as specified in the relevant Order Form.

1.11 **"Maintenance"** means the maintenance and support services and Updates provided by Agilos pursuant to its then-current Maintenance Schedule.

1.12 **"Maintenance Schedule"** means Agilos then-current schedule concerning Maintenance, a current copy of which is attached as Schedule [5].

1.13 **"Named User"** means the named or specified (by password or other user identification) individuals who are employees of – or serve as an authorized agent or independent contractor – of End User and who are finally assigned by End User to use the Software specified in an Order Form within the scope of their employment or engagement. End User may replace authorized individuals as necessary to reflect staff changes provided that the maximum number of individuals authorized to use the Software does not exceed the maximum number of Named Users specified in the relevant Order Form.

1.14 **"End User"** means the Party that procures the Software License, Maintenance or Services from Agilos under an Order Form pursuant to the Agreement.

1.15 **"Order Form"** means a document, in substantially the

form attached to these Terms and Conditions as Schedule [7], containing the Required Information, and whereby End User orders the Software License, Maintenance and/or Services set out the relevant Schedules from Agilos, and which has been executed by representatives of all the Parties.

1.16 "**Party(ies)**": means Agilos and/or the End User.

1.17 **"Release"** means a new release of a current Version of the Software.

1.18 "**Required Information**" means information which must be provided in the Order Form for each Software License, Maintenance and/or Service ordered. The Required Information shall at least include Software, Maintenance or Service name, price and quantity and license type, license term (perpetual or term) and location.

1.19 "**Schedule"** means the schedule(s) attached to the Agreement as of the execution thereof or subsequently agreed and executed by both Parties and referencing the Agreement. The Schedules shall specify the terms and conditions applicable to the Software License, Maintenance and/or Service ordered as per the Order Form.

1.20 "**Services**" means the services, other than Maintenance, which are procured by – and provided to – the End User in accordance with the Services Schedule attached hereto as Schedule [6].

1.21 **"Software"** means (i) the version of the third-party licensed or proprietary software commercialized by Agilos, in object code form, subject to the relevant Software License Schedule, and as agreed by the Parties in an Order Form, and (ii) any Updates made available to End User pursuant to the Maintenance Schedule.

1.22 **"Update(s)"** means a new Version or a new Release of the Software that Agilos and/or its licensors make generally available to customers who are current on their Maintenance fees; provided, however, that Updates shall not include new or separate Software products which Agilos or its licensors offers only for an additional fee to customers generally**,** including those customers purchasing Maintenance.

1.23 **"Third Party IP Claim"** means a third-party claim that the Software or Documentation directly infringe any patent, copyright, or trademark, or misappropriate any trade secret of a third party.

1.24 **"Third Party Product"** means third-party software programs delivered to End User by Agilos as specified in a Schedule.

1.25 **"Version"** means an entirely new version of the Software. Versions are denoted by the numeral to the left of the decimal (e.g. Version 9.0 compared to Version 8.0).

2. Scope of the Agreement

The Agreement serves as a Software License, Maintenance and/or Services Agreement under which Agilos provides Software License, Maintenance and/or Services to End User. All Software License, Maintenance and Services ordered by End User and provided by Agilos shall be subject to the terms and conditions specified herein, including the relevant Schedule(s). Each Order Form accepted by Agilos shall incorporate these Terms and Conditions and the relevant Schedule(s) by mere reference.

Unless otherwise specified in a Schedule, and save as provided hereunder, in the event of a conflict between the terms of any Schedule and that of these Terms and Conditions, the terms of the Schedule shall prevail for the relevant subject matter. In the event of a conflict between the terms of any Schedule and the relevant Order Form, the Order Form shall prevail for the relevant subject matter.

3. Software License

Subject to End User's compliance with these Terms and Conditions, the relevant Schedule and Order Form, and subject to the payment of all applicable fees and tax obligation thereunder, Agilos grants to End User a license on the Software set out in the relevant Order Form and applicable Schedule.

4. Delivery and Acceptance.

The Software and Documentation will be delivered to End User by Agilos. Acceptance of the Software shall be deemed to occur on the Delivery Date.

5. Maintenance

End User agrees to purchase Maintenance specified in the applicable Order Form for the Initial Maintenance Period, subject to Agilos Maintenance Schedule attached hereto as Schedule [5].

Agilos shall provide Maintenance in accordance with the Maintenance Schedule, as may be revised from time to time by Agilos and notified to End User. A current copy is attached hereto as Schedule [5].

6. Additional Service

End User agrees to the purchase additional Services specified in the applicable Order Form subject to Agilos Services Schedule attached hereto as Schedule [6].

7. Payments

7.1. Fees. In consideration of the license granted, Agilos provision of Maintenance and/or other Services under any Agreement, End User agrees to pay the fees set forth in the relevant Order Form and/or applicable Schedule, which payments shall be non-refundable and irrevocable, except as otherwise provided in the relevant Agreement.

7.2. Payments. All payments shall be due within thirty (30) days of the date of issuance of Agilos invoice. Invoices shall be sent to the address specified in an Order Form, or otherwise agreed in writing between the Parties.

7.3. Protest. In the absence of a written letter of protest for an invoice, which needs to be sent within a period of 8 working days following the mailing date of the invoice, the invoice and all Software License, Maintenance and/or or Services stated on the invoice are considered to be irrevocably accepted and approved.

7.4. Late Payments. Late payments shall bear interest from the due date, without the need of any prior notification nor letter of default, at an interest rate equal to the interest rate as stipulated by Luxemburg law. Furthermore, for each unpaid amount the End

User shall also be obliged to pay Agilos a lump sum compensation equivalent to 15% for the first instalment of 4,000 EUR, 10% for the second instalment of 4,000 up to 12,500 EUR, and 7.5% for any instalment exceeding 12,500 EUR. Agilos retains the right to claim judicial costs and any higher amount for damages if it can provide evidence for any higher damages it has actually suffered In addition, Agilos will be entitled at its own discretion to withhold further deliveries of the Software, Maintenance and/or Services to End User in case of non-payment under any Agreement

7.5. Taxes. The fees specified under any Agreement do not include taxes or duties. If Agilos is required to pay or account for any taxes, public fees, duties, deductions or withholdings then such taxes, fees, duties, deductions and withholdings shall be borne by End User. This Section shall not apply to taxes based on Agilos income.

