

## Main Software-as-a-Service (SaaS) Agreement

THIS MAIN SOFTWARE-AS-A-SERVICE (SAAS) AGREEMENT GOVERNS CLIENT'S ACQUISITION AND USE OF ANACLE'S SAAS SERVICES. CAPITALIZED TERMS HAVE THE DEFINITIONS SET FORTH HEREIN.

BY ACCEPTING THIS AGREEMENT BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, CLIENT AGREES TO THE TERMS OF THIS AGREEMENT. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT IS ACCEPTING ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, SUCH INDIVIDUAL REPRESENTS THAT THEY HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERM "CLIENT" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF THE INDIVIDUAL ACCPETING THIS AGREEMENT DOES NOT HAVE SUCH AUTHORITY, OR DOES NOT AGREE WITH THESE TERMS AND CONDITIONS, SUCH INDIVIDUAL MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SASS SERVICES.

This agreement was last updated on 15 September 2022.

## 1 Definitions

- 1.1 Affiliate:** any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control" for purposes of this definition, means control as established by the International Financial Reporting Standards Section 10 Consolidated Financial Statements, where an investor is established to have control when it has power over the investee, exposure or rights to variable returns from its involvement with the investee, and the ability to use its power over the investee to affect the amount of the investor's return.
- 1.2 Agreement:** this Main Software-as-a-Service (SaaS) Agreement.
- 1.3 Anacle:** the Anacle company described in the "Anacle Contracting Entity, Notices, Governing Law, and Venue" section below.
- 1.4 Content:** information obtained by Anacle from publicly available sources or its third-party content providers and made available to Client through the SaaS Services, or pursuant to an Order Form, as more fully described in the Documentation.
- 1.5 Client:** the case of an individual accepting this Agreement on his or her own behalf, such individual, or in the case of an individual accepting this Agreement on behalf of a company or other legal entity, the company or other legal entity for which such individual is accepting this Agreement, and Affiliates of that company or entity (for so long as they remain Affiliates) which have entered into Order Forms.
- 1.6 Client Data:** electronic data and information submitted by or for Client to the SaaS Services, excluding Content and non-Anacle Applications.
- 1.7 Confidential Information:** all information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information of Client includes Client Data; Confidential Information of Anacle includes the SaaS Services and Content, and the terms and conditions of this Agreement and all Order Forms (including pricing). Confidential Information of each party includes business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that
- (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party,
  - (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party,
  - (iii) is received from a third party without knowledge of any breach of any obligation owed to the Disclosing Party, or
  - (iv) was independently developed by the Receiving Party.
- 1.8 Data Processing Addendum:** the addendum to this Agreement made available to Client by Anacle online at a web address notified by Anacle to Client from time to time which governs the agreement between Client and Anacle on the processing of Personal Data.
- 1.9 Data Protection Laws and Regulations:** all laws and regulations applicable to the Processing of Personal Data under this Agreement or, if not defined in this Agreement, as defined in the Data Processing Addendum.
- 1.10 Documentation:** the applicable SaaS Service's documentation made available to Client by Anacle online at a web address notified by Anacle to Client from time to time which sets out a description of the SaaS Services and their usage guides and policies.
- 1.11 Effective Date:** the date on which Client accepts this Agreement; the Agreement is effective as of Effective Date.
- 1.12 Malicious Code:** code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and trojan horses.
- 1.13 Non-Anacle Application:** Web-based, mobile, offline or other software functionality that interoperates with a SaaS Service, that is provided by Client or a third party. Non-Anacle Applications, other than those obtained or provided by Client, will be identifiable as such.