7.6. Indexation. All rates and fees for License, Maintenance and/or additional Services may be increased by Agilos annually on the anniversary, renewal or expiry date of the Agreement, based on the following calculation formula:

New rate = Basic rate * (0.2 + 0.8 * New index/ Initial index) Basic rate: the rate at the start of the Agreement; Initial index: the 'national average salary costs' reference index as published by Statec for the month preceding the date on which the Agreement is signed; New index: the 'national average salary costs' reference index as published by Statec for the month preceding the anniversary, renewal or expiry date of the Agreement.

7.7. Order Process. The Order Form shall be off the local price list and in local currency. An Order Form shall include the Required Information and may be: (i) a mutually-executed document in the format attached hereto as Schedule [5], and/or (ii) an acceptable purchase order consistent with the quote for the Software, Maintenance or Service, or document otherwise acceptable to Agilos. Notwithstanding any provision to the contrary, a purchase order may not alter the terms of a quote from Agilos, these Terms and Conditions or a Schedule, and any such provisions purporting to supplement any such terms are of no effect. Agilos may refuse shipment of a Software if an order is incomplete, incorrect or contains unacceptable terms. Orders are non-cancellable and non-refundable.

7.8. Shipping. Fees are exclusive of, and Licensee is responsible for, all shipping costs. Agilos shall ship Software, Updates and associated Documentation FOB origin, Agilos shipping site.

8. Intellectual Property Rights

8.1. The Software product line(s) is licensed and registered under Belgian and international copyright and authorship and other Intellectual Property Rights laws.

8.2. All Intellectual Property Rights and other rights, including without limitation patents, design rights, trademarks, copyright, trade secrets and know-how, relating to the Software, Updates and Documentation, and/or Services, will at all times be the exclusive property of Agilos and its licensors, and all use of Agilos or its licensors' intellectual property will accrue to the benefit of Agilos or its licensors.

8.3. Nothing contained in any Agreement will constitute or be construed as a transfer of ownership of any of the Intellectual Property Rights of Agilos or any of its licensors or to otherwise give the End User any proprietary rights to the Software products or any of the Intellectual Property Rights of Agilos or any of its licensors.

8.4. Unless stated otherwise in any Agreement, Agilos will grant the End User/Customer a non-exclusive and non-transferable right of use with respect to the outcome and results of the Services carried out by Agilos.

9. Limited Warranty

9.1. Performance and Media Warranty. Agilos warrants for a period of one hundred twenty (120) days following the Delivery Date (the "Warranty Period") that the Software (excluding Updates) will perform substantially in accordance with the Documentation when operated in accordance with the Documentation in a hardware and/or software operating environment that is supported by Agilos.

9.2. Anti-Virus and Disabling Code Warranty. Agilos warrants that it shall use reasonable technical means to detect computer viruses in the Software prior to delivery to End User to avoid that, at the time of delivery, the Software contain any virus or software code or, except for the license keys distributed with the Software, device designed to disable, damage, impair, erase, deactivate or electronically repossess the Software.

9.3. Sole and Exclusive Remedies. End User must report any alleged breach of the warranties contained in this Section 9 to Agilos in writing during the applicable Warranty Period, and provide to Agilos such information and materials as Agilos may reasonably request to document and reproduce an issue. End User's exclusive remedy and Agilos sole liability with regard to a breach of warranty shall be as follows:

- with respect to any alleged breach of the warranty set forth in Section 9.1 (Performance), at Agilos option and expense, to either: (i) repair or replace the non-conforming Software; or (ii) return the Software license and Maintenance fees paid (if any) with respect to the non-conforming Software;
- with respect to any alleged breach of the warranty set forth in Section 9.2 (Viruses and Disabling Code), to replace all copies of the affected Software in the possession of End User with copies that do not contain such virus or disabling code. If End User is asked by Agilos to return the applicable license and Maintenance fees paid for the non-conforming Software pursuant to Section above: (i) End User shall promptly return the non-conforming Software to Agilos or establish to Agilos satisfaction that it has destroyed/uninstalled the applicable Software; and (ii) the licenses granted to End User hereunder in respect of such non-conforming Software shall automatically terminate.

9.4. Agilos will have no responsibility or obligation under

the foregoing warranty or otherwise with respect to: (a) any Software that has been modified by anyone other than Agilos, or (b) failure of the Software caused by End User or its permitted agents and contractors through accident, abuse or misapplication.

10. Warranty Disclaimer

10.1. The warranty and remedies provided in Section 9, and as provided in a Schedule (if any) are the only warranties and remedies provided by Agilos in relation to the Software, Maintenance and/or Services and are exclusive and in lieu of all other warranties, terms and conditions, including but not limited for hidden/latent defects, all of which are hereby excluded to the fullest extent permitted by law. Agilos does not warrant that: (i) the Software will meet End User's requirements; (ii) the Software will operate in combination with other hardware or software, except as expressly specified in the Documentation; or (iii) operation of the Software will be uninterrupted or error free.

10.2. EXCEPT FOR THE LIMITED WARRANTIES ABOVE, THE SOFTWARE AND DOCUMENTATION ARE PROVIDED "AS IS". THE LIMITED WARRANTIES ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, CONDITIONS OR TERMS, WHETHER EXPRESS OR IMPLIED BY STATUTE, TRADE USAGE OR COURSE OF DEALING OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, ABSENCE OF HIDDEN/LATENT DEFECTS, OR TITLE.

10.3. Each of the parties acknowledges and agrees that in entering into any Agreement, and the documents referred to in it, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this agreement or not) other than as expressly set out in the relevant Agreement as a warranty or representation. The only remedy available to it for breach of such warranties or representations shall be for breach of contract under the terms of the relevant Agreement. Nothing in any Agreement shall, however, operate to limit or exclude any liability for fraud.

11. Intellectual Property Indemnity

11.1. Indemnity. Subject to the limitations of Section 12, Agilos will defend, at its own expense, any claim, suit or proceeding brought against End User to the extent it is based upon a claim that the normal use of any Software, Updates, Documentation, Maintenance, and/or Service ("Indemnified Product") obtained and used pursuant to the Agreement infringes upon any Intellectual Property Rights of any third party. End User shall: (1) promptly notify Agilos in writing of any such Third Party IP Claim ; (2) give Agilos as well as its licensor(s) full information and assistance in connection therewith; (3) give Agilos as well as its licensor(s) the sole right to control the defence of any such Third Party IP Claim and as the case may arise, Agilos' sole right to settle or compromise any such Third Party IP Claim; and (4) not prejudice Agilos' licensor(s) defence or endeavours to settle such Third Party IP Claim . Agilos will pay all damages, costs, and expenses finally awarded to third parties against End User in such action or agreed to in settlement by Agilos.