- 1.14 Order Form:** an ordering document or online order specifying the SaaS Services to be provided hereunder that is entered between Client and Anacle or any of their Affiliates, including any addenda and supplements thereto. By entering into an Order Form hereunder, an Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto.
- 1.15 Personal Data:** any information relating to
- (i) an identified or identifiable natural person and
  - (ii) an identified or identifiable legal entity (where such information is protected similarly as Personal Data or personally identifiable information under applicable Data Protection Laws and Regulations),
- where for each (i) or (ii), such data is Client Data.
- 1.16 Processing or Process:** any operation or set of operations which is performed upon Personal Data, whether or not by automatic means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.
- 1.17 Purchased SaaS Services:** SaaS Services that Client or Client's Affiliate purchases under an Order Form or online purchasing portal.
- 1.18 SaaS Services:** the software products and services that are ordered by Client under an Order Form or online purchasing portal, and made available online by Anacle, including associated Anacle offline or mobile components, as described in the Documentation. SaaS Services exclude Content and Non-Anacle Applications.
- 1.19 User:** in the case of an individual accepting these terms on his or her own behalf, such individual, or, in case of an individual accepting this Agreement on behalf of a company or other legal entity, an individual who is authorized by Client to use a SaaS Service, for whom Client has purchased a subscription (or in the case of any SaaS services provided by Anacle without charge, for whom a SaaS Service has been provisioned), and to whom Client (or, when applicable, Anacle at Client's request) has supplied user access credentials (for SaaS Services utilizing authentication). Users may include, for example, employees, consultants, contractors and agents of Client, and third parties with which Client transacts business.

## **2 Anacle Responsibilities**

### **2.1 Provision of Purchased SaaS Services.**

Anacle will

- (a) make the SaaS Services and Content available to Client pursuant to this Agreement, and the applicable Order Form and Documentation,
- (b) provide applicable Anacle standard support for the Purchased SaaS Services to Client at no additional charge, and/ or upgraded support if purchased,
- (c) use commercially reasonable efforts to make the online Purchased SaaS Services available 24 hours a day, 7 days a week, except for:
  - (i) planned downtime (of which Anacle shall give advance electronic notice), and
  - (ii) any unavailability caused by circumstances beyond Anacle's reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving Anacle employees), cloud service provider and/ or Internet service provider failure or delay, Non-Anacle Application, or denial of service attack, and
- (d) provide the SaaS Services in accordance with laws and government regulations applicable to Anacle's provision of its Services to its clients generally (i.e., without regard for Client's particular use of the SaaS Services), and subject to Client's and Users' use of the Services in accordance with this Agreement, the Documentation and the applicable Order Form.

### **2.2 Protection of Client Data.**

Anacle will maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Client Data, as described in the Documentation. Those safeguards will include, but will not be limited to, measures designed to prevent unauthorized access to or disclosure of Client Data (other than by Client or Users). The terms of the Data Processing Addendum posted as of the Effective Date are hereby incorporated by reference. For the purposes of the Data Processing Addendum, Client and its applicable Affiliates are each the data exporter, and Client's acceptance of this Agreement, and an applicable Affiliate's execution of an Order Form, shall be treated as its execution of the Data Processing Addendum. Upon request by Client made within 30 days after the effective date of termination or expiration of this Agreement, Anacle will make Client Data available to Client for export or download as provided in the Documentation. After such 30-day period, Anacle will have no obligation to maintain or provide any Client Data, and as provided in the Documentation will thereafter delete or destroy all copies of Client Data in its systems or otherwise in its possession or control, unless legally prohibited.

### **2.3 Anacle Personnel.**

Anacle will be responsible for the performance of its personnel (including its employees and contractors) and their compliance with Anacle's obligations under this Agreement, except as otherwise specified in this Agreement.

## **3 Use of SaaS Services and Content**

### **3.1 Subscriptions.**

Unless otherwise provided in the applicable Order Form or Documentation,

- (a) Purchased SaaS Services and access to Content are purchased as subscriptions for the term stated in the applicable Order Form or in the applicable online purchasing portal,
- (b) subscriptions for Purchased SaaS Services may be added during a subscription term at the same pricing as the underlying subscription pricing, prorated for the portion of that subscription term remaining at the time the subscriptions are added, and
- (c) any added subscriptions will terminate on the same date as the underlying subscriptions.

Client agrees that its purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Anacle regarding future functionality or features.

### **3.2 Usage Limits.**

SaaS Services and Content are subject to usage limits specified in Order Forms and Documentation. If Client exceeds a contractual usage limit, Anacle may work with Client to seek to reduce Client's usage so that it conforms to that limit. If, notwithstanding Anacle's efforts, Client is unable or unwilling to abide by a contractual usage limit, Client will execute an Order Form for additional quantities of the applicable SaaS Services or Content promptly upon Anacle's request, and/ or pay any invoice for excess usage in accordance with the "Invoicing and Payment" section below.

### **3.3 Client Responsibilities.**

Client will

- (a) be responsible for Users' compliance with this Agreement, Documentation and Order Forms,
- (b) be responsible for the accuracy, quality and legality of Client Data, the means by which Client acquired Client Data, Client's use of Client Data with the SaaS Services, and the interoperation of any Non-Anacle Applications with which Client uses SaaS Services or Content,
- (c) use commercially reasonable efforts to prevent unauthorized access to or use of SaaS Services and Content, and notify Anacle promptly of any such unauthorized access or use,
- (d) use SaaS Services and Content only in accordance with this Agreement, Documentation, the Acceptable Use Policy, Order Forms and applicable laws and government regulations, and
- (e) comply with terms of service of any Non-Anacle Applications with which Client uses Services or Content.

Any use of the SaaS Services in breach of the foregoing by Client or Users that in Anacle's judgment threatens the security, integrity or availability of Anacle's services, may result in Anacle's immediate suspension of the SaaS Services, however Anacle will use commercially reasonable efforts under the circumstances to provide Client with notice and an opportunity to remedy such violation or threat prior to any such suspension.

### **3.4 Usage Restrictions.**

Client will not

- (a) make any SaaS Service or Content available to anyone other than Client or Users, or use any SaaS Service or Content for the benefit of anyone other than Client or its Affiliates, unless expressly stated otherwise in an Order Form or the Documentation,
- (b) sell, resell, license, sublicense, distribute, rent or lease any SaaS Service or Content, or include any SaaS Service or Content in a service bureau or outsourcing offering,
- (c) use a SaaS Service or Non-Anacle Application to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights,
- (d) use a SaaS Service or Non-Anacle Application to store or transmit Malicious Code,
- (e) interfere with or disrupt the integrity or performance of any SaaS Service or third-party data contained therein,
- (f) attempt to gain unauthorized access to any SaaS Service or Content or its related systems or networks,
- (g) permit direct or indirect access to or use of any SaaS Services or Content in a way that circumvents a contractual usage limit, or use any SaaS Services to access, copy or use any of Anacle intellectual property except as permitted under this Agreement, an Order Form, or the Documentation,
- (h) modify, copy, or create derivative works of a SaaS Service or any part, feature, function or user interface thereof,
- (i) copy Content except as permitted herein or in an Order Form or the Documentation,
- (j) frame or mirror any part of any SaaS Service or Content, other than framing on Client's own intranets or otherwise for its own internal business purposes or as permitted in the Documentation,
- (k) except to the extent permitted by applicable law, disassemble, reverse engineer, or decompile a Service or Content or access it to
  - (i) build a competitive product or service,
  - (ii) build a product or service using similar ideas, features, functions or graphics of the SaaS Service,
  - (iii) copy any ideas, features, functions or graphics of the Service, or
  - (iv) determine whether the SaaS Services are within the scope of any patent.

### **3.5 Removal of Content and Non-Anacle Applications.**

If Client receives notice, including from Anacle, that Content or a Non-Anacle Application may no longer be used or must be removed, modified and/or disabled to avoid violating applicable law, third-party rights, or the Acceptable Use Policy, Client will promptly do so. If Client does not take required action, including deleting any Content Client may have downloaded from the SaaS Services, in accordance with the above, or if in Anacle's judgment continued violation is likely to reoccur, Anacle may disable the applicable Content, SaaS Service and/ or Non-Anacle Application. If requested by Anacle, Client shall confirm deletion and discontinuance of use of such Content and/ or Non-Anacle Application in writing and Anacle shall be authorized to provide a copy of such confirmation to any such third-party claimant or governmental authority, as applicable. In addition, if Anacle is required by any third-party rights holder to remove Content, or receives information that Content provided to Client may violate applicable law or third-party rights, Anacle may discontinue Client's access to Content through the SaaS Services.

## **4 Non-Anacle Products and Services**

### **4.1 Non-Anacle Products and Services.**

Anacle or third parties may make available third-party products or services, including, for example, Non-Anacle Applications and implementation and other consulting services. Any acquisition by Client of such products or services, and any exchange of data between Client and any Non-Anacle provider, product or service is solely between Client and the applicable Non-Anacle provider. Anacle does not warrant or support Non-Anacle Applications or other Non-Anacle products or services, whether or not they are designated by Anacle as "certified" or otherwise, unless expressly provided otherwise in an Order Form. Anacle is not responsible for any disclosure, modification or deletion of Client Data resulting from access by such Non-Anacle Application or its provider.