11.2. Exceptions. Agilos and its licensor(s) will have no liability to End User under Section 11.1 for any Third Party IP Claim that: (a) arises out of any unauthorized use, reproduction, or distribution of a Software, Updates or Documentation by End User; (b) arises out of any modification or alteration of a Software, Updates or Documentation by anyone other than Agilos or, as they may arise, its licensor, or without the written approval of Agilos or, as the case may arise, its licensor; (c) arises out of the use of a Software, Updates or Documentation in combination with any other software or equipment not approved in writing by Agilos or, as the case may arise, its licensor; or (d) would have been avoided by use of the then-current Release of the Software.

11.3. Disruption of Use. In addition, if a Software, Maintenance or Service becomes is or, in Agilos' and/or its licensor's opinion, is likely to become, the subject of an infringement or misappropriation claim as set forth above, Agilos and/or its licensor may, at its own expense and option, elect to either: (a) procure the right for End User to continue using the Software, Maintenance or Services in accordance with the provisions of the Agreement; (b) make such alterations, modifications or adjustments to the Software, Maintenance or Services so that the infringing Software, Maintenance or Services become non-infringing without incurring a material diminution in performance or function; (c) replace the Software, Maintenance or Services with a non-infringing substantially similar substitute; or (d) if neither (a), (b) nor (c) can be achieved after the exercise of commercially reasonable efforts, terminate the Agreement for the affected Software, Maintenance or Services and refund to End User: (i) all amounts paid by End User to Agilos as license fees with respect to the affected Software, less an amount equal to depreciation of such license fees calculated on a three-year straight-line basis from the Delivery Date, and (ii) a pro rata portion of any prepaid Maintenance or Services fees for the then-current annual Maintenance or Services period.

11.4. To the extent permitted by law, the foregoing states Agilos' and its licensor's entire liability to End User for infringement or misappropriation of Intellectual Property Rights and Third Party IP Claims, including but not limited to patent, author rights copyright, trademark, database rights and trade secret rights and is in lieu of an replaces any and all other express, implied, or statutory warranties or conditions regarding infringement or misappropriation. All open source software or freeware included with the Software, if any, is provided without indemnification.

12. Limitations of Liability.

12.1. Limitations of Liability. Except for End User's breach of any of Agilos' Intellectual Property Rights (including the License grant and restrictions contained herein and in the Software License Schedule), and payment obligations (Section 5), to the full extent permitted by law, the Parties (for themselves and their respective third party licensors, suppliers or contributors) exclude any liability, whether based in contract, law, case-law, tort (including negligence), any other theory or by operation of law, including latent/hidden defects, for indirect, consequential (including lost profits, business, savings, clientele and data as well as third parties' claims) incidental, special or

punitive damages of any kind arising out of, or relating to, the Agreement or the performance or breach hereof, even if the Party has been advised of the possibility of such damages.

12.2. Except for Agilos' obligations under Section 11 ("Intellectual Property Indemnity"), and except in respect of injury or death to any person caused by any negligent act or omission or wilful misconduct of Agilos, but including case of gross negligence, Agilos' maximum liability to End User for damages arising out of or relating to the Agreement, whether based in contract, law, case-law, tort (including negligence), or any other legal theory, including latent/hidden defects, will not exceed the amounts actually paid by End User for the previous twelve (12) month period for the particular Software, Maintenance or Services giving rise to the cause of action.

12.3. To the fullest extend not prohibited by law, Agilos' third party licensors, suppliers or contributors shall not be liable to End User for any amount or kind of damages arising out of use of, or inability to use, the Software or otherwise in connection with the Agreement.

12.4. THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS SET FORTH IN ANY AGREEMENT SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

13. Term and Termination

13.1. Term. This agreement is effective as of the Effective Date and shall continue for the term specified in the relevant Order Form(s) and/or Schedule(s), unless terminated pursuant to this Section 13 or as per the law.

13.2. **Termination for Convenience.** Either party may terminate any Agreement for convenience at any time by providing Agilos (60) days' prior written notice. Payments provided under any Order Form or Schedule are, however non-refundable and irrevocable, except as otherwise provided in the relevant Order Form or Schedule.

13.3. Termination by Either Party for Material Breach. Either Party may terminate immediately a particular Agreement, without prior intervention of a court, if the other Party: (i) commits a material or persistent breach of any of its obligations which is incapable of remedy, (ii) materially breaches this Agreement and fails to cure such breach which is capable of remedy within thirty (30) days of delivery of written notice thereof. Notwithstanding the foregoing, if End User fails to cure any payment default within (10) days of delivery of written notice thereof, Agilos may (i) terminate the license(s) for the relevant Software for which End User has failed to pay, and/or, at Agilos' discretion, suspend the execution of the Maintenance and/or any Services, without notice of default and with immediate effect by merely sending a registered letter by regular mail, and such Maintenance or services will be deemed as lapsed.

13.4. Termination for Insolvency. Either Party may terminate any Agreement effective upon delivery of written notice to the other Party upon the occurrence of any of the following events: (a) a receiver is appointed for the other Party or its property; (b) the other Party makes a general assignment for the benefit of its creditors; (c) the other Party commences, or has commenced against it, proceedings under any bankruptcy, insolvency or debtor's relief law, which proceedings are not dismissed within sixty (60) days; or (d) the other Party becomes insolvent or is liquidating, dissolving or ceasing business operations.

13.5. Effect of Termination. If an Agreement is terminated, End User shall: (i) immediately cease using the applicable Software, Updates, Documentation, and related Confidential Information of Agilos; and (ii) certify to Agilos within ten (10) days following the effective date of such termination that End User has destroyed or has returned said materials and all copies thereof. Upon termination of an Agreement, each Party shall certify to the other Party within ten (10) days following the effective date of such termination that it has destroyed or returned all Confidential Information of the other Party. Termination of an Agreement shall not limit either Party from pursuing other remedies available to it, including injunctive relief, nor shall such termination relieve End User of its obligation to pay all fees that have accrued prior to the effective date of such termination or are otherwise owed under any Order Form or Purchase Order.

14. Survival

14.1. The Parties' rights and obligations under Sections 3,4, 5, 8, 10, 12, 13 and 16, as well as those provisions that are reasonably deemed to continue after expiration of an Agreement, shall survive expiration of any Agreement.

14.2. Upon expiration of any Agreement, any perpetual or term licences whose term continues shall continue to be subject to the terms and conditions of the Agreement including the relevant Schedule and Order Form for the term of such license.