#### **4.2 Integration with Non-Anacle Applications.**

The SaaS Services may contain features designed to interoperate with Non-Anacle Applications. Anacle cannot guarantee the continued availability of such SaaS Service features, and may cease providing them without entitling Client to any refund, credit, or other compensation, if for example and without limitation, the provider of a Non-Anacle Application ceases to make the Non-Anacle Application available for interoperation with the corresponding SaaS Service features in a manner acceptable to Anacle.

### **5 Fees and Payment**

#### **5.1 Fees.**

Client will pay all fees specified in Order Forms. Except as otherwise specified herein or in an Order Form,

- (i) fees are based on SaaS Services and Content subscriptions purchased and not actual usage,
- (ii) payment obligations are non-cancelable and fees paid are non-refundable, and
- (iii) quantities purchased cannot be decreased during the relevant subscription term.

#### **5.2 Invoicing and Payment.**

Client will provide Anacle with valid and updated credit card information, or with a valid purchase order or alternative document reasonably acceptable to Anacle. If Client provides credit card information to Anacle, Client authorizes Anacle to charge such credit card for all Purchased SaaS Services listed in the Order Form for the initial subscription term and any renewal subscription term(s) as set forth in the "Term of Purchased Subscriptions" section below. Such charges shall be made in advance, either annually or in accordance with any different billing frequency stated in the applicable Order Form. If the Order Form specifies that payment will be by a method other than a credit card, Anacle will invoice Client in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, invoiced fees are due net 30 days from the invoice date. Client is responsible for providing complete and accurate billing and contact information to Anacle and notifying Anacle of any changes to such information.

#### **5.3 Overdue Charges.**

If any invoiced amount is not received by Anacle by the due date, then without limiting Anacle's rights or remedies,

- (a) those charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, and/ or
- (b) Anacle may condition future subscription renewals and Order Forms on payment terms shorter than those specified in the "Invoicing and Payment" section above.

#### **5.4 Suspension of Service and Acceleration.**

If any charge owing by Client under this or any other agreement for services is 30 days or more overdue, (or 10 or more days overdue in the case of amounts Client has authorized Anacle to charge to Client's credit card), Anacle may, without limiting its other rights and remedies, accelerate Client's unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend SaaS Services until such amounts are paid in full, provided that, other than for Clients paying by credit card or direct debit whose payment has been declined, Anacle will give Client at least 10 days' prior notice that its account is overdue, in accordance with the "Manner of Giving Notice" section below for billing notices, before suspending services to Client.

#### **5.5 Payment Disputes.**

Anacle will not exercise its rights under the "Overdue Charges" or "Suspension of Service and Acceleration" section above if Client is disputing the applicable charges reasonably and in good faith and is cooperating diligently to resolve the dispute.

## **5.6 Taxes.**

Anacle's fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "Taxes"). Client is responsible for paying all Taxes associated with its purchases hereunder. If Anacle has the legal obligation to pay or collect Taxes for which Client is responsible under this section, Anacle will invoice Client and Client will pay that amount unless Client provides Anacle with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, Anacle is solely responsible for taxes assessable against it based on its income, property and employees.

## **6 Proprietary Rights and Licenses**

### **6.1 Reservation of Rights.**

Subject to the limited rights expressly granted hereunder, Anacle, its Affiliates, its licensors and Content Providers reserve all of their right, title and interest in and to the SaaS Services and Content, including all of their related intellectual property rights. No rights are granted to Client hereunder other than as expressly set forth herein.

### **6.2 Access to and Use of Content.**

Client has the right to access and use applicable Content subject to the terms of applicable Order Forms, this Agreement and the Documentation.

### **6.3 License by Client to Anacle.**

Client grants Anacle, its Affiliates and applicable contractors a worldwide, limited-term license to host, copy, use, transmit, and display any Non-Anacle Applications and program code created by or for Client using a SaaS Service or for use by Client with the SaaS Services, and Client Data, each as appropriate for Anacle to provide and ensure proper operation of the SaaS Services and associated systems in accordance with this Agreement. If Client chooses to use a Non-Anacle Application with a SaaS Service, Client grants Anacle permission to allow the Non-Anacle Application and its provider to access Client Data and information about Client's usage of the Non-Anacle Application as appropriate for the interoperation of that Non-Anacle Application with the SaaS Service. Subject to the limited licenses granted herein, Anacle acquires no right, title or interest from Client or its licensors under this Agreement in or to any Client Data, Non-Anacle Application or such program code.

### **6.4 License by Client to Use Feedback.**

Client grants to Anacle and its Affiliates a worldwide, perpetual, irrevocable, royalty-free license to use, distribute, disclose, and make and incorporate into its services any suggestion, enhancement request, recommendation, correction or other feedback provided by Client or Users relating to the operation of Anacle's or its Affiliates' services.

## **7 Confidentiality**

### **7.1 Non-disclosure Obligations.**

For the avoidance of doubt, the non-disclosure obligations set forth in this "Confidentiality" section apply to Confidential Information exchanged between the parties in connection with the evaluation of additional Anacle services.

### **7.2 Protection of Confidential Information.**

As between the parties, each party retains all ownership rights in and to its Confidential Information. The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to

- (i) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and

- (ii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not materially less protective of the Confidential Information than those herein.

Neither party will disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates, legal counsel and accountants without the other party's prior written consent, provided that a party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate's, legal counsel's or accountant's compliance with this "Confidentiality" section. Notwithstanding the foregoing, Anacle may disclose the terms of this Agreement and any applicable Order Form to a contractor or Non-Anacle Application Provider to the extent necessary to perform Anacle's obligations under this Agreement, under terms of confidentiality materially as protective as set forth herein.

### **7.3 Compelled Disclosure.**

The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

## **8 Representations, Warranties, Exclusive Remedies and Disclaimers**

### **8.1 Representations.**

Each party represents that it has validly entered into this Agreement and has the legal power to do so.

### **8.2 Anacle Warranties.**

Anacle warrants that during an applicable subscription term

- (a) this Agreement, the Order Forms and the Documentation will accurately describe the applicable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Client Data,
- (b) Anacle will not materially decrease the overall security of the SaaS Services,
- (c) the SaaS Services will perform materially in accordance with the applicable Documentation, and
- (d) subject to the "Integration with Non-Anacle Applications" section above, Anacle will not materially decrease the overall functionality of the SaaS Services.

For any breach of a warranty above, Client's exclusive remedies are those described in the "Termination" and "Refund or Payment upon Termination" sections below.

### **8.3 Disclaimers.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. SAAS SERVICES PROVIDED FREE OF CHARGE AND CONTENT ARE PROVIDED "AS IS," AND AS AVAILABLE EXCLUSIVE OF ANY WARRANTY WHATSOEVER.

## **9 Mutual Indemnification**

### **9.1 Indemnification by Anacle.**

Anacle will defend Client against any claim, demand, suit or proceeding made or brought against Client by a third party alleging that any Purchased SaaS Service infringes or misappropriates such third party's intellectual property rights (a "Claim Against Client"), and will indemnify Client from any damages, attorney fees and costs finally awarded against Client as a result of, or for amounts paid by Client under a settlement approved by Anacle in writing of, a Claim Against Client, provided Client

- (a) promptly gives Anacle written notice of the Claim Against Client,



- (b) gives Anacle sole control of the defense and settlement of the Claim Against Client (except that Anacle may not settle any Claim Against Client unless it unconditionally releases Client of all liability), and
- (c) gives Anacle all reasonable assistance, at Anacle's expense.

If Anacle receives information about an infringement or misappropriation claim related to a SaaS Service, Anacle may in its discretion and at no cost to Client

- (i) modify the SaaS Services so that they are no longer claimed to infringe or misappropriate, without breaching Anacle's warranties under "Anacle Warranties" above,
- (ii) obtain a license for Client's continued use of that SaaS Service in accordance with this Agreement, or
- (iii) terminate Client's subscriptions for that Service upon 30 days' written notice and refund Client any prepaid fees covering the remainder of the term of the terminated subscriptions.