14.3. Escrow. Qlik has established a master escrow agreement with the company NCC http://www.nccgroup.com and, upon End User's request, End User has the option to become a beneficiary to such master escrow agreement giving it rights to obtain the source code for the Software pursuant to the terms set forth in the master escrow agreement. The costs associated with establishing End User's rights as a beneficiary under the master escrow agreement and for obtaining access to the source code will be payable – and at charge of – by End User.

15. Verification and Audit.

15.1. Verification. At Agilos written request, but not more frequently than on a yearly basis (to be computed as of the Effective Date), End User shall furnish Agilos with a document signed by End User's authorized representative verifying that the Software is being used pursuant to these Terms and Conditions, and the applicable Schedule and Order Form. In the event that End User is not in compliance with these Terms and Conditions or the applicable Schedule or Order Form, End User shall promptly report any discrepancies to Agilos. End User agrees to implement reasonable security controls to ensure compliance with the intended use of the Software authorized by these Terms and Conditions, the relevant Schedule and Order Form.

15.2. Audit. Agilos reserves the right to perform a compliance audit of End User's deployment and use of the Software at any time during End User's normal business hours, upon reasonable notice and at Agilos expense. Audits shall be

conducted no more than once a year.

15.3. Non-Compliance. If the verification process or audit reveals that End User has underpaid fees to Agilos as a result of unauthorized use of the Software, End User shall pay to Agilos such underpaid fees based on the then-current list price for such Software plus any Maintenance fees due thereon calculated from the initial date of the unauthorized use, as well as late interests at an interest rate equivalent to the special interest rate provided for in Article 5 of the Belgian Act of August 2, 2002 on combating late payment in commercial transactions. If the verification process or audit reveals that End User has materially underpaid fees to Agilos as a result of unauthorized use of the Software, End User shall pay to Agilos all reasonable costs incurred by Agilos in relation to such verification or the audit.

16. General Provisions

16.1. Assignment. End User may not assign or transfer any Agreement or any of its rights or obligations thereunder, in whole or in part, including by operation of law or otherwise, except with Agilos prior written consent. Agilos may assign any Agreement or any of its rights or obligations thereunder, in whole or in part, without End User's consent to: (i) its Affiliate(s); or (ii) to a successor in interest in the event of either a change of control either through a merger or sale of equity interests, or sale of assets. In addition, Agilos may delegate or subcontract its obligations under any Agreement to a third party, without End User's consent, provided that such delegation or subcontract does not constitute substantially all of Agilos obligations under the Agreement and provided that Agilos shall be responsible for the compliance of its third-party subcontractors with the terms of the Agreement. Except as expressly permitted by this Section, Agilos shall not assign, delegate or subcontract its performance under an Agreement except with End User's prior written consent. Neither Party shall unreasonably withhold or delay its consent pursuant to this Section. Any attempted assignment in violation of this Section without the other Party's consent shall be void and of no effect and shall be considered a material breach of the Agreement.

16.2. Confidentiality.

16.2.1. Prior Agreements. If the Parties have previously signed any agreements governing the disclosure of Confidential Information, those prior agreements shall remain in full force and effect to the extent they apply prior to the Effective Date of the Agreement or relate to subject matter not covered by the Agreement.

16.2.2. Confidentiality Obligations. The Parties agree to hold each other's Confidential Information in confidence during the term of an Agreement and for a period of three (3) years following termination thereof. Each Party will protect the other's Confidential Information from unauthorized distribution and use with the same degree of care that each Party uses to protect its own like information, but in no event less than a reasonable degree of care. Neither Party will make the other Party's Confidential Information available in any form to third parties nor use the other Party's Confidential Information except as authorized by an Agreement. The Receiving Party shall not circulate Confidential Information within its own organization or that of its Affiliates except to those employees or consultants who need to know such information in connection with the business relationship between the Parties. Each Party acknowledges and agrees that, due to the unique nature of Confidential Information, there can be no adequate remedy at law for breach of this Section 10.2.2 and that such breach would cause irreparable harm to the non-breaching Party; therefore the non-breaching Party shall be entitled to seek immediate injunctive relief, in addition to whatever remedies it might have at law or under an Agreement.

16.3. Publicity. During the term of their Agreement, End User grants Agilos the right to: (i) use End User's logo and name to identify End User as a customer of Agilos on its web site and other marketing materials; and (ii) issue a press release announcing End User's relationship with Agilos.

16.4. Entire Agreement. Without prejudice to clause 13.2.1, any Agreement, including its Schedule(s) and any Order Form(s) supersedes all prior or contemporaneous agreements or representations, whether written or oral, concerning the subject matter hereof. No addition to, or modification of, any provision of an Agreement shall be binding upon the Parties unless expressly stated to amend the terms thereof and signed by a duly authorized representative of each Party. End User represents and acknowledges that in entering into any Agreement, it did not rely on any representations or warranties other than those expressly set forth therein.

16.5. Export Controls. End User agrees to comply fully with all relevant export laws and regulations, including but not limited to the regulations promulgated by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"), as amended from time to time (collectively, the "Export Control Laws"), as applicable. End User agrees not to export or re-export the Software to any parties located in Iran, Cuba, North Korea, Syria, Sudan or any other countries prohibited under U.S. and/or E.U. embargoes or sanctions programs maintained by the OFAC, the EU authorities or otherwise prohibited under the Export Control Laws.

16.6. End User hereby acknowledges and agrees that the Software and/or Confidential Information may be subject to applicable export control and trade sanctions laws, regulations, rules and licenses, including without limit those of the U.S. and the E.U. ("Export Control and Sanctions Rules"). End User shall comply with the Export Control and Sanctions Rules and agrees that it alone is responsible for ensuring its compliance with Export Control and Sanctions Rules. In particular, but without limit, End User will not, and will procure that none of its Affiliates will, use, sell, resell, export, re-export, dispose of, disclose or otherwise deal with the Software and/or Confidential Information, directly or indirectly, to any country, destination or person without first obtaining any required export license or other governmental approval, and completing such formalities as may be required by Export Control and Sanctions Rules. End User shall not do anything which would cause Agilos or its licensors to be in breach of the Export Control and Sanctions Rules and shall protect, indemnify and hold harmless Agilos and its licensors from any fines, losses and liabilities incurred by Agilos or its licensors as a result of the failure of End User to comply with this Section. Failure by End User to comply with any part of this Section shall constitute a material breach of any Agreement. Agilos reserves the right to refuse to enter into or to perform any order, to cancel any order at its sole discretion if

Agilos believes End User has failed to comply with any part of this Section.