The above defense and indemnification obligations do not apply if

- (a) the allegation does not state with specificity that the SaaS Services are the basis of the Claim Against Client;
- (b) a Claim Against Client arises from the use or combination of the SaaS Services or any part thereof with software, hardware, data, or processes not provided by Anacle, if the SaaS Services or use thereof would not infringe without such combination;
- (c) a Claim Against Client arises from SaaS Services under an Order Form for which there is no charge; or
- (d) a Claim against Client arises from Content, a Non-Anacle Application or Client's breach of this Agreement, the Documentation or applicable Order Forms.

## 9.2 Indemnification by Client.

Client will defend Anacle and its Affiliates against any claim, demand, suit or proceeding made or brought against Anacle by a third party

- (a) alleging that the combination of a Non-Anacle Application or configuration provided by Client and used with the SaaS Services, infringes or misappropriates such third party's intellectual property rights, or
- (b) arising from
  - (i) Client's use of the SaaS Services or Content in an unlawful manner or in violation of the Agreement, the Documentation, or Order Form,
  - (ii) any Client Data or Client's use of Client Data with the SaaS Services, or
  - (iii) a Non-Anacle Application provided by Client (each a "Claim Against Anacle"),

and will indemnify Anacle from any damages, attorney fees and costs finally awarded against Anacle as a result of, or for any amounts paid by Anacle under a settlement approved by Client in writing of, a Claim Against Anacle, provided Anacle

- (a) promptly gives Client written notice of the Claim Against Anacle,
- (b) gives Client sole control of the defense and settlement of the Claim Against Anacle (except that Client may not settle any Claim Against Anacle unless it unconditionally releases Anacle of all liability), and
- (c) gives Client all reasonable assistance, at Client's expense.

The above defense and indemnification obligations do not apply if a Claim Against Anacle arises from Anacle's breach of this Agreement, the Documentation or applicable Order Forms.

## 9.3 Exclusive Remedy.

This "Mutual Indemnification" section states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any third-party claim described in this section.

## 10 Limitation of Liability

## **10.1 Limitation of Liability.**

IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EACH PARTY TOGETHER WITH ALL OF ITS AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CLIENT AND ITS AFFILIATES HEREUNDER FOR THE SAAS SERVICES GIVING RISE TO THE LIABILITY IN THE TWELVE MONTHS PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, BUT WILL NOT LIMIT CLIENT'S AND ITS AFFILIATES' PAYMENT OBLIGATIONS UNDER THE "FEES AND PAYMENT" SECTION ABOVE.

## **10.2 Exclusion of Consequential and Related Damages.**

IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY LOST PROFITS, REVENUES, GOODWILL, OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER, BUSINESS INTERRUPTION OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF A PARTY'S OR ITS AFFILIATES' REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

## **11 Term and Termination**

### **11.1 Term of Agreement.**

This Agreement commences on the date Client first accepts it and continues until all subscriptions hereunder have expired or have been terminated.

### **11.2 Term of Purchased Subscriptions.**

The term of each subscription shall be as specified in the applicable Order Form. Except as otherwise specified in an Order Form, subscriptions will automatically renew for additional one year terms, unless either party gives the other written notice (email acceptable) at least 30 days before the end of the relevant subscription term. Except as expressly provided in the applicable Order Form, renewal of promotional or one-time priced subscriptions will be at Anacle's applicable list price in effect at the time of the applicable renewal. Notwithstanding anything to the contrary, any renewal in which subscription volume or subscription length for any SaaS Services has decreased from the prior term will result in re-pricing at renewal without regard to the prior term's per-unit pricing.

### **11.3 Termination.**

A party may terminate this Agreement for cause

- (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or
- (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

### **11.4 Refund or Payment upon Termination.**

If this Agreement is terminated by Client in accordance with the "Termination" section above, Anacle will refund Client any prepaid fees covering the remainder of the term of all Order Forms after the effective date of termination. If this Agreement is terminated by Anacle in accordance with the "Termination" section above, Client will pay any unpaid fees covering the remainder of the term of all Order Forms to the extent permitted by applicable law. In no event will termination relieve Client of its obligation to pay any fees payable to Anacle for the period prior to the effective date of termination.

### **11.5 Surviving Provisions.**

The sections titled "Fees and Payment," "Proprietary Rights and Licenses," "Confidentiality," "Disclaimers," "Mutual Indemnification," "Limitation of Liability," "Refund or Payment upon Termination," "Removal of Content and Non-Anacle Applications," "Surviving Provisions" and "General Provisions" will survive any termination or expiration of this Agreement, and the section titled "Protection of Client Data" will survive any termination or expiration of this Agreement for so long as Anacle retains possession of Client Data.

## **12 General Provisions**

### **12.1 Export Compliance.**

The SaaS Services, Content, other Anacle technology, and derivatives thereof may be subject to export laws and regulations of Singapore and other jurisdictions. Anacle and Client each represents that it is not on any Singapore government denied-party list. Client will not permit any User to access or use any Service or Content in a Singapore embargoed country or region or in violation of any Singapore export law or regulation.

### **12.2 Anti-Corruption.**

Neither party has received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from an employee or agent of the other party in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction.

### **12.3 Entire Agreement and Order of Precedence.**

This Agreement is the entire agreement between Anacle and Client regarding Client's use of SaaS Services and Content and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. The parties agree that any term or condition stated in a Client purchase order or in any other Client order documentation (excluding Order Forms) is void. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the applicable Order Form, (2) this Agreement, and (3) the Documentation. Titles and headings of sections of this Agreement are for convenience only and shall not affect the construction of any provision of this Agreement.

### **12.4 Relationship of the Parties.**

The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties. Each party will be solely responsible for payment of all compensation owed to its employees, as well as all employment-related taxes.

### **12.5 Third-Party Beneficiaries.**

There are no third-party beneficiaries under this Agreement.

### **12.6 Waiver.**

No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right.

### **12.7 Severability.**

If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of this Agreement will remain in effect.

### **12.8 Assignment.**

Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other party's prior written consent (not to be unreasonably withheld); provided, however, either party may assign this Agreement in its entirety (including all Order Forms), without the other party's consent to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Notwithstanding the foregoing, if a party is acquired by, sells substantially all of its assets to, or undergoes a change of control in favor of, a direct competitor of the other party, then such other party may terminate this Agreement upon written notice. In the event of such a termination, Anacle will refund Client any prepaid fees covering the remainder of the term of all subscriptions for the period after the effective date of such termination. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

### **12.9 Anacle Contracting Entity, Notices, Governing Law, and Venue.**

The Anacle entity entering into this Agreement, the address to which Client should direct notices under this Agreement, the law that will apply in any dispute or lawsuit arising out of or in connection with this Agreement, and the courts that have jurisdiction over any such dispute or lawsuit, depend on where Client is domiciled

- (a) For customers domiciled in Australia or New Zealand:
  - (i) The Anacle entity entering into this agreement: **Anacle Systems Pty. Ltd.**
  - (ii) Notices should be addressed to: **175 Pitt Street Level 16, Sydney, NSW 2000, Australia**
  - (iii) Governing Law: **New South Wales, Australia**
  - (iv) Courts with exclusive jurisdiction: **New South Wales, Australia**
- (b) For customers domiciled in China:
  - (i) The Anacle entity entering into this agreement: **Anacle Systems (Shanghai) Co. Ltd.**  
**【玄冕科技（上海）有限公司】**
  - (ii) Notices should be addressed to: **26 Jiafeng Road, Suite 108, Shanghai Free Trade Zone, China**  
**【中国上海自由贸易试验区加枫路 26 号 108 室】**
  - (iii) Governing Law: **China**
  - (iv) Courts with exclusive jurisdiction: **China**
- (c) For customers domiciled in India:
  - (i) The Anacle entity entering into this agreement: **Anacle Systems (India) Pvt. Ltd.**
  - (ii) Notices should be addressed to: **S26/S27 Nanded City, Destination Center 1 2<sup>nd</sup> Floor, Pune 411041, Maharashtra, India**
  - (iii) Governing Law: **Maharashtra, India**
  - (iv) Courts with exclusive jurisdiction: **Mumbai, India**
- (d) For customers domiciled in Malaysia:
  - (i) The Anacle entity entering into this agreement: **Anacle Systems Sdn. Bhd.**
  - (ii) Notices should be addressed to: **3-12-6 Tower 3 UOA Business Park, Jalan Pengaturcara U1/51A Seksyen U1, 40150 Shah Alam, Selangor, Malaysia**
  - (iii) Governing Law: **Malaysia**
  - (iv) Courts with exclusive jurisdiction: **Malaysia**
- (e) For customers domiciled in Singapore or any country other than Australia, China, India or New Zealand:
  - (i) The Anacle entity entering into this agreement: **Anacle Systems Limited**
  - (ii) Notices should be addressed to: **3 Fusionopolis Way, #14-21 Symbiosis, Singapore 138633**
  - (iii) Governing Law: **Singapore**
  - (iv) Courts with exclusive jurisdiction: **Singapore**