16.7. Force Majeure. Save in relation to payment, neither Party shall incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform all or any part of any Agreement if such delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond the reasonable control and without negligence of the Parties. Such events, occurrences, or causes will include, without limitation, acts of God, strikes, lockouts, riots, acts of war, earthquake, fire and explosions, but the inability to meet financial obligations is expressly excluded from this Section 16.7. In the event of either Party being so delayed or prevented from performing is obligations such Party shall (a) give notice in writing of such delay or prevention to the other Party as soon as reasonably possible; and (b) use all reasonable endeavours to mitigate the effects of such delay or prevention upon the performance if its obligations under the Agreement.

16.8. NON-SOLICITATION. Neither party shall, during the collaboration period between both Parties, or within 18 months of its termination, whether on behalf of itself or a third party, solicit or seek to entice away any employee of the other. In the event of breach of this clause the party in default shall pay the other a sum equal to 12 (twelve) months' gross pay of the employee concerned being a pre-estimate of the cost of recruitment and training a replacement.

16.9. Governing Law. Any Agreement, its construction, validity or performance, shall be governed by Luxemburg law. Excluding its conflict of laws rules; The Courts of Luxemburg (Luxemburg) in their territorial scope shall have exclusive jurisdiction on dispute relating thereto.

16.10. Notices. All notices and other communications given or made pursuant to any Agreement will be in writing and will be deemed effectively delivered: (a) if sent by registered mail, on the date received; (b) if sent by courier, on the date delivered; and (c) if sent by facsimile, on the date of confirmed electronic transmission. All notices and communications will be sent to Agilos in accordance with the Agilos' contact information set out in the relevant Order Form. All notices and communications will be sent to End User in accordance with the End User contact information set out on the relevant Order Form. Either Party may change its contact information by delivering written notice to the other Party in the manner provided above.

16.11. Regardless of the type and/or financial value of the legal act to be substantiated, Agilos is at all times entitled to substantiate such act based on the following additional evidence: a copy or reproduction, whatever its type and format (carbon copy, photocopy, microfilm, scan, …), transmitted using a storage medium or by fax, telex, and email. Any such evidence material shall have the same evidentiary value as any private agreement drawn up and signed in accordance with the stipulations of the Civil Code.

16.12. Relationship between the Parties. Agilos is an independent contractor. Nothing in any Agreement shall be construed to create a partnership, joint venture or agency relationship between the Parties.

16.13. Severability. If any provision of any Agreement is invalid or unenforceable, that provision shall be construed, limited, modified or, if necessary, severed to the extent necessary to eliminate its invalidity or unenforceability, and the other provisions of the relevant Agreement shall remain in full force and effect. Any term which refers to a legal concept or process which exists in one jurisdiction shall be deemed to include a reference to the equivalent or analogous concept or process in any other jurisdiction in which any Agreement may apply or to the laws of which a Party may be or become subject.

16.14. Successors. All terms of any Agreement shall be binding upon, inure to the benefit of, and be enforceable by and against the respective successors and permitted assigns of Agilos and End User.

16.15. Waiver. No term of any Agreement shall be deemed waived and no breach or default excused unless such waiver or excuse shall be in writing and signed by the Party issuing the same. Except for actions for non-payment or breach of Agilos' proprietary rights in the Software, Updates or Documentation, no action, regardless of form, arising out of any Agreement may be brought by either Party more than two (2) years after the cause of action arose.

16.16. Counterparts and Exchanges by Electronic Means. Any Agreement shall be executed in inasmuch Parties thereto, it being agreed and acknowledged that it will be deemed validly executed provided that each such Party receives an original copy duly signed by the other Party. The exchange by the Parties of scanned copies of such original copies by electronic means shall be sufficient to bind the Parties to the terms and conditions of any Agreement and to provide legal evidence of the latter

Schedule 1 – TransferELIOS Software License Schedule

This TransferELIOS License Schedule describes the specific terms and conditions under which Agilos grants a license on the TransferELIOS Software to End User.

1. Definitions

Unless otherwise defined in this Schedule, capitalized terms in this Schedule have the meanings provided in Agilos' Terms and Conditions.

"TransferELIOS Software" means the Software destinated to Extract and transfer data, that Agilos develops, promotes, markets and licenses in accordance with the terms of this Schedule and Agilos Terms and Conditions, as well as the Documentation applicable thereto.

2. License Grant

2.1 License grant. Subject to End User's compliance Agilos' Terms and Conditions, this Schedule and the relevant Order Form, and subject to the payment of all applicable fees and tax obligation thereunder, Agilos grants to End User a non-exclusive, non-transferrable, perpetual (but subject to termination as provided in Section 13 or for a definite term (as paid for by End User and as provided in the Order Form) license: (i) to access and use the TransferELIOS Software and Updates specified on an Order Form solely for its own internal business operations in a manner consistent with the use limitations specified or referenced in the Documentation, this Schedule and within the scope of license paid for by End User as provided in this Schedule and the relevant Order Form ; (ii) in case of Extranet, the End User may not use the TransferELIOS Software to operate a subscription service, service bureau, Software as a Service (SaaS) model, or similar access fee-based services for the benefit of any third party without the express consent of Agilos, (iii) to use the Documentation solely for supporting End User's and its Affiliates' authorized use of the TransferELIOS Software, and (iv) make a copy of the TransferELIOS Software and Updates for non-production backup and/or archival purposes.

2.2 Copies. End User shall maintain an up-to-date written record of the number of copies of the TransferELIOS Software in its possession and their location and, upon request, shall produce such record to Agilos.

2.3 Affiliates. End User's Affiliates may also order licenses for the TransferELIOS Software by entering into an Order Form with Agilos, whereby such Affiliate will be entitled to the rights and benefits and be bound by the terms and conditions hereof. In such event, for the purposes of such order references throughout this Schedule and Agilos' Terms and Conditions to "End User" shall be deemed to be references to such End User Affiliate. In connection with the use of the TransferELIOS Software by an Affiliate of End User, End User hereby agrees to: (i) make each such Affiliate aware of Agilos' Terms and Conditions and the terms of this Schedule, including, without limitation, the use limitations contained in this Section 2 ; (ii) monitor each such Affiliates' compliance with the terms contained in this Schedule and in Agilos' Terms and Conditions, and (iii) remain primarily responsible and liable for any and all violations thereof by each such Affiliate. Upon request by Agilos, End User agrees to confirm the Affiliate status of a particular entity. An Affiliate of End User is permitted to use the TransferELIOS Software only for so long as such entity meets the criteria set forth in the definition of "Affiliate" contained in Section 1 of Agilos' Terms and Conditions.