#### **12.10 Manner of Giving Notice.**

Except as otherwise specified in this Agreement, all notices related to this Agreement will be in writing and will be effective upon

- (a) personal delivery,
- (b) the second business day after mailing, or
- (c) except for notices of termination or an indemnifiable claim (“Legal Notices”), which shall clearly be identifiable as Legal Notices, the day of sending by email.

Billing-related notices to Client will be addressed to the relevant billing contact designated by Client. All other notices to Client will be addressed to the relevant Services system administrator designated by Client.

#### **12.11 Agreement to Governing Law and Jurisdiction.**

Each party agrees to the applicable governing law above without regard to choice or conflicts of law rules, and to the exclusive jurisdiction of the applicable courts above.

## **13 Local Law Requirements**

### **13.1 India.**

With respect to Clients domiciled in India, the following shall apply:

#### **13.1.1 Venue and Arbitration.**

In the event of any dispute, controversy or claim between the Parties hereto arising out of or relating to this Agreement, the Parties shall first seek to resolve the dispute in good faith through informal discussion. If such dispute, controversy, or claim cannot be resolved informally within a period of 10 (ten) business days from the date on which the dispute arose, the Parties agree that it shall be settled by binding arbitration to be held before a panel consisting of 3 (three arbitrators), where each Party shall appoint an arbitrator and such arbitrators shall appoint the third and presiding arbitrator. The arbitration shall be conducted in accordance with provisions of the (Indian) Arbitration and Conciliation Act, 1996, as amended from time to time (Arbitration Act). The seat and venue of the arbitration shall be Mumbai, India. The language of the arbitration shall be English. The Parties agree that any of them may seek interim measures under section 9 of the Arbitration Act, including injunctive relief in relation to the provisions of this Agreement or the Parties' performance of it from courts in Mumbai, India, without prejudice to any other right the Parties may have under the Arbitration Act and other applicable laws. The arbitration panel's decision shall be final, conclusive and binding on the parties to the arbitration. The Parties shall each pay one-half of the costs and expenses of such arbitration, and each shall separately pay its respective counsel fees and expenses. The prevailing Party may, in the judgement of the arbitration panel, be entitled to recover its fees and expenses. All dispute resolution proceedings, all matters pertaining to such proceedings and all documents and submissions made pursuant thereto shall be strictly confidential and subject to the provisions of "Confidentiality" Section of this Agreement.

#### **13.1.2 Invoicing and Payment.**

Clause 5.2 "Invoice and Payment" of this Agreement is replaced with the following: Unless otherwise stated in the Order Form, invoiced fees are due net 30 days from the invoice date. Client is responsible for providing complete and accurate billing and contact information to Anacle and notifying Anacle of any changes to such information. The parties acknowledge that invoices are also to be submitted electronically by Anacle through the Government of India's e-invoicing system ("GST Portal") and any delay due to such submission shall not affect the foregoing payment term. Client shall be responsible for providing complete and accurate billing and contact information to Anacle and shall notify Anacle of any changes to such information. Client shall provide to Anacle at least the following information in writing to facilitate electronic invoicing: Client's full registered company/ legal entity name, registered office address, goods and services tax identification number, address and/ or relevant information required under applicable law. In any event, the parties shall cooperate diligently to enable such electronic invoicing process. Any error/ delay in issuance of the electronic invoice due to:

- (a) the provision by Client of incorrect or insufficient invoicing information preventing Anacle from successfully submitting the electronic invoice to the GST Portal; or
- (b) the GST Portal and/ or any other government authority (or their designated agent/agency) not being able to duly and effectively process such invoice; or
- (c) any event which requires Anacle to issue an invoice again; shall not result in an extension of the payment term, and such term shall still be calculated from the date of the original invoice.

Anacle reserves the right to provide any invoice copy in electronic form via email in addition to the electronic invoicing described herein.