2.4 License Restrictions. End User's license rights are limited to those expressly granted herein. Agilos reserve all other rights. Except as expressly agreed in writing by End User and Agilos, End User may not (i) use, copy, maintain, distribute, sell, sublicense, rent, make corrections to or modify the TransferELIOS Software, Updates or Documentation, except as specifically provided for in this Agreement; (ii) modify, adapt, decompile, disassemble, reverse assemble, reverse compile, reverse engineer or otherwise translate the TransferELIOS Software, Updates or Documentation, unless to the extent the foregoing restrictions are expressly prohibited by applicable law, it being noted that, if required under applicable law, at End User's request, Agilos shall provide the information necessary for End User to achieve interoperability between the TransferELIOS Software and other compatible software for a nominal charge; (iii) create derivative works based on the TransferELIOS Software, Updates or Documentation; (iv) transfer any TransferELIOS Software to a site other than the authorized location, or (v) use or sublicense the TransferELIOS Software for the benefit of a third party or in a service bureau, commercial time-sharing, rental, software as a service (SaaS), or outsourcing context except where previously agreed in writing by Agilos. One (1) license for the TransferELIOS Software may not be shared for use on different computers or servers. If a serial number, password, license key or other security device is provided to End User for use with the TransferELIOS Software, the End User may not, and will not permit its authorized users to, share or transfer such security device with or to any other user of the Software or any other third party. The TransferELIOS Software, Updates and Documentation are licensed and not sold to End User.

2.5 Retention of Rights. Agilos owns and retain all right, title and interest in and to the TransferELIOS Software, Updates and the Documentation, including all Intellectual Property Rights in and to the TransferELIOS Software, Updates and Documentation, and Confidential Information. End User does not acquire any right, title or interest in or to the TransferELIOS Software, Updates or Documentation except as expressly set forth herein. In the event that End User makes suggestions to Agilos regarding new features, functionality or performance that Agilos adopts for the TransferELIOS Software, such new features, functionality or performance shall be deemed to be automatically assigned to, and shall become the sole and exclusive property of Agilos, free from any restriction imposed upon Agilos by the provisions of Section 16.2 of Agilos Terms and Conditions.

2.6 Third party Access and Use. Subject to Agilos' prior written consent, End User may permit third party service providers to access TransferELIOS Software, Updates and Documentation, solely on behalf of End User for End User's internal business purposes within the license grant herein, provided such access is subject to a confidentiality agreement and the third party agrees in writing to be bound by the terms of the relevant Agreement. Without limiting such third party's liability, End User shall be jointly and severally liable to Agilos for such third party's access to TransferELIOS Software, Updates and Documentation.

Schedule 2 – Agilos Maintenance Schedule

This Maintenance Schedule describes Agilos' current policy with respect to the provision of Maintenance. Unless otherwise defined in this Maintenance Schedule, capitalized terms in this Maintenance Schedule have the meanings provided in the General terms and Conditions. This Maintenance Schedule applies to all Maintenance provided by Agilos.

1. Definitions

Unless otherwise defined in this Schedule, capitalized terms in this Schedule have the meanings provided in the General terms and Conditions.

"Designated Support Contact" means a member of Agilos, technical support team who is capable of managing the End User's Support Cases(s). Agilos may, in its sole discretion, assign an End User a different Designated Support Contact at any time.

"Error" means any reproducible material failure of the Software to conform to the Documentation.

"Error Correction" means any modification or addition to the Software, delivered within an Update, which brings the Software into material conformity with the Documentation.

"Fix" means a hot-fix designed to correct an Error, or a temporary work-around, bypass, or patch supplied by Agilos or its third licensors, or implementation of an operational procedure or routine by End User to diminish or avoid the practical adverse effect of an Error.

"Response Time" means the period commencing when a Support Case is reported by the End User's Technical Contact in the manner provided in Section 3.1 and ending when a member of the Agilos' technical support team logs the report and responds to the Technical Contact by telephone or email.

"Support Case" means a single, reproducible issue or problem with the operation of the Software. Examples of Support Cases include, without limitation, Errors and problems encountered as a result of improper installation, configuration or operation of the Software.

"Technical Contact(s)" mean the End User's personnel that have been identified in an Order Form or other written agreement with Agilos as the technical contact(s) for the End User. The End User may change its Technical Contact(s) by notifying Agilos in writing.

"Supplied Software" means software provided by a software supplier, for example Qlik, Agilos, Alteryx, Business Geographic, TimeXtender, In4bi, or KT Labs Software.

2. Overview

2.1. Support. Agilos will provide Licensee wit Support Services for the Supplied Software in accordance with this Policy depending upon the level of support coverage purchased by Licensee and subject to Licensee's timely payment of the applicable Maintenance fees.

The initial Support Services term shall be for one year commencing on the Delivery Date of the applicable Licensee order, unless otherwise stated in the relevant order form.

2.2. Support Services shall be automatically renewed for successive one (1) year terms, at the then applicable Maintenance Fee, unless Licensee provides Agilos with written notice of non-renewal of a Supplied Software at least Sixty (60) days prior to the end of the-current annual period.

2.3. The annual Support Services term for subsequently acquired Supplied Software under a single Agreement will be prorated to expire with the then-current annual Support Services term, unless otherwise agreed by Agilos and Licensee.

2.4. For avoidance of doubt, Licensee is responsible to pay the entire first year's Maintenance Fee for all subsequently acquired Supplied Software regardless of any prorated term.

2.5. Non-renewal of Support Services shall apply to all items of one Supplied Software licensed by Agilos to the Licensee.

2.6. Licensee must purchase the same level of Support Services for all items of a Supplied Software licensed by Agilos. Licensee may elect to upgrade the level of Support Services at any time, but such upgrade must apply to all items of Supplied Software licensed by Agilos.

2.7. Reinstatement of lapsed Maintenance will be subject to payment by Licensee of (a) the then-current annual Maintenance Fees payable for the 12-month period beginning on the date of reinstatement and (b) the aggregate Maintenance Fees that would have been payable for the relevant Supplied Software during the period of lapse in the absence of termination or non-renewal, provided that the combined reinstatement fees are paid within twelve (12) months after the date of the lapse. Reinstatement beyond this date will be at Agilos sole discretion.

3. Level of Support Coverage

End Users who have purchased Maintenance and are current with respect to the payment of the applicable yearly Maintenance fees for the then-current yearly Maintenance period will be provided Maintenance in accordance with the terms and conditions as follows:

End Users receive off-site troubleshooting and other technical assistance and support concerning the installation and operation of the Software, via a dedicated telephone number or email address during Agilos normal local business hours from Monday to Friday (excluding public holidays). In addition, Support Cases may be reported to Agilos by an End User

Technical Contact via Agilos Web Support application, allowing customers to post and ask questions online. Agilos will respond to an End User Technical Contact via its Web Support application or telephone. Agilos will also provide the End User with Error Corrections for Errors reported to be in the Software; as such Error Corrections become available through Updates.

3. Response Times and Escalation

3.1. Reporting Support Cases. Support Cases must be reported to Agilos via their login to Agilos Web Support application. Only the Technical Contact(s) may report Support Cases.

3.2. Response Times. Agilos will respond, within the Maximum Initial Response Times set forth in the table below, to any Support Case reported by a Technical Contact in accordance with Section 3.1. Agilos will determine the severity level of any Support Case in its reasonable discretion.

A Support Case is resolved upon the earlier of the following: (i) the issue or problem is resolved;
(ii) if the issue or problem is the result of an Error, the provision of a Fix or Error Correction;
(iii) if Agilos is able to provide a reasonable and mutually acceptable alternative solution;
(iv) if Agilos confirms that the issue or problem is not due to any Error or deficiency in the Software;
(v) if Agilos confirms that the issue or problem is in fact the result of a multi-vendor issue, and the End User agrees to transfer the problem to the third-party vendor for resolution; (vi) if the End User's Technical Contact requests that Agilos close the Support Case;
or (vii) if the Support Case has been left open for five (5) consecutive business days, during which period Agilos has not received a response from a Technical Contact.

3.3 Exceptions. Notwithstanding anything herein to the contrary, Agilos will have no obligation to provide support in connection with Support Cases or operational disruptions caused by: (i) the use of the Software with software or hardware not designed for use with the operating systems approved by Agilos in the Documentation; (ii) the use of the Software with hardware that does not satisfy the minimum system requirements specified by Agilos in the Documentation; (iii) changes, modifications, or alterations to the Software not approved in writing by Agilos; (iv) use of the Software other than in accordance with the Documentation and the Agreement; (v) the failure to install Updates made available by Agilos; or (vi) the negligence or intentional misconduct of the End User or its employees and agents or any third party.

4. Updates

Agilos or its Sub Reseller will make free Updates available to End Users who have purchased Maintenance and are current with respect to the payment of the applicable yearly Maintenance fees for the then-current yearly Maintenance period. Updates will be available, in Agilos discretion, in the form of an installation program on CD-ROM, on other digital medium, or via the Internet, together with documentation in printed or electronic form written in English or a language officially supported by Agilos or its licensors in case of a third-party Software. Unless otherwise agreed in writing by Agilos the End User shall be responsible for installation of all Updates.

5. Prior Versions

Agilos obligations with respect to Maintenance are expressly conditioned upon the installation and use by the End User of either: (i) the most current Version of the Software; or (ii) the immediately preceding Version of the Software.

6. End User's Obligations

6.1. The End User shall: (i) install and use all Updates of the Software made available by Agilos or its third party licensors; (ii) ensure that the Software is used only in accordance with any Documentation or advice from Agilos or its third party licensors; (iii) not alter or modify the Software or the Documentation nor permit the Software to be integrated with any other software except to the extent expressly permitted in the Documentation; (iv) not request, permit or authorize anyone other than Agilos to provide any support services in respect of the Software or the Documentation; and (v) cooperate fully with Agilos personnel in the diagnosis of any Error or other issue or problem with the Software or Documentation.

6.2. The End User's contact with Agilos in connection with the End User's requests for support and reports of Support Cases shall be through the Technical Contact(s). The Technical Contact(s) shall: (i) serve as the internal contact(s) for End User personnel who are authorized to use the Software; (ii) are responsible for initiating all requests by and maintaining all records of the End User relating to Maintenance; (iii) serve as the contact(s) with Agilos on all matters relating to Maintenance; and (iv) are responsible for providing information and support, as requested by Agilos to assist in the diagnosis, analysis, and resolution of Support Cases. The maximum number of Technical Contacts for each End User is three (3), regardless of the number of licenses for the Software. Technical Contact(s) will be provided with a login and password to Agilos Web Support application

6.3. When reporting Support Cases in the Software, the End User must provide Agilos a detailed description of its IT system(s) within which the Software operates, together with the basic structure of that system, any operational disruptions experienced by the End User, and the effect of the disruptions on the End User's operations. In addition, the End User must reasonably cooperate with Agilos and provide Agilos with all reasonable assistance necessary for Agilos to diagnose, reproduce and assess any reported Support Case.

6.4. If the End User desires Agilos to provide support via remote access, the End User shall ensure that a functioning system enabling Agilos to have remote access to the End User's technical equipment is installed (subject to the End User's reasonable security measures and policies) and that satisfactory communication between the parties' computer systems is possible.

7. Term and Termination of Maintenance

After the Initial Maintenance Term, Maintenance shall renew automatically on an annual basis at the rate set forth in the applicable Order Form; provided, however, that Agilos may increase Maintenance fees for any future annual period in accordance with Section 7.6 of these Terms and Conditions.

End User may cancel Maintenance of Supplied Software licensed by Agilos by sending a registered written notice of such cancellation to Agilos at least sixty (60) days prior to the

Severity Level	Maximum Initial Response Time*
Severity 1 Support Case	Within two (2) hours
Severity 2 Support Case	Within four (4) hours
Severity 3 Support Case	Within one (1) business day

end of the Initial Maintenance Period or, following the Initial Maintenance Period, the then-current annual renewal period. Non-renewal of Support Services shall apply to all items of one Supplied Software licensed by Agilos to the Licensee.

Schedule 3 – Agilos Services Schedule

This Services Schedule describes the specific terms with respect to the provision of Services, other than Maintenance, by Agilos. Unless otherwise defined in this Schedule, capitalized terms in this Services Schedule have the meanings provided in Agilos' Terms and Conditions.

This Services Schedule applies to all Services provided by Agilos to End User.

1. Definitions

Unless otherwise defined in this Schedule, capitalized terms in this Schedule have the meanings provided in the General terms and Conditions.

"**Contractor**": The third-party contractor as stated in the Order Form, who, as the case may arise, will be contracted or commissioned by Agilos to carry out the Services ordered by the End User.

2. Agilos' obligations

Agilos hereby agrees to carry out the Services as stated in the Order Form for the End User.

3. Location of Execution of the Services

Barring any stipulations to the contrary in the Order Form, the Services will be carried out at the premises and site of the End User as specified in the Order Form.

4. Duration, Termination, and Dissolution of the Agreement

The duration of the Agreement is specified in the Order Form. Any conditions and terms for the termination of the Agreement are specified in the Order Form and in Agilos' Terms and Conditions. At the latest 4 weeks before the end of the current term, the End User will send Agilos a written request to ask for an extension of the Agreement. If Agilos agrees to such an extension of the Agreement, Agilos will inform the End User about this decision. Barring any stipulations to the contrary, a possible extension of the Agreement shall be granted under the same conditions as the initial Agreement.

Unless the Agreement is dissolved and/or terminated due to gross negligence of Agilos, all of the Services delivered for the components as yet not completed at that moment shall be compensated for and paid at the current average hour rates set by Agilos; without prejudice to Agilos' right to provide evidence for any actual damages suffered, using any legal means possible, if such compensation for damages proves to be a higher amount than the hour rates charged.

5. Stipulations of Execution

The End User will provide Agilos with all information, technical or general documentation, or any other details and records with respect to the Services to be performed.

Agilos and the End User shall each appoint their own representative. These representatives shall meet at regular intervals in order to set up a schedule and planning, and to supervise the performance of the Services.

Agilos may assign a Contractor to the End User for the performance of the Services.

The End User hereby acknowledges not to engage in any kind of co-operation with the Contractor for similar business for the term of the duration of the Agreement and during a period of one year following the termination of the Agreement; in case of a violation of this condition, the End User will be obliged to pay a fine of 180 times the daily rate charged by the Contractor as stated in the Order Form.

Should both Parties deem it to be desirable or necessary, they may assign, by mutual agreement, either temporarily or permanently, another Contractor to perform the Services.
In case the Contractor does not meet (or no longer meets) the specified requirements, if the End User's reputation is discredited by the Contractor, or if the Contractor does not carry out (or no longer carries out) the Services in accordance with the Agreement, the End User will have the right to ask Agilos to assign another Contractor for the performance of the Services. However, such measures shall not relieve the End User of its obligation to compensate and pay for any Services already carried out by the Contractor. If Agilos agrees to choose another Contractor, it will make sure the End User will be provided with a substitute Contractor at the earliest opportunity. In case Agilos does not succeed in providing the End User with a qualified substitute Contractor within a period of two weeks, the End User shall be entitled to terminate the Agreement.

In case, during the term of the Agreement, the specifications as regards to the Services, the End User will compensate Agilos for any required further training of the Contractor. If the End User provides the Contractor with its own training courses, the costs for these training courses shall be paid by the End User, unless stated otherwise in the Order Form. Agilos shall notify the End User in time in case there are any planned interruptions of the performance of the Services.

6. Stipulations of Fees and Payment Methods.

The End User hereby acknowledges to pay a fee equal to the number of actual working (hours or) days, multiplied by the rates as stated and agreed upon between Agilos and the End User. These fees do include moving and transport time and/or expenses.

These fees do not include VAT, nor any other taxes or duties imposed by government authorities. Unless stated otherwise in the Order Form, these fees do include moving and transport time and/or expenses. These rates may be adapted by Agilos on an annual basis on the expiry date of the Agreement, in accordance with Section 7.6 of Agilos' Terms and Conditions.

With respect to the execution of the Services, Agilos will commit itself to adapt to and plan in accordance with the

working hour's schedule of the End User. Unless stated otherwise in the Order Form, the working hours schedule shall consist of 38 hours per week. If more than 38 working hours are to be performed, the following rate increase shall be charged (not combined):
Agilos

- Hours worked > 38 hours/week: + 50%
- Hours worked between 10 PM and 7 AM (local time): + 100%
- Hours worked on Saturdays: +50%
- Hours worked on Sundays or legal public holidays: + 100%

The Contractor will make sure his working hours sheet is signed by the End User for approval, using the appropriate working hours account forms.

Service engagements cancelled or requested to be rescheduled by the End User within 48 hours of the appointment will be charged at 100%.

If, at the sole discretion of Agilos, the End User's solvency situation causes more than a reasonable doubt, Agilos is entitled to ask the Customer, even after the Agreement has been closed, to provide the collateral as requested by Agilos for the payment of any Services still to be carried out, and Agilos has the right to postpone the execution of these Services as long as the requested collateral has not been provided.

7. NON-SOLICITATION.

Neither party shall, during the collaboration period between both Parties, or within 18 months of its termination, whether on behalf of itself or a third party, solicit or seek to entice away any employee of the other. In the event of breach of this clause the party in default shall pay the other a sum equal to 12 (twelve) months' gross pay of the employee concerned being a pre-estimate of the cost of recruitment and training a replacement.

8. Responsibilities

Agilos shall carry out the Services in accordance with the Agreement to the best of its ability, and Agilos will take into account any instructions and directives Agilos receives from the End User.

Because Agilos, in accordance with the Agreement, will be carrying out activities which constitute a part of the End User's specific projects, only the End User shall be held fully liable and responsible for these projects.

Without prejudice to the limitations of liability under Agilos' Terms and Conditions, it is agreed that Agilos shall only be held liable to restore any direct damages it has caused, as a result of the specific activities carried out by Agilos as stipulated in the Agreement, however with a maximum of the lowest amount of the following amounts, i.e. either the amount which the End User is required to pay for the specific Services, or an amount of 5,000 EUR, regardless of whether the claim was issued on a contractual basis or on a non-contractual basis. Agilos cannot be held liable for the following issues:

- any compensations to be paid by Agilos for any indirect damages or consequential damages, including financial or commercial loss, loss of profit, an increase of overall expenses, any delays in planning, loss of expected profit, investments, customer base, etc.;
- any damages due to an error committed by the End User;
- any compensations for any and all direct and indirect damages due to the use of the delivered Product;
- any compensations for damages fully or partly caused by software or hardware delivered or produced by third parties, or by any other asset at the premises of the End User, or which may have been introduced at the premises of the End User after the Agreement was closed;
- all claims submitted by third parties against the End User

In case, after their delivery, the developed components shall be used to continue their development or for commercialization, the End User shall safeguard Agilos against any claims for damages submitted by third parties, even if it appears that the cause of these damages may originally be attributed to the Services delivered by Agilos. These liability limitations shall remain in force even if Agilos was notified by the End User that there is a real and actual risk of damages. The Parties hereby acknowledge that this is a reasonable way of sharing the risks.